

**Law and Provisions under CGST**  
**Chapter 14 – INSPECTION, SEARCH, SEIZURE AND ARREST**

**14.0 INSPECTION, SEARCH, SEIZURE AND ARREST** – The provisions related to Inspection, Search, Seizure and Arrest - Power of inspection, search and seizure, Inspection of goods in movement, Power to arrest, Power to summon persons to give evidence and produce documents, Access to business premises and Officers to assist proper officers are covered under Chapter XIV of the CGST Act 2017 from Section 67 to Section 73.

The Central Government has appointed the 1st day of July, 2017, as the date on which the provisions of these sections came in to force vide Notification No. 9/2017- Central Tax dated 28.06.2017.

<b>Chapter XIV of the CGST Act 2017 - Inspection, Search, Seizure and Arrest</b>	
<b>Section</b>	<b>Particulars</b>
Section 67	Power of inspection, search and seizure
Section 68	Inspection of goods in movement
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<b>Forms - Inspection, Search, Seizure and Arrest</b>	
<b>Forms</b>	<b>Particulars</b>
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FORM GST INS-02	ORDER OF SEIZURE
FORM GST INS-03	ORDER OF PROHIBITION
FORM GST INS-04	BOND FOR RELEASE OF GOODS SEIZED
FORM GST INS-05	ORDER OF RELEASE OF GOODS/ THINGS OF PRISHABLE OR HAZARDOUS NATURE
FORM GST EWB-01	E-Way Bill
FORM GST EWB-02	Consolidated E-Way Bill
FORM GST EWB-03	Verification Report
FORM GST EWB-04	Report of detention
FORM GST EWB-05	Application for unblocking of the facility for generation of E-Way Bill
FORM GST EWB-06	Order for permitting / rejecting application for unblocking of the facility for generation of EWay Bill
FORM GST MOV-01	STATEMENT OF THE OWNER / DRIVER/ PERSON IN CHARGE OF THE GOODS AND CONVEYANCE
FORM GST MOV-02	ORDER FOR PHYSICAL VERIFICATION / INSPECTION OF THE CONVEYANCE, GOODS AND DOCUMENTS
FORM GST MOV-03	ORDER OF EXTENTION OF TIME FOR INSPECTION BEYONF THREE WORKING DAYS
FORM GST MOV-04	PHYSICAL VERIFICATION REPORT
FORM GST MOV-05	RELEASE ORDER
FORM GST MOV-06	ORDER OF DETENTION UNDER SECTION 129 (1) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017
FORM GST MOV-07	NOTICE UNDER SECTION 129 (3) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017
FORM GST MOV -08	BOND FOR PROVISIONAL RELEASE OF GOODS AND CONVEYANCE
FORM GST MOV -09	ORDER OF DEMAND OF TAX AND PENALTY
FORM GST MOV -10	NOTICE FOR CONFISCATION OF GOODS OR CONVEYANCES AND LEVY OF PENALTY UNDER SECTION 130 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017
FORM GST MOV -11	ORDER OF CONFISCATION OF GOODS AND CONVEYANCE AND DEMAND OF TAX, FINE AND PENALTY

**14.1 Power of inspection, search and seizure. [Section 67]**

<p><b>Section 67(1)</b></p>	<p>01.07.2017 to till date</p>	<p><b>Power to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place</b></p> <p>Where the proper officer, not below the rank of Joint Commissioner, has reasons to believe that—</p> <table border="1" data-bbox="523 488 1385 927"> <tr> <td data-bbox="523 488 587 725">(a)</td> <td data-bbox="587 488 1385 725">a taxable person has suppressed any transaction relating to supply of goods or services or both or the stock of goods in hand, or has claimed input tax credit in excess of his entitlement under this Act or has indulged in contravention of any of the provisions of this Act or the rules made thereunder to evade tax under this Act; or</td> </tr> <tr> <td data-bbox="523 725 587 927">(b)</td> <td data-bbox="587 725 1385 927">any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act,</td> </tr> </table> <p>he may authorise in writing any other officer of central tax to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.</p>	(a)	a taxable person has suppressed any transaction relating to supply of goods or services or both or the stock of goods in hand, or has claimed input tax credit in excess of his entitlement under this Act or has indulged in contravention of any of the provisions of this Act or the rules made thereunder to evade tax under this Act; or	(b)	any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act,
(a)	a taxable person has suppressed any transaction relating to supply of goods or services or both or the stock of goods in hand, or has claimed input tax credit in excess of his entitlement under this Act or has indulged in contravention of any of the provisions of this Act or the rules made thereunder to evade tax under this Act; or					
(b)	any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act,					
<p><b>Section 67(2)</b></p>	<p>01.07.2017 to till date</p>	<p><b>Power to authorise any other officer of central tax to search and seize or may himself search and seize such goods, documents or books or things</b></p> <p>Where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any other officer of central tax to search and seize or may himself search and seize such goods, documents or books or things:</p>				
<p><b>First Proviso</b></p>	<p>01.07.2017 to till date</p>	<p><b>The proper officer, or any officer authorised by him, may serve on the owner or the custodian of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer, where it is not practicable to seize any such goods.</b></p> <p><b>Provided that</b> where it is not practicable to seize any such goods, the proper officer, or any officer authorised by him, may serve on the owner or the custodian of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:</p>				

<b>Second Proviso</b>	01.07.2017 to till date	<p><b>Retention period of the documents or books or things seized</b></p> <p><b>Provided further that</b> the documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceedings under this Act.</p>
<b>Section 67(3)</b>	01.07.2017 to till date	<p><b>Return of non-relied upon documents, books or things within a period not exceeding thirty days of the issue of the notice</b></p> <p>The documents, books or things referred to in sub-section (2) or any other documents, books or things produced by a taxable person or any other person, which have not been relied upon for the issue of notice under this Act or the rules made thereunder, shall be returned to such person within a period not exceeding thirty days of the issue of the said notice.</p>
<b>Section 67(4)</b>	01.07.2017 to till date	<p><b>Power to seal or break open the door of any premises or to break open any almirah, electronic devices, box, receptacle etc.</b></p> <p>The officer authorised under sub-section (2) shall have the power to seal or break open the door of any premises or to break open any almirah, electronic devices, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, where access to such premises, almirah, electronic devices, box or receptacle is denied.</p>
<b>Section 67(5)</b>	01.07.2017 to till date	<p><b>Entitlement to make copies or take extracts of seized documents, books or things etc.</b></p> <p>The person from whose custody any documents are seized under sub-section (2) shall be entitled to make copies thereof or take extracts therefrom in the presence of an authorised officer at such place and time as such officer may indicate in this behalf except where making such copies or taking such extracts may, in the opinion of the proper officer, prejudicially affect the investigation.</p>
<b>Section 67(6)</b>	01.07.2017 to till date	<p><b>Release of goods seized on a provisional basis</b></p> <p>The goods so seized under sub-section (2) shall be released, on a provisional basis, upon execution of a bond and furnishing of a security, in such manner and of such quantum, respectively, as may be prescribed or on payment of applicable tax, interest and penalty payable, as the case may be.</p>
<b>Section 67(7)</b>	01.07.2017 to till date	<p><b>Release of goods seized where no notice in respect thereof is given within six months of the seizure of the goods</b></p> <p>Where any goods are seized under sub-section (2) and no notice in respect thereof is given within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:</p>

<b>First Proviso</b>	01.07.2017 to till date	<p><b>The period to issue notice may be extended by the proper officer for a further period not exceeding six months</b></p> <p><b>Provided that</b> the period of six months may, on sufficient cause being shown, be extended by the proper officer for a further period not exceeding six months.</p>
<b>Section 67(8)</b>	01.07.2017 to till date	<p><b>Specified goods or class of goods to be disposed of as soon as possible</b></p> <p>The Government may, having regard to the perishable or hazardous nature of any goods, depreciation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations, by notification<sup>\$</sup>, specify the goods or class of goods which shall, as soon as may be after its seizure under sub-section (2), be disposed of by the proper officer in such manner as may be prescribed.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><sup>\$</sup> The Central Government has notified the goods or the class of goods which shall, as soon as may be after its seizure under sub-section (2) of section 67 of the said Act, be disposed of by the proper officer, having regard to the perishable or hazardous nature, depreciation in value with the passage of time, constraints of storage space or any other relevant considerations of the said goods vide <a href="#">Notification No. 27/2018 – Central Tax dated 13th June, 2018</a>.</p> </div>
<b>Section 67(9)</b>	01.07.2017 to till date	<p><b>Proper officer to prepare an inventory of specified goods or class of goods to be disposed of as soon as possible</b></p> <p>Where any goods, being goods specified under sub-section (8), have been seized by a proper officer, or any officer authorised by him under sub-section (2), he shall prepare an inventory of such goods in such manner as may be prescribed.</p>
<b>Section 67(10)</b>	01.07.2017 to till date	<p><b>Application of the provisions of the Code of Criminal Procedure, 1973</b></p> <p>The provisions of the Code of Criminal Procedure, 1973, relating to search and seizure, shall, so far as may be, apply to search and seizure under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word “Magistrate”, wherever it occurs, the word “Commissioner” were substituted.</p>
<b>Section 67(11)</b>	01.07.2017 to till date	<p><b>Seizure of the accounts, registers or documents of such person produced before the proper officer</b></p> <p>Where the proper officer has reasons to believe that any person has evaded or is attempting to evade the payment of any tax, he may, for reasons to be recorded in writing, seize the accounts, registers or documents of such person produced before him and shall grant a receipt for the same, and shall retain the same for so</p>

		long as may be necessary in connection with any proceedings under this Act or the rules made thereunder for prosecution.
<b>Section 67(12)</b>	01.07.2017 to till date	<p><b>Purchase of any goods or services or both from the business premises of any taxable person, to check the issue of tax invoices or bills of supply</b></p> <p>The Commissioner or an officer authorised by him may cause purchase of any goods or services or both by any person authorised by him from the business premises of any taxable person, to check the issue of tax invoices or bills of supply by such taxable person, and on return of goods so purchased by such officer, such taxable person or any person in charge of the business premises shall refund the amount so paid towards the goods after cancelling any tax invoice or bill of supply issued earlier.</p>

**14.1.1.1 Departmental Notifications – Specified goods which may be disposed off by the proper officer after its seizure, having regard to the perishable or hazardous nature, depreciation in value with the passage of time, constraints of storage space or any other relevant considerations of the said goods.**

[Notification No.27/2018 – Central Tax dated 13th June, 2018](#) - The Central Government has notified the goods or the class of goods (hereinafter referred to as the said goods) mentioned in the Schedule below, which shall, as soon as may be after its seizure under sub-section (2) of section 67 of the said Act, be disposed of by the proper officer, having regard to the perishable or hazardous nature, depreciation in value with the passage of time, constraints of storage space or any other relevant considerations of the said goods.

#### **Schedule**

- (1) Salt and hygroscopic substances
- (2) Raw (wet and salted) hides and skins
- (3) Newspapers and periodicals
- (4) Menthol, Camphor, Saffron
- (5) Re-fills for ball-point pens
- (6) Lighter fuel, including lighters with gas, not having arrangement for refilling
- (7) Cells, batteries and rechargeable batteries
- (8) Petroleum Products
- (9) Dangerous drugs and psychotropic substances
- (10) Bulk drugs and chemicals falling under Section VI of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)

(11) Pharmaceutical products falling within Chapter 30 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)

(12) Fireworks

(13) Red Sander

(14) Sandalwood

(15) All taxable goods falling within Chapters 1 to 24 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)

(16) All unclaimed/abandoned goods which are liable to rapid depreciation in value on account of fast change in technology or new models etc.

(17) Any goods seized by the proper officer under section 67 of the said Act, which are to be provisionally released under sub-section (6) of section 67 of the said Act, but provisional release has not been taken by the concerned person within a period of one month from the date of execution of the bond for provisional release.

**14.1.2.1 Instructions - Instructions/Guidelines regarding procedures to be followed during Search Operation. – Instruction No. 01/2020-21 [GST-Investigation] dated 2<sup>nd</sup> February 2021.**

Specific instances have come to the notice of the Board and Central Vigilance Commission wherein proper procedures have apparently not been followed during search proceedings and/or the Panchnamas/ statements have not been recorded as per extant guidelines & instructions. Such discrepancies weaken the Judicial scrutiny of the case at later stage. Accordingly, the instructions contained in the Central Excise Intelligence and Investigation Manual (2004), which hold good even in GST regime, are hereby. re-iterated for compliance by DGGI/ filed formations.

2. Section 67 of the Central Goods and Services Tax Act, 2017 contains the provisions for search. Similar provisions are contained in Section 18 of the Central Excise Act, 1944. These provisions prescribe that all the searches be carried out in accordance with the provisions of Code of Criminal Procedure, 1973. Thus, the following guidelines must be adhered to while carrying out search proceedings: :

- i) The officer issuing authorization for search should have valid and justifiable reasons for authorizing a search, which shall be duly recorded in the file. Search should be carried out only with a proper search authorization issued by the Competent Authority.
- ii) The instructions related to generation of DIN for each search authorization , shall be scrupulously followed by the officer authorising search, :
- iii) The premises of a person cannot be searched on the authority of a search warrant issued for the premises of some other person, Where a search warrant,

through oversight, has been issued in the name of a person who is already dead. the authorised officer should report to the Competent Authority and get a fresh warrant issued in the names of the legal heirs.

- iv) In case of search of a residence, a lady officer shall necessarily be part of the search team.
- v) The search shall be made in the presence of two or more independent witnesses who would preferably be respectable inhabitants of the locality, and if no such inhabitants are available or willing, the inhabitants of any other locality should be asked to be witness to the search. PSL employees, Bank employees etc, may be included as witnesses during sensitive search Operations to maintain transparency and credibility. The witnesses should be informed about the purpose of the search and their duties.
- vi) The officers conducting the search shall first identify themselves by showing their identity cards to the person in-charge of the premises. Also, before the start of the search, the officers as well as the independent witnesses shall offer their personal search. After the conclusion of the search all the officers and the Witnesses should again offer themselves for their personal search.
- vii) The search authorization shall be executed before the start of the search and the same shall be shown to the person in charge of the premises to be searched and his/her signature with date and Time shall be obtained on the body of the search authorization. The signatures of the witnesses with date and time should also be obtained on the body of the search authorization.
- viii) A Panchnama containing truthful account of the proceedings of the search shall necessarily be made and a list of documents/goods/ things recovered should be prepared. It should be ensured that time and date of start of search and conclusion of search must be mentioned in the Panchnama. The fact of offering personal search of the officers 'and witnesses before initiation and after conclusion of search must be recorded in the Panchnama,
- ix) In the sensitive premises videography of the search proceedings may also be considered and the same may be recorded in Panchnama.
- x) While conducting search, the officers must be sensitive towards the assessee/party. Social and religious sentiments of the person(s) under search and of all the person(s) present, shall be respected at all times. Special care/ attention should be given to elderly, women and children present in the premises under search, Children should be allowed to go to school, after examining of their bags. A woman occupying any premises, to be searched,



has the right to withdraw before the search party enters, if according to the customs she does not appear in public. If a person in the premises is not well, a medical practitioner may be called.

- xi) The person from whose custody any documents are seized may be allowed to make copies thereof or take extracts therefrom for which he/she may be provided a suitable time and place to take such copies or extract therefrom. However, if it is felt that providing such copies or extracts therefrom prejudicially affect the investigation, the officer may not provide such copies, If such request for taking copies is made during the course of search. the same may be incorporated in Panchnama, intimating place and time to take such copies.
- xii) The officer authorized to search the premises must sign each page of the Panchnama and annexures. A copy of the Panchnama along with all its annexures should be given to the person in-charge of the premises being searched and acknowledgement in this regard may be taken. If the person in-charge refuses to sign the Panchnama, the same may be pasted in a conspicuous place of the premises, in presence of the witnesses, Photograph of the Panchnama pasted on the premises may be kept on record.
- xiii) In case any statement is recorded during the search, each page of the statement must be signed by the person whose statement is being recorded. Each page of the statement must also be signed by the officer recording the statement as "before me".
- xiv) After the search is over, the: search authorization duly executed should be: returned to the officer who had issued the said search authorization with report regarding the outcome of the search. The names of the officers who had: participated in the search should be written on the reverse of the search authorization. If search authorization could not be executed due to any reason,' the same should be mentioned in the reverse of the search authorization and a copy of the same may be kept in the case file before returning the same to the officer who had issued the said 'search authorization.
- xv) The officers should leave the premises immediately after completion of Panchnama proceedings.
- xvi) During the prevalent COVID-19 pandemic situation, it is imperative to take" precautionary measures such as maintaining proper social distancing norms, use of masks and hand sanitizers etc, The search team should take all measures - as contained in the guidelines of Ministry of Home Affairs, and

Ministry of Health & Family Welfare, and also. the guidelines issued by the State Government from time to time.

4. Specific instructions regarding search of premises/persons are contained in the Central Excise Intelligence and Investigation Manual issued by the DGCEI, New Delhi Subsequent instructions have also been issued from time to time as per the need of the hour, latest being DGG] Instruction dated 14.08.2020. The instructions as elaborated in the preceding para(s) are to be followed in continuation to the earlier instructions.

#### **14.2 Inspection of goods in movement. [Section 68]**

<b>Section 68(1)</b>	01.07.2017 to till date	<p><b>The person in charge of a conveyance to carry prescribed documents and devices</b></p> <p>The Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.</p>
<b>Section 68(2)</b>	01.07.2017 to till date	<p><b>Validation of the details of prescribed documents in prescribed manner</b></p> <p>The details of documents required to be carried under sub-section (1) shall be validated in such manner as may be prescribed.</p>
<b>Section 68(3)</b>	01.07.2017 to till date	<p><b>Requirement to produce prescribed documents and devices for verification and inspection of goods.</b></p> <p>Where any conveyance referred to in sub-section (1) is intercepted by the proper officer at any place, he may require the person in charge of the said conveyance to produce the documents prescribed under the said sub-section and devices for verification, and the said person shall be liable to produce the documents and devices and also allow the inspection of goods.</p>

##### **14.2.1.1 Departmental Clarifications - Clarification on issues related to Job Work - [Circular No.38/12/2018 dated 26th March, 2018](#)**

Various representations have been received regarding the procedures to be followed for sending goods for job work and the related compliance requirements for the principal and the job worker. In view of the difficulties being faced by the taxpayers and to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, (hereinafter referred to as the "CGST Act") hereby clarifies the various issues raised as below:

2. As per clause (68) of section 2 of the CGST Act, 2017, “job work” means any treatment or process undertaken by a person on goods belonging to another registered person and the expression “job worker” shall be construed accordingly. The registered person on whose goods (inputs or capital goods) job work is performed is called the “Principal” for the purposes of section 143 of the CGST Act. The said section which encapsulates the provisions related to job work, provides that the registered principal may, without payment of tax, send inputs or capital goods to a job worker for job work and, if required, from there subsequently to another job worker and so on. Subsequently, on completion of the job work (by the last job worker), the principal shall either bring back the goods to his place of business or supply (including export) the same directly from the place of business/premises of the job worker within one year in case of inputs or within three years in case of capital goods (except moulds and dies, jigs and fixtures or tools).

3. It may be noted that the responsibility of keeping proper accounts of the inputs and capital goods sent for job work lies with the principal. Moreover, if the time frame of one year / three years for bringing back or further supplying the inputs / capital goods is not adhered to, the activity of sending the goods for job work shall be deemed to be a supply by the principal on the day when the said inputs / capital goods were sent out by him. Thus, essentially, sending goods for job work is not a supply as such, but it acquires the character of supply only when the inputs/capital goods sent for job work are neither received back by the principal nor supplied further by the principal from the place of business / premises of the job worker within one/three years of being sent out. It may be noted that the responsibility for sending the goods for job work as well as bringing them back or supplying them has been cast on the principal.

4. With respect to the above legal requirements, various issues have been raised on the following aspects:

- a. Scope / ambit of job work;
- b. Requirement of registration for a principal / job worker;
- c. Supply of goods by the principal from the job worker’s place of business / premises;
- d. Movement of goods from the principal to the job worker and the documents and intimation required therefor;
- e. Liability to issue invoice, determination of place of supply and payment of GST; and
- f. Availability of input tax credit to the principal and the job worker.

**5. Scope/ambit of job work:** Doubts have been raised on the scope of job work and whether any inputs, other than the goods provided by the principal, can be used by the job worker for providing the services of job work. It may be noted that the definition of job work, as contained in clause (68) of section 2 of the CGST Act, entails that the job work is a treatment or process undertaken by a person on goods belonging to another registered person. Thus, the job worker is expected to work on the goods sent by the principal and whether the activity is covered within the scope of job work or not would have to be determined on the basis of facts and circumstances of each case. Further, it is clarified that the job worker, in addition to the goods received from the principal, can use his own goods for providing the services of job work.

**6. Requirement of registration for the principal/ job worker:** It is important to note that the provisions of section 143 of the CGST Act are applicable to a registered person. Thus, it is only a registered person who can send the goods for job work under the said provisions. It may also be noted that the registered person (principal) is not obligated to follow the said

provisions. It is his choice whether or not to avail or not to avail of the benefit of these special provisions.

6.1 Doubts have been raised about the requirement of obtaining registration by job workers when they are located in the same State where the principal is located or when they are located in a State different from that of the principal. It may be noted that the job worker is required to obtain registration only if his aggregate turnover, to be computed on all India basis, in a financial year exceeds the specified threshold limit (i.e. Rs 20 lakhs or Rs. 10 lakhs in case of special category States except Jammu & Kashmir) in case both the principal and the job worker are located in the same State. Where the principal and the job worker are located in different States, the requirement for registration flows from clause (i) of section 24 of the CGST Act which provides for compulsory registration of suppliers making any inter-State supply of services. However, exemption from registration has been granted in case the aggregate turnover of the interState supply of taxable services does not exceed Rs 20 lakhs or Rs. 10 lakhs in case of special category States except Jammu & Kashmir in a financial year vide [notification No. 10/2017 – Integrated Tax dated 13.10.2017](#). Therefore, it is clarified that a job worker is required to obtain registration only in cases where his aggregate turnover, to be computed on all India basis, in a financial year exceeds the threshold limit regardless of whether the principal and the job worker are located in the same State or in different States.

#### **7. Supply of goods by the principal from job worker's place of business / premises:**

Doubts have been raised as to whether the principal can supply goods directly from the job worker's place of business / premises to its end customer and if yes, whether the supply will be regarded as having been made by the principal or by the job worker. It is clarified that the supply of goods by the principal from the place of business / premises of the job worker will be regarded as supply by the principal and not by the job worker as specified in section 143(1)(a) of the CGST Act.

8. Movement of goods from the principal to the job worker and the documents and intimation required therefor:

**8.1 Issues:** Doubts have been raised about the documents required to be issued for sending the goods (i) by the principal to the job worker, (ii) from one job worker to another job worker; and (iii) from the job worker back to the principal.

**8.2 Legal provisions:** Section 143 of the CGST Act provides that the principal may send and/or bring back inputs/capital goods for job work without payment of tax, under intimation to the proper officer and subject to the prescribed conditions. Rule 45 of the CGST Rules provides that the inputs, semi-finished goods or capital goods being sent for job work (including that being sent from one job worker to another job worker for further job work or those being sent directly to a job worker) shall be sent under the cover of a challan issued by the principal, containing the details specified in rule 55 of the CGST Rules. This rule has been amended vide [notification No. 14/2018-Central tax dated 23.03.2018](#) to provide that a job worker may endorse the challan issued by the principal. The principal is also required to file FORM GST ITC-04 every quarter stating the said details. Further, as per the provisions contained in rule 138 of the CGST Rules, an e-way bill is required to be generated by every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees even in cases where such movement is for reasons other than for supply (e.g. in case of movement for job work). Further, the third proviso to rule 138(1) of the CGST Rules provides that the e-way bill shall be generated either by the principal or by the registered job worker irrespective of the value of the consignment, where goods are sent by a principal located in one State/Union territory to a job worker located in any other State/ Union territory.

8.3 As mentioned above, rule 45 of the CGST Rules provides that inputs, semi-finished goods or capital goods shall be sent to the job worker under the cover of a challan issued by the principal, including in cases where such goods are sent directly to a job worker. Further, rule 55 of the CGST Rules provides that the consignor may issue a delivery challan containing the prescribed particulars in case of transportation of goods for job work. It may be noted that rule 45 provides for the issuance of a challan by the principal whereas rule 55 provides that the consignor may issue the delivery challan. It is also important to note that as per the provisions contained in rule 138 of the CGST Rules, an e-way bill is required to be generated by every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees even in cases where such movement is for reasons other than for supply (e.g. in case of movement for job work). The third proviso to rule 138(1) of the CGST Rules provides that the e-way bill shall be generated either by the principal or by the registered job worker irrespective of the value of the consignment, where goods are sent by a principal located in one State/Union territory to a job worker located in any other State/ Union territory. It may also be noted that as per Explanation 1 to rule 138(3) of the CGST Rules, where the goods are supplied by an unregistered supplier to a registered recipient, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods. In other words, the e-way bill shall be generated by the principal, wherever required, in case the job worker is unregistered.

**8.4 Clarification:** On conjoint reading of the relevant legal provisions, the following is clarified with respect to the issuance of challan, furnishing of intimation and other documentary requirements in this regard:

(i) **Where goods are sent by principal to only one job worker:** The principal shall prepare in triplicate, the challan in terms of rules 45 and 55 of the CGST Rules, for sending the goods to a job worker. Two copies of the challan may be sent to the job worker along with the goods. The job worker should send one copy of the said challan along with the goods, while returning them to the principal. The FORM GST ITC-04 will serve as the intimation as envisaged under section 143 of the CGST Act, 2017.

(ii) **Where goods are sent from one job worker to another job worker:** In such cases, the goods may move under the cover of a challan issued either by the principal or the job worker. In the alternative, the challan issued by the principal may be endorsed by the job worker sending the goods to another job worker, indicating therein the quantity and description of goods being sent. The same process may be repeated for subsequent movement of the goods to other job workers.

(iii) **Where the goods are returned to the principal by the job worker:** The job worker should send one copy of the challan received by him from the principal while returning the goods to the principal after carrying out the job work.

(iv) **Where the goods are sent directly by the supplier to the job worker:** In this case, the goods may move from the place of business of the supplier to the place of business/premises of the job worker with a copy of the invoice issued by the supplier in the name of the buyer (i.e. the principal) wherein the job worker's name and address should also be mentioned as the consignee, in terms of rule 46(o) of the CGST Rules. The buyer (i.e., the principal) shall issue the challan under rule 45 of the CGST Rules and send the same to the job worker directly in terms of para (i) above. In case of import of goods by the principal which are then supplied directly from the customs station of import, the goods may move from the customs station of import to the place of business/premises of the job worker with a copy of the Bill of Entry and

the principal shall issue the challan under rule 45 of the CGST Rules and send the same to the job worker directly.

v) **Where goods are returned in piecemeal by the job worker:** In case the goods after carrying out the job work, are sent in piecemeal quantities by a job worker to another job worker or to the principal, the challan issued originally by the principal cannot be endorsed and a fresh challan is required to be issued by the job worker.

(vi) **Submission of intimation:** Rule 45(3) of the CGST Rules provides that the principal is required to furnish the details of challans in respect of goods sent to a job worker or received from a job worker or sent from one job worker to another job worker during a quarter in FORM GST ITC-04 by the 25th day of the month succeeding the quarter or within such period as may be extended by the Commissioner. It is clarified that it is the responsibility of the principal to include the details of all the challans relating to goods sent by him to one or more job worker or from one job worker to another and its return therefrom. The FORM GST ITC-04 will serve as the intimation as envisaged under section 143 of the CGST Act.

## **9. Liability to issue invoice, determination of place of supply and payment of GST:**

**9.1 Issues:** Doubts have been raised about the time, value and place of supply in the hands of principal or job worker as also about the issuance of invoices by the principal or job worker, as the case may be, with regard to the supply of goods from principal to the recipient from the job worker's place of business / premises and the supply of services by the job worker.

**9.2 Legal provisions:** As mentioned earlier, section 143 of the CGST Act provides that the inputs/capital goods may be sent for job work without payment of tax and unless they are brought back by the principal, or supplied from the place of business / premises of the job worker within a period of one / three years, as the case may be, it would be deemed that such inputs or capital goods (other than moulds and dies, jigs and fixtures or tools) have been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out. Further, the job worker is liable to pay GST on the supply of job work services.

9.3 The provisions relating to time of supply are contained in sections 12 and 13 of the CGST Act and that for determining the value of supply are in section 15 of the CGST Act. The provisions relating to place of supply are contained in section 10 of the IGST Act, 2017. Further, the provisions relating to the issuance of an invoice are contained in section 31 of the CGST Act read with rule 46 of the CGST Rules.

9.4 On conjoint reading of all the provisions, the following is clarified with respect to the issuance of an invoice, time of supply and value of supply:

**(i) Supply of job work services:** The job worker, as a supplier of services, is liable to pay GST if he is liable to be registered. He shall issue an invoice at the time of supply of the services as determined in terms of section 13 read with section 31 of the CGST Act. The value of services would be determined in terms of section 15 of the CGST Act and would include not only the service charges but also the value of any goods or services used by him for supplying the job work services, if recovered from the principal. Doubts have been raised whether the value of moulds and dies, jigs and fixtures or tools which have been provided by the principal to the job worker and have been used by the latter for providing job work services would be included in the value of job work services. In this regard, attention is invited to section 15 of the CGST Act which lays down the principles for determining the value of any supply under GST. Importantly, clause (b) of sub-section (2) of section 15 of the CGST Act provides that any amount that the supplier is liable to pay in relation to the supply but which has been

incurred by the recipient will form part of the valuation for that particular supply, provided it has not been included in the price for such supply. Accordingly, it is clarified that the value of such moulds and dies, jigs and fixtures or tools may not be included in the value of job work services provided its value has been factored in the price for the supply of such services by the job worker. It may be noted that if the job worker is not registered, GST would be payable by the principal on reverse charge basis in terms of the provisions contained in section 9(4) of the CGST Act. However, the said provision has been kept in abeyance for the time being.

**(ii) Supply of goods by the principal from the place of business/ premises of job worker:** Section 143 of the CGST Act provides that the principal may supply, from the place of business / premises of a job worker, inputs after completion of job work or otherwise or capital goods (other than moulds and dies, jigs and fixtures or tools) within one year or three years respectively of their being sent out, on payment of tax within India, or with or without payment of tax for exports, as the case may be. This facility is available to the principal only if he declares the job worker's place of business / premises as his additional place of business or if the job worker is registered.

Since the supply is being made by the principal, it is clarified that the time, value and place of supply would have to be determined in the hands of the principal irrespective of the location of the job worker's place of business/premises. Further, the invoice would have to be issued by the principal. It is also clarified that in case of exports directly from the job worker's place of business/premises, the LUT or bond, as the case may be, shall be executed by the principal. Illustration: The principal is located in State A, the job worker in State B and the recipient in State C. In case the supply is made from the job worker's place of business / premises, the invoice will be issued by the supplier (principal) located in State A to the recipient located in State C. The said transaction will be an inter-State supply. In case the recipient is also located in State A, it will be an intra-State supply.

**(iii) Supply of waste and scrap generated during the job work:** Sub - section (5) of Section 143 of the CGST Act provides that the waste and scrap generated during the job work may be supplied by the registered job worker directly from his place of business or by the principal in case the job worker is not registered. The principles enunciated in para (ii) above would apply mutatis mutandis in this case.

**9.5 Violation of conditions laid down in section 143:** As per the provisions contained in section 143 of the CGST Act, if the inputs or capital goods (other than moulds and dies, jigs and fixtures or tools) are neither received back by the principal nor supplied from the job worker's place of business within the specified time period, the inputs or capital goods (other than moulds and dies, jigs and fixtures or tools) would be deemed to have been supplied by the principal to the job worker on the day when such inputs or capital goods were sent out to the first job worker.

9.6 Thus, if the inputs or capital goods are neither returned nor supplied from the job worker's place of business / premises within the specified time period, the principal would issue an invoice for the same and declare such supplies in his return for that particular month in which the time period of one year / three years has expired. The date of supply shall be the date on which such inputs or capital goods were initially sent to the job worker and interest for the intervening period shall also be payable on the tax. If such goods are returned by the job worker after the stipulated time period, the same would be treated as a supply by the job worker to the principal and the job worker would be liable to pay GST if he is liable for registration in accordance with the provisions contained in the CGST Act read with the rules made thereunder. It may be noted that if the job worker is not registered, GST would be

payable by the principal on reverse charge basis in terms of the provisions contained in section 9(4) of the CGST Act. However, the said provision has been kept in abeyance for the time being. Further, there is no requirement of either returning back or supplying the goods from the job worker's place of business/premises as far as moulds and dies, jigs and fixtures, or tools are concerned.

**10. Availability of input tax credit to the principal and job worker:** Doubts have been raised regarding the availability of input tax credit (ITC) to the principal in respect of inputs / capital goods that are directly received by the job worker. Doubts have also been raised whether the job worker is eligible for ITC in respect of inputs, etc. used by him in supplying job work services. It is clarified that, in view of the provisions contained in clause (b) of sub-section (2) of section 16 of the CGST Act, the input tax credit would be available to the principal, irrespective of the fact whether the inputs or capital goods are received by the principal and then sent to the job worker for processing, etc. or whether they are directly received at the job worker's place of business/premises, without being brought to the premises of the principal. It is also clarified that the job worker is also eligible to avail ITC on inputs, etc. used by him in supplying the job work services if he is registered.

**14.2.1.1A Departmental Clarifications - Changes in Circulars issued earlier under the CGST Act, 2017- [Circular No. 88/07/2019-GST dated 1st February, 2019](#)**

The CGST (Amendment) Act, 2018, SGST Amendment Acts of the respective States, IGST (Amendment) Act, 2018, UTGST (Amendment) Act, 2018 and the GST (Compensation to States) (Amendment) Act, 2018 (hereafter referred to as the GST Amendment Acts) have been brought in force with effect from 01.02.2019.

2. Consequent to the GST Amendment Acts, the following circulars issued earlier under the CGST Act, 2017 are hereby amended with effect from 01.02.2019, to the extent detailed in the succeeding paragraphs.

**4 [Circular No. 38/12/2018 dated 26.03.2018](#)**

This circular is revised in view of the amendment carried out in section 143 of the CGST Act, 2017 vide section 29 of the CGST (Amendment) Act, 2018 empowering the Commissioner to extend the period for return of inputs and capital goods from the job worker. Further on account of amendment carried out in section 9(4) of the CGST Act, 2017 vide section 4 of the CGST (Amendment) Act, 2018 done in relation to reverse charge, certain amendments to the Circular are required. Accordingly, the original and the amended relevant para of the circular are detailed hereunder.

**4.1 Original Para 2.**

As per clause (68) of section 2 of the CGST Act, 2017..... Subsequently, on completion of the job work (by the last job worker), the principal shall either bring back the goods to his place of business or supply (including export) the same directly from the place of business/premises of the job worker within one year in case of inputs or within three years in case of capital goods (except moulds and dies, jigs and fixtures or tools).

**4.2 Amended Para 2.**



As per clause (68) of section 2 of the CGST Act, 2017, “job work” means any treatment or process undertaken by a person on goods belonging to another registered person and the expression “job worker” shall be construed accordingly. The registered person on whose goods (inputs or capital goods) job work is performed is called the “Principal” for the purposes of section 143 of the CGST Act. The said section which encapsulates the provisions related to job work, provides that the registered principal may, without payment of tax, send inputs or capital goods to a job worker for job work and, if required, from there subsequently to another job worker and so on. Subsequently, on completion of the job work (by the last job worker), the principal shall either bring back the goods to his place of business or supply (including export) the same directly from the place of business/premises of the job worker within the time specified under section 143.

#### **4.3 Original Para 3.**

It may be noted ..... Moreover, if the time frame of one year / three years for bringing back or further supplying the inputs / capital goods is not adhered to, the activity of sending the goods for job work shall be deemed to be a supply by the principal on the day when the said inputs / capital goods were sent out by him. Thus, essentially, sending goods for job work is not a supply as such, but it acquires the character of supply only when the inputs/capital goods sent for job work are neither received back by the principal nor supplied further by the principal from the place of business / premises of the job worker within one/three years of being sent out. .... cast on the principal.

#### **4.4 Amended Para 3.**

It may be noted that the responsibility of keeping proper accounts of the inputs and capital goods sent for job work lies with the principal. Moreover, if the time frame specified under section 143 for bringing back or further supplying the inputs / capital goods is not adhered to, the activity of sending the goods for job work shall be deemed to be a supply by the principal on the day when the said inputs / capital goods were sent out by him. Thus, essentially, sending goods for job work is not a supply as such, but it acquires the character of supply only when the inputs/capital goods sent for job work are neither received back by the principal nor supplied further by the principal from the place of business / premises of the job worker within the specified time period (under section 143) of being sent out. It may be noted that the responsibility for sending the goods for job work as well as bringing them back or supplying them has been cast on the principal.

#### **4.5 Original Para 6.1**

Doubts have been raised ..... It may be noted that the job worker is required to obtain registration only if his aggregate turnover, to be computed on all India basis, in a financial year exceeds the specified threshold limit (i.e. Rs 20 lakhs or Rs. 10 lakhs in case of special category States except Jammu & Kashmir) in case both the principal and the job worker are located in the same State. .... However, exemption from registration has been granted in case the aggregate turnover of the inter-State supply of taxable services does not exceed Rs 20 lakhs or Rs. 10 lakhs in case of special category States except Jammu & Kashmir in a financial year vide [notification No. 10/2017 – Integrated Tax dated 13.10.2017](#). Therefore, ..... States.

#### **4.6 Amended Para 6.1**

Doubts have been raised about the requirement of obtaining registration by job workers when they are located in the same State where the principal is located or when they are located in

a State different from that of the principal. It may be noted that the job worker is required to obtain registration only if his aggregate turnover, to be computed on all India basis, in a financial year exceeds the specified threshold limit as specified in sub-section (1) of section 22 of the said Act, read with clause (iii) of the Explanation to the said section in case both the principal and the job worker are located in the same State. Where the principal and the job worker are located in different States, the requirement for registration flows from clause (i) of section 24 of the CGST Act which provides for compulsory registration of suppliers making any inter-State supply of services. However, exemption from registration has been granted in case the aggregate turnover of the inter-State supply of taxable services does not exceed the specified threshold limit as specified in sub-section (1) of section 22 of the said Act, read with clause (iii) of the Explanation to the said section in a financial year vide [notification No. 10/2017 – Integrated Tax dated 13.10.2017](#) as amended vide notification No 3/2019- Integrated Tax, dated 29.01.19. Therefore, it is clarified that a job worker is required to obtain registration only in cases where his aggregate turnover, to be computed on all India basis, in a financial year exceeds the threshold limit regardless of whether the principal and the job worker are located in the same State or in different States.

#### **4.7 Original Para 9.4.(i.)**

(i) Supply of job work services: The job worker, .....not been included in the price for such supply. Accordingly, it is clarified that the value of such moulds and dies, jigs and fixtures or tools may not be included in the value of job work services provided its value has been factored in the price for the supply of such services by the job worker. It may be noted that if the job worker is not registered, GST would be payable by the principal on reverse charge basis in terms of the provisions contained in section 9(4) of the CGST Act. However, the said provision has been kept in abeyance for the time being.

#### **4.8 Amended Para: 9.4.(i)**

(i.) Supply of job work services :The job worker, as a supplier of services, is liable to pay GST if he is liable to be registered. He shall issue an invoice at the time of supply of the services as determined in terms of section 13 read with section 31 of the CGST Act. The value of services would be determined in terms of section 15 of the CGST Act and would include not only the service charges but also the value of any goods or services used by him for supplying the job work services, if recovered from the principal. Doubts have been raised whether the value of moulds and dies, jigs and fixtures or tools which have been provided by the principal to the job worker and have been used by the latter for providing job work services would be included in the value of job work services. In this regard, attention is invited to section 15 of the CGST Act which lays down the principles for determining the value of any supply under GST. Importantly, clause (b) of sub-section (2) of section 15 of the CGST Act provides that any amount that the supplier is liable to pay in relation to the supply but which has been incurred by the recipient will form part of the valuation for that particular supply, provided it has not been included in the price for such supply. Accordingly, it is clarified that the value of such moulds and dies, jigs and fixtures or tools may not be included in the value of job work services provided its value has been factored in the price for the supply of such services by the job worker.

#### **4.9 Original Para 9.6**

Thus, if the ..... If such goods are returned by the job worker after the stipulated time period, the same would be treated as a supply by the job worker to the principal and the job worker would be liable to pay GST if he is liable for registration in accordance with the

provisions contained in the CGST Act read with the rules made thereunder. It may be noted that if the job worker is not registered, GST would be payable by the principal on reverse charge basis in terms of the provisions contained in section 9(4) of the CGST Act. However, the said provision has been kept in abeyance for the time being. Further, there is no requirement of either returning back or supplying the goods from the job worker's place of business/premises as far as moulds and dies, jigs and fixtures, or tools are concerned.

#### **4.10 Amended Para 9.6**

Thus, if the inputs or capital goods are neither returned nor supplied from the job worker's place of business / premises within the specified time period, the principal would issue an invoice for the same and declare such supplies in his return for that particular month in which the time period of one year / three years has expired. The date of supply shall be the date on which such inputs or capital goods were initially sent to the job worker and interest for the intervening period shall also be payable on the tax. If such goods are returned by the job worker after the stipulated time period, the same would be treated as a supply by the job worker to the principal and the job worker would be liable to pay GST if he is liable for registration in accordance with the provisions contained in the CGST Act read with the rules made thereunder. Further, there is no requirement of either returning back or supplying the goods from the job worker's place of business/premises as far as moulds and dies, jigs and fixtures, or tools are concerned.

**14.2.1.2 Departmental Clarifications - Procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances — [Circular No. 41/15/2018-GST dated 13th April, 2018](#)**

Sub-section (1) of section 68 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") stipulates that the person in charge of a conveyance carrying any consignment of goods of value exceeding a specified amount shall carry with him the documents and devices prescribed in this behalf. Sub-section (2) of the said section states that the details of documents required to be carried by the person in charge of the conveyance shall be validated in such manner as may be prescribed. Sub-section (3) of the said section provides that where any conveyance referred to in sub-section (1) of the said section is intercepted by the proper officer at any place, he may require the person in charge of the conveyance to produce the documents for verification, and the said person shall be liable to produce the documents and also allow the inspection of goods.

1.1 Rules 138 to 138D of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules") lay down, in detail, the provisions relating to e-way bills. As per the said provisions, in case of transportation of goods by road, an e-way bill is required to be generated before the commencement of movement of the consignment. Rule 138A of the CGST rules prescribes that the person in charge of a conveyance shall carry the invoice or bill of supply or delivery challan, as the case may be; and in case of transportation of goods by road, he shall also carry a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner.

1.2 Section 129 of the CGST Act provides for detention, seizure and release of goods and conveyances in transit while section 130 of the CGST Act provides for the confiscation of goods or conveyances and imposition of penalty.

2. In this regard, various references have been received regarding the procedure to be followed in case of interception of conveyances for inspection of goods in movement and detention, seizure and release and confiscation of such goods and conveyances. In order to ensure uniformity in the implementation of the provisions of the CGST Act across all the field formations, the Board, in exercise of the powers conferred under section 168 (1) of the CGST Act, hereby issues the following instructions:

(a) The jurisdictional Commissioner or an officer authorised by him for this purpose shall, by an order, designate an officer/officers as the proper officer/officers to conduct interception and inspection of conveyances and goods in the jurisdictional area specified in such order.

(b) The proper officer, empowered to intercept and inspect a conveyance, may intercept any conveyance for verification of documents and/or inspection of goods. On being intercepted, the person in charge of the conveyance shall produce the documents related to the goods and the conveyance. The proper officer shall verify such documents and where, prima facie, no discrepancies are found, the conveyance shall be allowed to move further. An e-way bill number may be available with the person in charge of the conveyance or in the form of a printout, sms or it may be written on an invoice. All these forms of having an e-way bill are valid. Wherever a facility exists to verify the e-way bill electronically, the same shall be so verified, either by logging on to <http://mis.ewaybillgst.gov.in> or the Mobile App or through SMS by sending EWBVER to the mobile number 77382 99899 (For e.g. EWBVER 120100231897).

(c) For the purposes of verification of the e-way bill, interception and inspection of the conveyance and/or goods, the proper officer under rule 138B of the CGST Rules shall be the officer who has been assigned the functions under sub-section (3) of section 68 of the CGST Act vide [Circular No. 3/3/2017 – GST, dated 05.07.2017](#).

(d) Where the person in charge of the conveyance fails to produce any prescribed document or where the proper officer intends to undertake an inspection, he shall record a statement of the person in charge of the conveyance in FORM GST MOV01. In addition, the proper officer shall issue an order for physical verification/inspection of the conveyance, goods and documents in FORM GST MOV-02, requiring the person in charge of the conveyance to station the conveyance at the place mentioned in such order and allow the inspection of the goods. The proper officer shall, within twenty four hours of the aforementioned issuance of FORM GST MOV-02, prepare a report in Part A of FORM GST EWB-03 and upload the same on the common portal.

(e) Within a period of three working days from the date of issue of the order in FORM GST MOV-02, the proper officer shall conclude the inspection proceedings, either by himself or through any other proper officer authorised in this behalf. Where circumstances warrant such time to be extended, he shall obtain a written permission in FORM GST MOV-03 from the Commissioner or an officer authorized by him, for extension of time beyond three working days and a copy of the order of extension shall be served on the person in charge of the conveyance.

(f) On completion of the physical verification/inspection of the conveyance and the goods in movement, the proper officer shall prepare a report of such physical verification in FORM GST MOV-04 and serve a copy of the said report to the person in charge of the goods and conveyance. The proper officer shall also record, on the common portal, the final report of the

inspection in Part B of FORM GST EWB-03 within three days of such physical verification/inspection.

(g) Where no discrepancies are found after the inspection of the goods and conveyance, the proper officer shall issue forthwith a release order in FORM GST MOV-05 and allow the conveyance to move further. Where the proper officer is of the opinion that the goods and conveyance need to be detained under section 129 of the CGST Act, he shall issue an order of detention in FORM GST MOV-06 and a notice in FORM GST MOV-07 in accordance with the provisions of sub-section (3) of section 129 of the CGST Act, specifying the tax and penalty payable. The said notice shall be served on the person in charge of the conveyance.

(h) Where the owner of the goods or any person authorized by him comes forward to make the payment of tax and penalty as applicable under clause (a) of sub-section (1) of section 129 of the CGST Act, or where the owner of the goods does not come forward to make the payment of tax and penalty as applicable under clause (b) of sub-section (1) of the said section, the proper officer shall, after the amount of tax and penalty has been paid in accordance with the provisions of the CGST Act and the CGST Rules, release the goods and conveyance by an order in FORM GST MOV-05. Further, the order in FORM GST MOV-09 shall be uploaded on the common portal and the demand accruing from the proceedings shall be added in the electronic liability register and the payment made shall be credited to such electronic liability register by debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.

(i) Where the owner of the goods, or the person authorized by him, or any person other than the owner of the goods comes forward to get the goods and the conveyance released by furnishing a security under clause (c) of sub-section (1) of section 129 of the CGST Act, the goods and the conveyance shall be released, by an order in FORM GST MOV-05, after obtaining a bond in FORM GST MOV-08 along with a security in the form of bank guarantee equal to the amount payable under clause (a) or clause (b) of sub-section (1) of section 129 of the CGST Act. The finalisation of the proceedings under section 129 of the CGST Act shall be taken up on priority by the officer concerned and the security provided may be adjusted against the demand arising from such proceedings.

(j) Where any objections are filed against the proposed amount of tax and penalty payable, the proper officer shall consider such objections and thereafter, pass a speaking order in FORM GST MOV-09, quantifying the tax and penalty payable. On payment of such tax and penalty, the goods and conveyance shall be released forthwith by an order in FORM GST MOV-05. The order in FORM GST MOV09 shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.

(k) In case the proposed tax and penalty are not paid within seven days from the date of the issue of the order of detention in FORM GST MOV-06, action under section 130 of the CGST Act shall be initiated by serving a notice in FORM GST MOV10, proposing confiscation of the goods and conveyance and imposition of penalty.

(l) Where the proper officer is of the opinion that such movement of goods is being effected to evade payment of tax, he may directly invoke section 130 of the CGST Act by issuing a notice proposing to confiscate the goods and conveyance in FORM GST MOV-10. In the said notice, the quantum of tax and penalty leviable under section 130 of the CGST Act read with section

122 of the CGST Act, and the fine in lieu of confiscation leviable under sub-section (2) of section 130 of the CGST Act shall be specified. Where the conveyance is used for the carriage of goods or passengers for hire, the owner of the conveyance shall also be issued a notice under the third proviso to sub-section (2) of section 130 of the CGST Act, proposing to impose a fine equal to the tax payable on the goods being transported in lieu of confiscation of the conveyance.

(m) No order for confiscation of goods or conveyance, or for imposition of penalty, shall be issued without giving the person an opportunity of being heard.

(n) An order of confiscation of goods shall be passed in FORM GST MOV-11, after taking into consideration the objections filed by the person in charge of the goods (owner or his representative), and the same shall be served on the person concerned. Once the order of confiscation is passed, the title of such goods shall stand transferred to the Central Government. In the said order, a suitable time not exceeding three months shall be offered to make the payment of tax, penalty and fine imposed in lieu of confiscation and get the goods released. The order in FORM GST MOV-11 shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act. Once an order of confiscation of goods is passed in FORM GST MOV-11, the order in FORM GST MOV-09 passed earlier with respect to the said goods shall be withdrawn.

(o) An order of confiscation of conveyance shall be passed in FORM GST MOV-11, after taking into consideration the objections filed by the person in charge of the conveyance and the same shall be served on the person concerned. Once the order of confiscation is passed, the title of such conveyance shall stand transferred to the Central Government. In the order passed above, a suitable time not exceeding three months shall be offered to make the payment of penalty and fines imposed in lieu of confiscation and get the conveyance released. The order in FORM GST MOV-11 shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.

(p) The order referred to in clauses (n) and (o) above may be passed as a common order in the said FORM GST MOV-11.

(q) In case neither the owner of the goods nor any person other than the owner of the goods comes forward to make the payment of tax, penalty and fine imposed and get the goods or conveyance released within the time specified in FORM GST MOV11, the proper officer shall auction the goods and/or conveyance by a public auction and remit the sale proceeds to the account of the Central Government.

(r) Suitable modifications in the time allowed for the service of notice or order for auction or disposal shall be done in case of perishable and/or hazardous goods.

(s) Whenever an order or proceedings under the CGST Act is passed by the proper officer, a corresponding order or proceedings shall be passed by him under the respective State or Union Territory GST Act and if applicable, under the Goods and Services Tax (Compensations to States) Act, 2017. Further, sub-sections (3) and (4) of section 79 of the CGST Act/respective

State GST Acts may be referred to in case of recovery of arrears of central tax/State tax/Union territory tax.

(t) The procedure narrated above shall be applicable mutatis mutandis for an order or proceeding under the IGST Act, 2017.

(u) Demand of any tax, penalty, fine or other charges shall be added in the electronic liability ledger of the person concerned. Where no electronic liability ledger is available in case of an unregistered person, a temporary ID shall be created by the proper officer on the common portal and the liability shall be created therein. He shall also credit the payments made towards such demands of tax, penalty or fine and other charges by debiting the electronic cash ledger of the concerned person.

(v) A summary of every order in FORM GST MOV-09 and FORM GST MOV-11 shall be uploaded electronically in FORM GST-DRC-07 on the common portal.

3. The format of [FORMS GST MOV-01 to GST MOV-11](#) are annexed to this Circular.

**14.2.1.2A Departmental Clarifications - Changes in Circulars issued earlier under the CGST Act, 2017- [Circular No. 88/07/2019-GST dated 1st February, 2019](#)**

The CGST (Amendment) Act, 2018, SGST Amendment Acts of the respective States, IGST (Amendment) Act, 2018, UTGST (Amendment) Act, 2018 and the GST (Compensation to States) (Amendment) Act, 2018 (hereafter referred to as the GST Amendment Acts) have been brought in force with effect from 01.02.2019.

2. Consequent to the GST Amendment Acts, the following circulars issued earlier under the CGST Act, 2017 are hereby amended with effect from 01.02.2019, to the extent detailed in the succeeding paragraphs.

**[5 Circular No. 41/15/2018 dated 13.04.2018](#)**

This circular is revised in view of the amendment carried out in section 129 of the CGST Act, 2017 vide section 27 of the CGST (Amendment) Act, 2018 allowing 14 days for owner/transporter to pay tax/penalty for seized goods. Accordingly, the original and the amended relevant para of the circular are detailed hereunder.

**5.1 Original Para 2(k)**

In case the proposed tax and penalty are not paid within seven days from the date of the issue of the order of detention in FORM GST MOV-06, the action under section 130 of the CGST Act shall be initiated by serving a notice in FORM GST MOV-10, proposing confiscation of the goods and conveyance and imposition of penalty.

**5.2 Amended Para 2(k)**

In case the proposed tax and penalty are not paid within fourteen days from the date of the issue of the order of detention in FORM GST MOV-06, the action under section 130 of the CGST Act shall be initiated by serving a notice in FORM GST MOV-10, proposing confiscation of the goods and conveyance and imposition of penalty.

5.3 Further, FORM GST MOV-08 and FORM GST MOV-09, annexed to the circular are revised as below:

**FORM GST MOV-08 (para 4)**

And if all taxes, interest, penalty, fine and other lawful charges demanded by the proper officer are duly paid within fourteen days of the date of detention being made in writing by the said proper officer, this obligation shall be void.

**FORM GST MOV-09 (para 10)**

You are hereby directed to make the payment forthwith/not later than fourteen days from the date of the issue of the order of detention in FORM GST MOV-06, failing which action under section 130 of the Central/State Goods and Services Tax Act /section 21 of the Union Territory Goods and Services Tax Act or section 20 of the Integrated Goods and Services Act shall be initiated

**14.2.1.3 Departmental Clarifications - Clarifications of certain issues under GST-  
[Circular No. 47/21/2018-GST dated 08th June, 2018](#)**

Representations have been received seeking clarification on certain issues under the GST laws. The same have been examined and the clarifications on the same are as below:

Sl. No.	Issue	Clarification
1	Whether moulds and dies owned by Original Equipment Manufacturers (OEM) that are sent free of cost (FOC) to a component manufacturer is leviable to tax and whether OEMs are required to reverse input tax credit in this case?	<p>1.1 Moulds and dies owned by the original equipment manufacturer (OEM) which are provided to a component manufacturer (the two not being related persons or distinct persons) on FOC basis does not constitute a supply as there is no consideration involved. Further, since the moulds and dies are provided on FOC basis by the OEM to the component manufacturer in the course or furtherance of his business, there is no requirement for reversal of input tax credit availed on such moulds and dies by the OEM.</p> <p>1.2 It is further clarified that while calculating the value of the supply made by the component manufacturer, the value of moulds and dies provided by the OEM to the component manufacturer on FOC basis shall not be added to the value of such supply because the cost of moulds/dies was not to be incurred by the component manufacturer and thus, does not merit inclusion in the value of supply in terms of section 15(2)(b) of the Central Goods and Services Tax Act, 2017 (CGST Act for short).</p> <p>1.3 However, if the contract between OEM and component manufacturer was for supply of components made by using the moulds/dies belonging to the component manufacturer, but the same have</p>



		<p>been supplied by the OEM to the component manufacturer on FOC basis, the amortised cost of such moulds/dies shall be added to the value of the components. In such cases, the OEM will be required to reverse the credit availed on such moulds/dies, as the same will not be considered to be provided by OEM to the component manufacturer in the course or furtherance of the former's business.</p>				
2	<p>How is servicing of cars involving both supply of goods (spare parts) and services (labour), where the value of goods and services are shown separately, to be treated under GST?</p>	<p>2.1 The taxability of supply would have to be determined on a case to case basis looking at the facts and circumstances of each case.</p> <p>2.2 Where a supply involves supply of both goods and services and the value of such goods and services supplied are shown separately, the goods and services would be liable to tax at the rates as applicable to such goods and services separately.</p>				
3	<p>In case of auction of tea, coffee, rubber etc., whether the books of accounts are required to be maintained at every place of business by the principal and the auctioneer, and whether they are eligible to avail input tax credit?</p>	<p>3.1 The requirement of maintaining the books of accounts at the principal place of business and additional place(s) of business is clarified as below:</p> <table border="1" style="width: 100%;"> <tr> <td style="width: 5%; vertical-align: top;">(a)</td> <td> <p>For the purpose of auction of tea, coffee, rubber, etc, the principal and the auctioneer may declare the warehouses, where such goods are stored, as their additional place of business. The buyer is also required to disclose such warehouse as his additional place of business if he wants to store the goods purchased through auction in such warehouses. For the purpose of supply of tea through a private treaty, the principal and an auctioneer may also comply with the said provisions.</p> </td> </tr> <tr> <td style="width: 5%; vertical-align: top;">(b)</td> <td> <p>The principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, are required to maintain the books of accounts relating to each and every place of business in that place itself in terms of the first proviso to sub-section (1) of section 35 of the CGST Act. However, in case difficulties are faced in maintaining the books of accounts, it is clarified that they may maintain the books of accounts relating to the additional place(s) of business at their principal place of business instead of such additional place(s).</p> </td> </tr> </table>	(a)	<p>For the purpose of auction of tea, coffee, rubber, etc, the principal and the auctioneer may declare the warehouses, where such goods are stored, as their additional place of business. The buyer is also required to disclose such warehouse as his additional place of business if he wants to store the goods purchased through auction in such warehouses. For the purpose of supply of tea through a private treaty, the principal and an auctioneer may also comply with the said provisions.</p>	(b)	<p>The principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, are required to maintain the books of accounts relating to each and every place of business in that place itself in terms of the first proviso to sub-section (1) of section 35 of the CGST Act. However, in case difficulties are faced in maintaining the books of accounts, it is clarified that they may maintain the books of accounts relating to the additional place(s) of business at their principal place of business instead of such additional place(s).</p>
(a)	<p>For the purpose of auction of tea, coffee, rubber, etc, the principal and the auctioneer may declare the warehouses, where such goods are stored, as their additional place of business. The buyer is also required to disclose such warehouse as his additional place of business if he wants to store the goods purchased through auction in such warehouses. For the purpose of supply of tea through a private treaty, the principal and an auctioneer may also comply with the said provisions.</p>					
(b)	<p>The principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, are required to maintain the books of accounts relating to each and every place of business in that place itself in terms of the first proviso to sub-section (1) of section 35 of the CGST Act. However, in case difficulties are faced in maintaining the books of accounts, it is clarified that they may maintain the books of accounts relating to the additional place(s) of business at their principal place of business instead of such additional place(s).</p>					

		<p>(c) The principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, shall intimate their jurisdictional officer in writing about the maintenance of books of accounts relating to the additional place(s) of business at their principal place of business.</p>
		<p>3.2 It is further clarified that the principal and the auctioneer for the purpose of auction of tea, coffee, rubber etc., or the principal and the auctioneer for the purpose of supply of tea through a private treaty, shall be eligible to avail input tax credit subject to the fulfilment of other provisions of the CGST Act read with the rules made thereunder.</p>
4	In case of transportation of goods by railways, whether goods can be delivered even if the e-way bill is not produced at the time of delivery?	As per proviso to rule 138(2A) of the Central Goods and Services Tax Rules, 2017 (CGST Rules for short), the railways shall not deliver the goods unless the e-way bill is produced at the time of delivery.
5	<p>Whether e-way bill is required in the following cases-</p> <p>(i) Where goods transit through another State while moving from one area in a State to another area in the same State.</p> <p>(ii) Where goods move from a DTA unit to a SEZ unit or vice versa located in the same State.</p>	<p>(i) It may be noted that e-way bill generation is not dependent on whether a supply is inter State or not, but on whether the movement of goods is inter-State or not. Therefore, if the goods transit through a second State while moving from one place in a State to another place in the same State, an e-way bill is required to be generated.</p> <p>(ii) Where goods move from a DTA unit to a SEZ unit or vice versa located in the same State, there is no requirement to generate an e-way bill, if the same has been exempted under rule 138(14)(d) of the CGST Rules.</p>

**14.2.1.4 Departmental Clarifications - Modifications to the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances, as clarified in [Circular No. 41/15/2018-GST dated 13th April, 2018](#) - [Circular No. 49/23/2018-GST dated 21st June, 2018](#)**

[Circular No. 41/15/2018-GST dated 13th April, 2018](#) was issued to clarify the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances.

2. In order to clarify certain issues regarding the specified procedure in this regard and in order to ensure uniform implementation of the provisions of the CGST Act across all the field

formations, the Board, in exercise of the powers conferred under section 168 (1) of the Central Goods and Services Tax Act, hereby issues the following modifications to the said Circular:-

(i) In para 2 (e) of the said Circular, the expression “three working days” may be replaced by the expression “three days”;

(ii) The statement after paragraph 3 in FORM GST MOV-05 should read as: “In view of the above, the goods and conveyance(s) are hereby released on (DD/MM/YYYY) at \_\_\_\_ AM/PM.”

3.0 Further, it is stated that as per rule 138C (2) of the Central Goods and Services Tax Rules, 2017, where the physical verification of goods being transported on any conveyance has been done during transit at one place within a State or Union territory or in any other State or Union territory, no further physical verification of the said conveyance shall be carried out again in the State or Union territory, unless a specific information relating to evasion of tax is made available subsequently. Since the requisite FORMS are not available on the common portal currently, any action initiated by the State tax officers is not being intimated to the central tax officers and vice-versa, doubts have been raised as to the procedure to be followed in such situations.

3.1 In this regard, it is clarified that the hard copies of the notices/orders issued in the specified FORMS by a tax authority may be shown as proof of initiation of action by a tax authority by the transporter/registered person to another tax authority as and when required.

3.2 Further, it is clarified that only such goods and/or conveyances should be detained/confiscated in respect of which there is a violation of the provisions of the GST Acts or the rules made thereunder.

Illustration: Where a conveyance carrying twenty-five consignments is intercepted and the person-in-charge of such conveyance produces valid e-way bills and/or other relevant documents in respect of twenty consignments, but is unable to produce the same with respect to the remaining five consignments, detention/confiscation can be made only with respect to the five consignments and the conveyance in respect of which the violation of the Act or the rules made thereunder has been established by the proper officer.

**14.2.1.5 Departmental Clarifications - E-way bill in case of storing of goods in godown of transporter- [Circular No. 61/35/2018-GST dated 4th September, 2018](#)**

Various representations have been received on the matter pertaining to the textile sector and problems being faced by weavers & artisans regarding storage of their goods in the warehouse of the transporter. It has been stated that textile traders use transporters' godown for storage of their goods due to their weak financial conditions. The transporters providing such warehousing facility will have to get themselves registered under GST and maintain detailed records in cases where the transporter takes delivery of the goods and temporarily stores them in his warehouse for further transportation of the goods till the consignee/recipient taxpayer's premises. The transport industry is facing difficulties due to the same and a request has been made to treat these godowns as transit godowns.

2. In view of the difficulties being faced by the transporters and the consignee/recipient taxpayer and to ensure uniformity in the procedure across the sectors and the country, the Board in exercise of its power conferred under section 168(1) of the Central Goods and

Services Tax Act, 2017 (hereafter referred to as the CGST Act) hereby clarifies the issues in the succeeding paragraphs.

3. As per rule 138 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) e-way bill is a document which is required for the movement of goods from the supplier's place of business to the recipient taxpayer's place of business. Therefore, the goods in movement including when they are stored in the transporter's godown (even if the godown is located in the recipient taxpayer's city/town) prior to delivery shall always be accompanied by a valid e-way bill.

4. Further, section 2(85) of the CGST Act defines the "place of business" to include "a place from where the business is ordinarily carried out, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both". An additional place of business is the place of business from where taxpayer carries out business related activities within the State, in addition to the principal place of business.

5. Thus, in case the consignee/ recipient taxpayer stores his goods in the godown of the transporter, then the transporter's godown has to be declared as an additional place of business by the recipient taxpayer. In such cases, mere declaration by the recipient taxpayer to this effect with the concurrence of the transporter in the said declaration will suffice. Where the transporter's godown has been declared as the additional place of business by the recipient taxpayer, the transportation under the e-way bill shall be deemed to be concluded once the goods have reached the transporter's godown (recipient taxpayer's additional place of business). Hence, e-way bill validity in such cases will not be required to be extended.

6. Further, whenever the goods are transported from the transporters' godown, which has been declared as the additional place of business of the recipient taxpayer, to any other premises of the recipient taxpayer then, the relevant provisions of the e-way bill rules shall apply. Hence, whenever the goods move from the transporter's godown (i.e., recipient taxpayer's additional place of business) to the recipient taxpayer's any other place of business, a valid e-way bill shall be required, as per the extant State-specific e-way bill rules.

7. Further, the obligation of the transporter to maintain accounts and records as specified in section 35 of the CGST Act read with rule 58 of the CGST Rules shall continue as a warehouse keeper. Furthermore, the recipient taxpayer shall also maintain accounts and records as required under rules 56 and 57 of the CGST Rules. Furthermore, as per rule 56 (7) of the CGST Rules, books of accounts in relation to goods stored at the transporter's godown (i.e., the recipient taxpayer's additional place of business) by the recipient taxpayer may be maintained by him at his principal place of business. It may be noted that the facility of declaring additional place of business by the recipient taxpayer is in no way putting any additional compliance requirement on the transporters.

**14.2.1.6 Departmental Clarifications - Modification of the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances, as clarified in [Circular No. 41/15/2018-GST dated 13th April, 2018](#) and [Circular No. 49/23/2018-GST dated 21st June, 2018](#)-[Circular No. 64/38/2018-GST dated 14th September, 2018](#)**

Kind attention is invited to [Circular No. 41/15/2018-GST dated 13th April, 2018](#) as amended by [Circular No. 49/23/2018-GST dated 21st June, 2018](#) vide which the procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances was specified.

2. Various representations have been received regarding imposition of penalty in case of minor discrepancies in the details mentioned in the e-way bill although there are no major lapses in the invoices accompanying the goods in movement. The matter has been examined. In order to clarify this issue and to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act') hereby clarifies the said issue hereunder.

3. Section 68 of the CGST Act read with rule 138A of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as 'the CGST Rules') requires that the person in charge of a conveyance carrying any consignment of goods of value exceeding Rs 50,000/- should carry a copy of documents viz., invoice/bill of supply/delivery challan/bill of entry and a valid e-way bill in physical or electronic form for verification. In case such person does not carry the mentioned documents, there is no doubt that a contravention of the provisions of the law takes place and the provisions of section 129 and section 130 of the CGST Act are invocable. Further, it may be noted that the non-furnishing of information in Part B of FORM GST EWB-01 amounts to the e-way bill becoming not a valid document for the movement of goods by road as per Explanation (2) to rule 138(3) of the CGST Rules, except in the case where the goods are transported for a distance of upto fifty kilometres within the State or Union territory to or from the place of business of the transporter to the place of business of the consignor or the consignee, as the case may be.

4. Whereas, section 129 of the CGST Act provides for detention and seizure of goods and conveyances and their release on the payment of requisite tax and penalty in cases where such goods are transported in contravention of the provisions of the CGST Act or the rules made thereunder. It has been informed that proceedings under section 129 of the CGST Act are being initiated for every mistake in the documents mentioned in para 3 above. It is clarified that in case a consignment of goods is accompanied by an invoice or any other specified document and not an e-way bill, proceedings under section 129 of the CGST Act may be initiated.

5. Further, in case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, proceedings under section 129 of the CGST Act may not be initiated, inter alia, in the following situations:

- a) Spelling mistakes in the name of the consignor or the consignee but the GSTIN, wherever applicable, is correct;
- b) Error in the pin-code but the address of the consignor and the consignee mentioned is 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.

6. In case of the above situations, penalty to the tune of Rs. 500/- each under section 125 of the CGST Act and the respective State GST Act should be imposed (Rs.1000/- under the IGST Act) in FORM GST DRC-07 for every consignment. A record of all such consignments where proceedings under section 129 of the CGST Act have not been invoked in view of the situations listed in paragraph 5 above shall be sent by the proper officer to his controlling officer on a weekly basis.

**14.02.1.7 Departmental Clarifications - Clarification in respect of various measures announced by the Government for providing relief to the taxpayers in view of spread of Novel Corona Virus (COVID-19) - [Circular No. 136/06/2020-GST dated 3rd April, 2020](#)**

The spread of Novel Corona Virus (COVID-19) across many countries of the world, including India, has caused immense loss to the lives of people and resultantly impacted the trade and industry. In view of the emergent situation and challenges faced by taxpayers in meeting the compliance requirements under various provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act"), Government has announced various relief measures relating to statutory and regulatory compliance matters across sectors.

2. Government has issued following notifications in order to provide relief to the taxpayers:

S. No.	Notification	Remarks
1.	<a href="#">Notification No. 30/2020- Central Tax, dated 03.04.2020</a>	Amendment in the CGST Rules so as to allow taxpayers opting for the Composition Scheme for the financial year 2020-21 to file their option in <b>FORM CMP-02</b> till 30th June, 2020 and to allow cumulative application of the condition in rule 36(4) for the months of February, 2020 to August, 2020 in the return for tax period of September, 2020.
2.	<a href="#">Notification No. 31/2020- Central Tax, dated 03.04.2020</a>	A lower rate of interest of NIL for first 15 days after the due date of filing return in FORM GSTR-3B and @ 9% thereafter is notified for those registered persons having aggregate turnover above Rs. 5 Crore and NIL rate of interest is notified for those registered persons having aggregate turnover below Rs. 5 Crore in the preceding financial year, for the tax periods of February, 2020 to April, 2020. This lower rate of interest shall be subject to condition that due tax is paid by filing return in FORM GSTR-3B by the date(s) as specified in the Notification.
3.	<a href="#">Notification No. 32/2020- Central Tax, dated 03.04.2020</a>	Notification under section 128 of CGST Act for waiver of late fee for delay in furnishing returns in <b>FORM GSTR-3B</b> for the tax periods of February, 2020 to April, 2020 provided the return in FORM GSTR-3B by the date as specified in the Notification.

4.	<a href="#">Notification No. 33/2020- Central Tax, dated 03.04.2020</a>	Notification under section 128 of CGST Act for waiver of late fee for delay in furnishing the statement of outward supplies in <b>FORM GSTR-1</b> for taxpayers for the tax periods March, 2020 to May, 2020 and for quarter ending 31st March 2020 if the same are furnished on or before 30th day of June, 2020.
5.	<a href="#">Notification No. 34/2020- Central Tax, dated 03.04.2020</a>	Extension of due date of furnishing statement, containing the details of payment of self-assessed tax in <b>FORM GST CMP- 08</b> for the quarter ending 31st March, 2020 till the 7th day of July, 2020 and filing <b>FORM GSTR-4</b> for the financial year ending 31st March, 2020 till the 15th day of July, 2020.
6.	<a href="#">Notification No. 35/2020- Central Tax, dated 03.04.2020</a>	Notification under section 168A of CGST Act for extending due date of compliance which falls during the period from the 20th day of March, 2020 to the 29th day of June, to 30th day of June, 2020.

3. Various issues relating to above mentioned notifications have been examined. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies each of these issues as under:-

S. No.	Issue	Clarification								
1.	What are the measures that have been specifically taken for taxpayers who have opted to pay tax under section 10 the CGST Act or those availing the option to pay tax under the <a href="#">notification No. 02/2019- Central Tax (Rate)</a> , dated the 7th March, 2019?	<p>1. The said class of taxpayers, as per the <a href="#">notification No. 34/2020- Central Tax, dated 03.04.2020</a>, have been allowed, to, —</p> <table border="1"> <tr> <td>(i)</td> <td>furnish the statement of details of payment of self- assessed tax in FORM GST CMP-08 for the quarter January to March, 2020 by 07.07.2020; and</td> </tr> <tr> <td>(ii)</td> <td>furnish the return in FORM GSTR-4 for the financial year 2019-20 by 15.07.2020.</td> </tr> </table> <p>2. In addition to the above, taxpayers opting for the composition scheme for the financial year 2020-21, have been allowed, as per the <a href="#">notification No. 30/2020- Central Tax, dated 03.04.2020</a>, to, —</p> <table border="1"> <tr> <td>(i)</td> <td>file an intimation in FORM GST CMP-02 by 30.06.2020; and</td> </tr> <tr> <td>(ii)</td> <td>furnish the statement in FORM GST ITC-03 till 31.07.2020.</td> </tr> </table>	(i)	furnish the statement of details of payment of self- assessed tax in FORM GST CMP-08 for the quarter January to March, 2020 by 07.07.2020; and	(ii)	furnish the return in FORM GSTR-4 for the financial year 2019-20 by 15.07.2020.	(i)	file an intimation in FORM GST CMP-02 by 30.06.2020; and	(ii)	furnish the statement in FORM GST ITC-03 till 31.07.2020.
(i)	furnish the statement of details of payment of self- assessed tax in FORM GST CMP-08 for the quarter January to March, 2020 by 07.07.2020; and									
(ii)	furnish the return in FORM GSTR-4 for the financial year 2019-20 by 15.07.2020.									
(i)	file an intimation in FORM GST CMP-02 by 30.06.2020; and									
(ii)	furnish the statement in FORM GST ITC-03 till 31.07.2020.									
2.	Whether due date of furnishing FORM GSTR-3B for the months of February, March and April, 2020 has been extended ?	<p>1. The due dates for furnishing FORM GSTR-3B for the months of February, March and April, 2020 has not been extended through any of the notifications referred in para 2 above.</p> <p>2. However, as per <a href="#">notification No. 31/2020- Central Tax, dated 03.04.2020</a>, NIL rate of interest for first 15 days after the due date of filing return in FORM GSTR-3B and reduced rate of interest @ 9% thereafter has been notified for those registered persons whose aggregate turnover in the preceding financial year is above Rs. 5 Crore.</p>								

		<p>For those registered persons having turnover up to Rs. 5 Crore in the preceding financial year, NIL rate of interest has also been notified.</p> <p>3. Further, vide notification as per the <a href="#">notification No. 32/2020- Central Tax, dated 03.04.2020</a>, Government has waived the late fees for delay in furnishing the return in <b>FORM GSTR-3B</b> for the months of February, March and April, 2020.</p> <p>4. The lower rate of interest and waiver of late fee would be available only if due tax is paid by filing return in <b>FORM GSTR-3B</b> by the date(s) as specified in the Notification.</p>																									
3.	<p>What are the conditions attached for availing the reduced rate of interest for the months of February, March and April, 2020, for a registered person whose aggregate turnover in the preceding financial year is above Rs. 5 Crore?</p>	<p>1. As clarified at sl. no. (2) above, the due date for furnishing the return remains unchanged; i.e. 20th day of the month succeeding such month. The rate of interest has been notified as Nil for first 15 days from the due date, and 9 per cent per annum thereafter, for the said months.</p> <p>2. The reduced rate of interest is subject to the condition that the registered person must furnish the returns in FORM GSTR-3B on or before 24th day of June, 2020.</p> <p>3. In case the returns in FORM GSTR-3B for the said months are not furnished on or before 24th day of June, 2020 then interest at 18% per annum shall be payable from the due date of return, till the date on which the return is filed. In addition, regular late fee shall also be leviable for such delay along with liability for penalty.</p>																									
4.	<p>How to calculate the interest for late payment of tax for the months of February, March and April, 2020 for a registered person whose aggregate turnover in preceding financial year is above Rs. 5 Crore?</p>	<p>1. As explained above, the rate of interest has been notified as Nil for first 15 days from the due date, and 9 per cent per annum thereafter, for the said months. The same can be explained through an illustration.</p> <p><i>Illustration:-</i> Calculation of interest for delayed filing of return for the month of March, 2020 (due date of filing being 20.04.2020) may be illustrated as per the below Table:</p> <table border="1"> <thead> <tr> <th>S. No.</th> <th>Date of filing GSTR-3B</th> <th>No. of days of delay</th> <th>Whether condition for reduced interest is fulfilled?</th> <th>Interest</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>02.05.2020</td> <td>11</td> <td>Yes</td> <td>Zero interest</td> </tr> <tr> <td>2</td> <td>20.05.2020</td> <td>30</td> <td>Yes</td> <td>Zero interest for 15 days + interest rate @9% p.a. for 15 days</td> </tr> <tr> <td>3</td> <td>20.06.2020</td> <td>61</td> <td>Yes</td> <td>Zero interest for 15 days + interest rate @9% p.a. for 46 days</td> </tr> <tr> <td>4</td> <td>24.06.2020</td> <td>65</td> <td>Yes</td> <td>Zero interest for 15 days + interest rate @9% p.a. for 50 days</td> </tr> </tbody> </table>	S. No.	Date of filing GSTR-3B	No. of days of delay	Whether condition for reduced interest is fulfilled?	Interest	1	02.05.2020	11	Yes	Zero interest	2	20.05.2020	30	Yes	Zero interest for 15 days + interest rate @9% p.a. for 15 days	3	20.06.2020	61	Yes	Zero interest for 15 days + interest rate @9% p.a. for 46 days	4	24.06.2020	65	Yes	Zero interest for 15 days + interest rate @9% p.a. for 50 days
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4	24.06.2020	65	Yes	Zero interest for 15 days + interest rate @9% p.a. for 50 days																							



		5	30.06.2020	71	NO	Interest rate @18% p.a. for 71 days (i.e. no benefit of reduced interest)
5.	What are the conditions attached for availing the NIL rate of interest for the months of February, March and April, 2020, for a registered person whose aggregate turnover in preceding financial year is up to Rs. 5 Crore?	<p>1. As clarified at sl.no. (2) above, the due date for furnishing the return remains unchanged. The rate of interest has been notified as Nil for the said months.</p> <p>2. The conditions for availing the NIL rate of interest is that the registered person must furnish the returns in FORM GSTR-3B on or before the date as mentioned in the <a href="#">notification No. 31/2020- Central Tax, dated 03.04.2020</a>.</p> <p>3. In case the return for the said months are not furnished on or before the date mentioned in the notification then interest at 18% per annum shall be charged from the due date of return, till the date on which the return is filed as explained in the illustration at sl.no (4) above, against entry 5. In addition, regular late fee shall also be leviable for such delay along with liability for penalty.</p>				
6.	Whether the due date of furnishing the statement of outward supplies in FORM GSTR-1 under section 37 has been extended for the months of February, March and April 2020?	<p>Under the provisions of section 128 of the CGST Act, in terms of <a href="#">notification No. 33/2020- Central Tax, dated 03.04.2020</a>, late fee leviable under section 47 has been waived for delay in furnishing the statement of outward supplies in FORM GSTR-1 under Section 37, for the tax periods March, 2020, April 2020, May, 2020 and quarter ending 31st March 2020 if the same are furnished on or before the 30th day of June, 2020.</p>				
7.	Whether restriction under rule 36(4) of the CGST Rules would apply during the lockdown period?	<p>Vide <a href="#">notification No. 30/2020- Central Tax, dated 03.04.2020</a>, a proviso has been inserted in CGST Rules 2017 to provide that the said condition shall not apply to input tax credit availed by the registered persons in the returns in FORM GSTR-3B for the months of February, March, April, May, June, July and August, 2020, but that the said condition shall apply cumulatively for the said period and that the return in FORM GSTR-3B for the tax period of September, 2020 shall be furnished with cumulative adjustment of input tax credit for the said months in accordance with the condition under rule 36(4).</p>				
8.	What will be the status of e-way bills which have expired during the lockdown period?	<p>In terms of <a href="#">notification No. 35/2020- Central Tax, dated 03.04.2020</a>, Issued under the provisions of 168A of the CGST Act, where the validity of an e-way bill generated under rule 138 of the CGST Rules expires during the period 20th day of March, 2020 to 15th day of April, 2020, the validity period of such e-way bill has been extended till the 30th day of April, 2020.</p>				
9.	What are the measures that have been specifically taken for taxpayers who	<p>Under the provisions of section 168A of the CGST Act, in terms of <a href="#">notification No. 35/2020- Central Tax, dated 03.04.2020</a>, the said class of taxpayers have been allowed to furnish the respective returns specified in sub-sections (3), (4) and (5) of section 39 of the said Act,</p>				

	are required to deduct tax at source under section 51, Input Service Distributors and Non-resident Taxable persons?	for the months of March, 2020 to May, 2020 on or before the 30th day of June, 2020.
10.	What are the measures that have been specifically taken for taxpayers who are required to collect tax at source under section 52?	Under the provisions of section 168A of the CGST Act, in terms of <a href="#">notification No. 35/2020- Central Tax, dated 03.04.2020</a> , the said class of taxpayers have been allowed to furnish the statement specified in section 52, for the months of March, 2020 to May, 2020 on or before the 30th day of June, 2020.
11.	The time limit for compliance of some of the provisions of the CGST Act is falling during the lock-down period announced by the Government. What should the taxpayer do?	Vide <a href="#">notification No. 35/2020- Central Tax, dated 03.04.2020</a> , issued under the provisions of 168A of the CGST Act, except for few provisions covered in exclusion clause, any time limit for completion or compliance of any action which falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020, and where completion or compliance of such action has not been made within such time, has been extended to 30th day of June, 2020.

#### 14.3 Power to arrest. [Section 69]

<b>Section 69(1)</b>	01.07.2017 to till date	<b>Power to arrest for specified offences</b>  Where the Commissioner has reasons to believe that a person has committed any offence specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-section (1) of section 132 which is punishable under clause (i) or (ii) of sub-section (1), or sub-section (2) of the said section, he may, by order, authorise any officer of central tax to arrest such person.
<b>Section 69(2)</b>	01.07.2017 to till date	<b>To inform the grounds of arrest and produce the arrested person before a Magistrate within twenty-four hours, where a person is arrested for cognizable and non-bailable offence</b>  Where a person is arrested under sub-section (1) for an offence specified under subsection (5) of section 132, the officer authorised to arrest the person shall inform such person of the grounds of arrest and produce him before a Magistrate within twenty-four hours.

<b>Section 69(3)</b>	01.07.2017 to till date	<b>Releasing an arrested person on bail</b>	
		Subject to the provisions of the Code of Criminal Procedure, 1973,– –	
		(a)	where a person is arrested under sub-section (1) for any offence specified under sub-section (4) of section 132, he shall be admitted to bail or in default of bail, forwarded to the custody of the Magistrate;
(b)	in the case of a non-cognizable and bailable offence, the Deputy Commissioner or the Assistant Commissioner shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station.		

**14.4 Power to summon persons to give evidence and produce documents. [Section 70]**

<b>Section 70(1)</b>	01.07.2017 to till date	<b>Power to summon any persons to give evidence or to produce a document or any other thing</b>  The proper officer under this Act shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908.
<b>Section 70(2)</b>	01.07.2017 to till date	<b>Inquiry shall be deemed to be a “judicial proceedings”</b>  Every such inquiry referred to in sub-section (1) shall be deemed to be a “judicial proceedings” within the meaning of section 193 and section 228 of the Indian Penal Code.

**14.4.1.1 Instructions - Guidelines on issuance of summons under section 70 of the Central Goods & Services Tax Act, 2017 - [Instruction No. 3/2022-23 \[GST – INVESTIGATION dated 17-8-2022\]](#)**

It has been brought to the notice of the Board that in certain instances, summons under Section 70 of the Central Goods and Services Tax Act, 2017 ('the CGST Act') have been issued by the field formations to the top senior officials of the companies in a routine manner to call for material evidence/ documents. Besides, summons have also been issued to call for statutory records viz. GSTR-3B, GSTR-1 etc., which are available online in the GST portal.

2. As per Section 70 (1) of the CGST Act, summons can be issued by the proper officer to any person whose attendance is considered necessary either for giving evidence or producing a document or any other thing in an inquiry in the same manner, as provided in the case of a civil court under the provisions of Code of Civil Procedure, 1908 (5 of 1908). As per sub-

section (2) of Section 70, securing such documentary and oral evidence under the said legal provision shall be deemed to be a "judicial proceedings" within the meaning of Section 193 and Section 228 of the Indian Penal Code (45 of 1860). While issuing of summons is one of the instruments with the Department to get/obtain information or documents or statement from any person to find out the evasion of the tax etc., however, it needs to be ensured that exercise of such power is done judiciously and with due consideration. Officers are also advised to explore instances when instead of resorting to summons, a letter for requisition of information may suffice. Previously in respect of legacy laws, the Board has sensitized the officers regarding use of power of issuance of summons diligently. However, Board finds it necessary to issue fresh guidelines under CGST.

3. Accordingly, Board desires that the following guidelines must be followed in matters related to investigation under CGST:

(i)	Power to issue summons are generally exercised by Superintendents, though higher officers may also issue summons. Summons by Superintendents should be issued after obtaining prior written permission from an officer not below the rank of Deputy/ Assistant Commissioner with the reasons for issuance of summons to be recorded in writing.
(ii)	Where for operational reasons it is not possible to obtain such prior written permission, oral/telephonic permission from such officer must be obtained and the same should be reduced to writing and intimated to the officer according such permission at the earliest opportunity.
(iii)	In all cases, where summons are issued, the officer issuing summons should record in file about appearance/ non-appearance of the summoned person and place a copy of statement recorded in file.
(iv)	Summons should normally indicate the name of the offender(s) against whom the case is being investigated unless revelation of the name of the offender is detrimental to the cause of investigation, so that the recipient of summons has prima-facie understanding as whether he has been summoned as an accused, co-accused or as witness.
(v)	Issuance of summons may be avoided to call upon statutory documents which are digitally/ online available in the GST portal.
(vi)	Senior management officials such as CMD/ MD/ CEO/ CFO/ similar officers of any company or a PSU should not generally be issued summons in the first instance. They should be summoned when there are clear indications in the investigation of their involvement in the decision making process which led to loss of revenue.
(vii)	Attention is also invited to Board's Circular No. 122/41/2019-GST, dated 5th November, 2019 which makes generation and quoting of Document Identification Number (DIN) mandatory on communication issued by officers of CBIC to tax payers and other concerned persons for the purpose of investigation. Format of summons has been prescribed under Board's Circular No. 128/47/2019-GST, dated 23rd December, 2019.
(viii)	The summoning officer must be present at the time and date for which summons is issued. In case of any exigency, the summoned person must be informed in advance in writing or orally.

(ix)	All persons summoned are bound to appear before the officers concerned, the only exception being women who do not by tradition appear in public or privileged persons. The exemption so available to these persons under Sections 132 and 133 of CPC, may be kept in consideration while investigating the case.
(x)	Issuance of repeated summons without ensuring service of the summons must be avoided. Sometimes it may so happen that summoned person does not join investigations even after being repeatedly summoned. In such cases, after giving reasonable opportunity, generally three summons at reasonable intervals, a complaint should be filed with the jurisdictional magistrate alleging that the accused has committed offence under Section 172 of Indian Penal Code (absconding to avoid service of summons or other proceedings) and/or 174 of Indian Penal Code (non-attendance in obedience to an order from public servant), as inquiry under Section 70 of CGST Act has been deemed to be a "judicial proceedings" within the meaning of Section 193 and Section 228 of the Indian Penal Code. Before filing such complaints, it must be ensured that summons have adequately been served upon the intended person in accordance with Section 169 of the CGST Act. However, this does not bar to issue further summons to the said person under Section 70 of the Act.

#### 14.5 Access to business premises. [Section 71]

<b>Section 71(1)</b>	01.07.2017 to till date	<p><b>Access to business premises to inspect books of account, documents, computers, computer programs, computer software whether installed in a computer or otherwise and such other things as required</b></p> <p>Any officer under this Act, authorised by the proper officer not below the rank of Joint Commissioner, shall have access to any place of business of a registered person to inspect books of account, documents, computers, computer programs, computer software whether installed in a computer or otherwise and such other things as he may require and which may be available at such place, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.</p>				
<b>Section 71(2)</b>	01.07.2017 to till date	<p><b>Person in charge of the business place shall make available the records, reports or documents etc.</b></p> <p>Every person in charge of place referred to in sub-section (1) shall, on demand, make available to the officer authorised under sub-section (1) or the audit party deputed by the proper officer or a cost accountant or chartered accountant nominated under section 66—</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%; text-align: center;">(i)</td> <td>such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;</td> </tr> <tr> <td style="text-align: center;">(ii)</td> <td>trial balance or its equivalent;</td> </tr> </table>	(i)	such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;	(ii)	trial balance or its equivalent;
(i)	such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;					
(ii)	trial balance or its equivalent;					

		(iii) statements of annual financial accounts, duly audited, wherever required;
		(iv) cost audit report, if any, under section 148 of the Companies Act, 2013;
		(v) the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961; and
		(vi) any other relevant record,
	for the scrutiny by the officer or audit party or the chartered accountant or cost accountant within a period not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the chartered accountant or cost accountant.	

#### 14.6 Officers to assist proper officers. [Section 72]

<b>Section 72(1)</b>	01.07.2017 to till date	<p><b>Officers of specified departments to assist the proper officers in the implementation of CGST Act.</b></p> <p>All officers of Police, Railways, Customs, and those officers engaged in the collection of land revenue, including village officers, officers of State tax and officers of Union territory tax shall assist the proper officers in the implementation of this Act.</p>
<b>Section 72(2)</b>	01.07.2017 to till date	<p><b>Any other class of officers to assist the proper officers in the implementation of CGST Act</b></p> <p>The Government may, by notification, empower and require any other class of officers to assist the proper officers in the implementation of this Act when called upon to do so by the Commissioner.</p>