

Law and Provisions under CGST
Chapter 5 – INPUT TAX CREDIT

5.0 INPUT TAX CREDIT – The provisions related to Input tax credit - Eligibility and conditions for taking input tax credit, Apportionment of credit and blocked credits, Availability of credit in special circumstances, Taking input tax credit in respect of inputs and capital goods sent for job work, Manner of distribution of credit by Input Service Distributor and Manner of recovery of credit distributed in excess are covered under Chapter V of the CGST Act 2017 from Section 16 to Section 21.

The Central Government has appointed the 22nd day of June, 2017, as the date on which the provisions of these sections of the said Act shall come into force vide [Notification No. 01/2017-Central Tax, dated. 19-06-2017](#).

Chapter V of the CGST Act 2017 - Input tax credit	
Section	Particulars
Section 16	Eligibility and conditions for taking input tax credit
Section 17	Apportionment of credit and blocked credits
Section 18	Availability of credit in special circumstances
Section 19	Taking input tax credit in respect of inputs and capital goods sent for job work
Section 20	Manner of distribution of credit by Input Service Distributor
Section 21	Manner of recovery of credit distributed in excess

CGST Rules 2017 - Input tax credit	
Rules	Particulars
Rule 36	Documentary requirements and conditions for claiming input tax credit
Rule 37	Reversal of input tax credit in the case of non-payment of consideration
Rule 37A	Reversal of input tax credit in the case of non-payment of tax by the supplier and re-availment thereof
Rule 38	Claim of credit by a banking company or a financial institution
Rule 39	Procedure for distribution of input tax credit by Input Service Distributor
Rule 40	Manner of claiming credit in special circumstances
Rule 41	Transfer of credit on sale, merger, amalgamation, lease or transfer of a business

Rule 41A	Transfer of credit on obtaining separate registration for multiple places of business within a State or Union territory
Rule 42	Manner of determination of input tax credit in respect of inputs or input services and reversal thereof
Rule 43	Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases
Rule 44	Manner of reversal of credit under special circumstances
Rule 44A	Manner of reversal of credit of Additional duty of Customs in respect of Gold dore bar.
Rule 45	Conditions and restrictions in respect of inputs and capital goods sent to the job worker.-

Forms - Input tax credit	
Forms	Particulars
FORM GST ITC-01	Declaration for claim of input tax credit under sub-section (1) of section 18
FORM GST ITC-02	Declaration for transfer of ITC in case of sale, merger, demerger, amalgamation, lease or transfer of a business under sub-section (3) of section 18
FORM GST ITC-02 A	Declaration for transfer of ITC pursuant to registration under sub-section (2) of section 25
FORM GST ITC-03	Declaration for intimation of ITC reversal/payment of tax on inputs held in stock, inputs contained in semi-finished and finished goods held in stock and capital goods under sub-section (4) of section 18
FORM GST ITC-04	Details of goods/capital goods sent to job worker and received back

5.1 Eligibility and conditions for taking input tax credit. [Section 16]

Section 16(1)	01.07.2017 to till date	<p>Every registered person shall, subject to prescribed conditions and restrictions and in the manner specified in section 49, be entitled to take credit of input tax</p> <p>Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him</p>
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		which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.										
Section 16(2)	01.07.2017 to 31.01.2019	<p>Prescribed conditions to take credit of input tax in respect of any supply of goods or services or both to him</p> <p>Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—</p> <table border="1"> <tr> <td>(a)</td> <td> <p>Registered person must have possession of a tax invoice or debit note or such other tax paying documents as may be prescribed.</p> <p>he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed^{\$};</p> <table border="1"> <tr> <td>\$</td> <td>Please refer Rule 36 of CGST Rules 2017 for Documentary requirements and conditions for claiming input tax credit.</td> </tr> </table> </td> </tr> <tr> <td>(b)</td> <td> <p>Registered person must have received the goods or services or both.</p> <p>he has received the goods or services or both.</p> <p>Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;</p> </td> </tr> <tr> <td>(c)</td> <td> <p>The tax charged in respect of such supply has been actually paid to the Government</p> <p>subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and</p> </td> </tr> <tr> <td>(d)</td> <td> <p>Registered person must have furnished the return under section 39</p> <p>he has furnished the return under section 39:</p> </td> </tr> </table>	(a)	<p>Registered person must have possession of a tax invoice or debit note or such other tax paying documents as may be prescribed.</p> <p>he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed^{\$};</p> <table border="1"> <tr> <td>\$</td> <td>Please refer Rule 36 of CGST Rules 2017 for Documentary requirements and conditions for claiming input tax credit.</td> </tr> </table>	\$	Please refer Rule 36 of CGST Rules 2017 for Documentary requirements and conditions for claiming input tax credit.	(b)	<p>Registered person must have received the goods or services or both.</p> <p>he has received the goods or services or both.</p> <p>Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;</p>	(c)	<p>The tax charged in respect of such supply has been actually paid to the Government</p> <p>subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and</p>	(d)	<p>Registered person must have furnished the return under section 39</p> <p>he has furnished the return under section 39:</p>
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		¹ [(ba)	<p>The details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;</p> <p>the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;]</p> <table border="1"> <tr> <td>1.</td> <td>Inserted w.e.f. 01.10.2022 vide clause (a) (i) of section 100 of the Finance Act, 2022 which comes into force by Notification No. 18/2022 – Central Tax dated 28.09.2022.</td> </tr> </table>	1.	Inserted w.e.f. 01.10.2022 vide clause (a) (i) of section 100 of the Finance Act, 2022 which comes into force by Notification No. 18/2022 – Central Tax dated 28.09.2022 .		
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		(c)	<p>The tax charged in respect of such supply has been actually paid to the Government</p> <p>subject to the provisions of section 41 ¹[*****], the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and</p> <table border="1"> <tr> <td>1.</td> <td>Omitted the words, figures and letter “or section 43A” w.e.f. 01.10.2022 vide clause</td> </tr> </table>	1.	Omitted the words, figures and letter “or section 43A” w.e.f. 01.10.2022 vide clause		
1.	Omitted the words, figures and letter “or section 43A” w.e.f. 01.10.2022 vide clause						

			<p>(a) (ii) of section 100 of the Finance Act, 2022 which comes into force by Notification No. 18/2022 – Central Tax dated 28.09.2022.</p> <p>Note: We are of the view that there was no need to notify omission of the words, figures and letter “or section 43A” as the amendment vide Central Goods and Services Tax (Amendment) Act, 2018 has not come into force through any Notification yet.</p>
		(d)	<p>Registered person must have furnished the return under section 39</p> <p>he has furnished the return under section 39:</p>
First Proviso	01.07.2017 to till date	<p>Input tax credit where the goods against an invoice are received in lots or instalments</p> <p>Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:</p>	
Second Proviso	01.07.2017 to 30.09.2023	<p>An amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed^{\$}, where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier.</p> <p>Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed^{\$}:</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>^{\$} The rule 37 of CGST Rules prescribes the manner for reversal of input tax credit in the case of non-payment of consideration</p> </div>	
	01.10.2023 to till date	<p>Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the</p>	

		<p>supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be ¹[paid by him along with interest payable under section 50], in such manner as may be prescribed:</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>1. Substituted for the words “added to his output tax liability, along with interest thereon”, vide Section 138(i) of the Finance Act 2023 and has come into force w.e.f. 01.10.2023 as the Central Government has appointed the 1st day of October, 2023, as the date on which the provisions have come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023.</p> </div>
Third Proviso	01.07.2017 to 30.09.2023	<p>The recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.</p> <p>Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.</p>
	01.10.2023 to till date	<p>Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him ¹[to the supplier] of the amount towards the value of supply of goods or services or both along with tax payable thereon.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>1. Inserted the words “to the supplier” vide Section 138(ii) of the Finance Act 2023 and has come into force w.e.f. 01.10.2023 as the Central Government has appointed the 1st day of October, 2023, as the date on which the provisions have come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023.</p> </div>
Section 16(3)	01.07.2017 to till date	<p>The input tax credit shall not be allowed where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961</p> <p>Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.</p>

Section 16(4)	01.07.2017 to 31.12.2020	<p>Time limit for availing input tax credit in respect of any invoice or debit note for supply of goods or services or both</p> <p>A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.</p>
	01.01.2021 to 30.09.2022	<p>Time limit for availing input tax credit in respect of any invoice or debit note for supply of goods or services or both</p> <p>A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or ¹[*****] debit note pertains or furnishing of the relevant annual return, whichever is earlier.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>1. Omitted the words “invoice relating to such” w.e.f. 01.01.2021 vide Section 120 of the Finance Act, 2020 NO. 12 of 2020 dated 27th March, 2020 which comes into force vide Notification No. 92/2020 – Central Tax dated 22nd December 2020.</p> </div>
	01.10.2022 to till date	<p>Time limit for availing input tax credit in respect of any invoice or debit note for supply of goods or services or both</p> <p>A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the ¹[thirtieth day of November] following the end of financial year to which such invoice or [*****] debit note pertains or furnishing of the relevant annual return, whichever is earlier.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>1. Substituted w.e.f. 01.10.2022 for the words and figures “due date of furnishing of the return under section 39 for the month of September”, vide clause (b) of section 100 of the Finance Act, 2022 which comes into force by Notification No. 18/2022 – Central Tax dated 28.09.2022.</p> </div>
First Provision	31.12.2018 to till date	Registered person shall be entitled to take input tax credit in respect of any invoice or invoice relating to

		<p>such debit note for supply of goods or services or both made during the financial year 2017-18, after the due date of furnishing of the return under section 39 for the month of September, 2018 till the due date of furnishing of the return under the said section for the month of March, 2019</p> <p>¹[Provided that the registered person shall be entitled to take input tax credit after the due date of furnishing of the return under section 39 for the month of September, 2018 till the due date of furnishing of the return under the said section for the month of March, 2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the financial year 2017-18, the details of which have been uploaded by the supplier under sub-section (1) of section 37 till the due date for furnishing the details under sub-section (1) of said section for the month of March, 2019.]</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>1. Inserted vide Central Goods and Services Tax (Second Removal of Difficulties) Order, 2018 dated 31st December 2018.</p> </div>
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5.1.1.1 Departmental Notifications - Special procedure for taxpayers in Dadra and Nagar Haveli and Daman and Diu consequent to merger of the two UTs

Notification No. 10/2020 – Central Tax dated 21st March, 2020 - The Government, on the recommendations of the Council, has notified those persons whose principal place of business or place of business was in the erstwhile Union territory of Daman and Diu or in the erstwhile Union territory of Dadra and Nagar Haveli till the 26th day of January, 2020; and is in the merged Union territory of Daman and Diu and Dadra and Nagar Haveli from the 27th day of January, 2020 onwards, as the class of persons who shall, except as respects things done or omitted to be done before the notification, follow the following special procedure till the 31st day of May, 2020 (hereinafter referred to as the transition date) as mentioned below.

2. The said registered person shall,-

(i) ascertain the tax period as per sub-clause (106) of section 2 of the said Act for the purposes of any of the provisions of the said Act for the month of January, 2020 and February, 2020 as below:-

(a) January, 2020: 1st January, 2020 to 25th January, 2020;

(b) February, 2020: 26th January, 2020 to 29th February, 2020;

(ii) irrespective of the particulars of tax charged in the invoices, or in other like documents, raised from the 26th January, 2020 till the transition date, pay the appropriate applicable tax in the return under section 39 of the said Act;

(iii) who have registered Goods and Services Tax Identification Number (GSTIN) in the erstwhile Union territory of Daman and Diu and the erstwhile Union territory of Dadra and Nagar Haveli till the 25th day of January, 2019 have an option to transfer the balance of input tax credit (ITC) after the filing of the return for January, 2020, from the registered Goods and Services Tax Identification Number (GSTIN) in the erstwhile Union territory of Daman and Diu to the registered GSTIN in the new Union territory of Daman and Diu and Dadra and Nagar Haveli by following the procedure as below:-

(a) the said class of persons shall intimate the jurisdictional tax officer of the transferor and the transferee regarding the transfer of ITC, within one month of obtaining new registration;

(b) the ITC shall be transferred on the basis of the balance in the electronic credit ledger upon filing of the return in the erstwhile Union territory of Daman and Diu, for the tax period immediately before the transition date;

(c) the transfer of ITC shall be carried out through the return under section 39 of the said Act for the tax period immediately before the transition date and the transferor GSTIN shall debit the said ITC from its electronic credit ledger in Table 4(B)(2) of FORM GSTR-3B and the transferee GSTIN shall credit the equal amount of ITC in its electronic credit ledger in Table 4(A)(5) of FORM GSTR-3B.

The balance of Union territory taxes in electronic credit ledger of the said class of persons, whose principal place of business lies in the Union territory of Daman and Diu, as on the 25th day of January, 2020, shall be transferred as balance of Union territory tax in the electronic credit ledger.

Further, [Notification No. 45/2020 – Central Tax dated 9th June, 2020](#) has amended [Notification No. 10/2020 – Central Tax dated 21st March, 2020](#) as follows:

In the said notification, in the first paragraph, for the figures, letters and words "31st day of May, 2020", the figures, letters and words "31st day of July, 2020" shall be substituted.

5.1.1.2 Departmental Notifications - Special procedure for corporate debtors undergoing the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016

[Notification No. 11/2020 – Central Tax dated 21st March, 2020](#) - –The Government, on the recommendations of the Council, has notified those registered persons(hereinafter referred to as the erstwhile registered person), who are corporate debtors under the provisions of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), undergoing the corporate insolvency resolution process and the management of whose affairs are being undertaken by interim resolution professionals (IRP) or resolution professionals (RP), as the class of persons who

shall follow the following special procedure, from the date of the appointment of the IRP/RP till the period they undergo the corporate insolvency resolution process, as mentioned below.

2. Registration.- The said class of persons shall, with effect from the date of appointment of IRP / RP, be treated as a distinct person of the corporate debtor, and shall be liable to take a new registration (hereinafter referred to as the new registration) in each of the States or Union territories where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP:

Provided that in cases where the IRP/RP has been appointed prior to the date of this notification, he shall take registration within thirty days from the commencement of this notification, with effect from date of his appointment as IRP/RP.

3. Return.- The said class of persons shall, after obtaining registration file the first return under section 40 of the said Act, from the date on which he becomes liable to registration till the date on which registration has been granted.

4. Input tax credit.-(1)The said class of persons shall, in his first return, be eligible to avail input tax credit on invoices covering the supplies of goods or services or both, received since his appointment as IRP/RP but bearing the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the said Act and the rules made thereunder, except the provisions of sub-section (4) of section 16 of the said Act and sub-rule (4) of rule 36 of the Central Goods and Service Tax Rules, 2017 (hereinafter referred to as the said rules).

(2)Registered persons who are receiving supplies from the said class of persons shall, for the period from the date of appointment of IRP / RP till the date of registration as required in this notification or thirty days from the date of this notification, whichever is earlier, be eligible to avail input tax credit on invoices issued using the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the said Act and the rules made thereunder, except the provisions of sub-rule (4) of rule 36 of the said rules.

(5) Any amount deposited in the cash ledger by the IRP/RP, in the existing registration, from the date of appointment of IRP/RP to the date of registration in terms of this notification shall be available for refund to the erstwhile registration.

Explanation.- For the purposes of this notification, the terms “corporate debtor”, “corporate insolvency resolution professional”, “interim resolution professional” and “resolution professional” shall have the same meaning as assigned to them in the Insolvency and Bankruptcy Code, 2016 (31 of 2016).

The Central Government has issued many Notifications in pursuance of the provisions of Section 16(1) of the CGST Act 2017 from time to time, These Notifications are just a klick away to be viewed – [Notifications issued in pursuance of Section 16\(1\) of the CGST Act 2017.](#)

5.1.2.1 Departmental Clarifications - Clarifications regarding applicability of GST and availability of ITC in respect of certain services - [Circular No. 16/16/2017-GST dated 15th November 2017](#)

I am directed to issue clarification with regard to certain issues brought to the notice of Board as under:

S. No.	Issue	Comment
1.	Is GST applicable on warehousing of agricultural produce such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (de-husked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc.?	<p>1. As per GST notification No. 11/2017-Central Tax (Rate), S.No. 24 and notification No. 12/2017-Central Tax (Rate), S.No. 54, dated 28th June 2017, the GST rate on loading, unloading packing, storage or warehousing of agricultural produce is Nil.</p> <p>2. Agricultural produce in the notification has been defined to mean “any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market”</p> <p>3. Tea used for making the beverage, such as black tea, green tea, white tea is a processed product made in tea factories after carrying out several processes, such as drying, rolling, shaping, refining, oxidation, packing etc. on green leaf and is the processed output of the same.</p> <p>4. Thus, green tea leaves and not tea is the “agricultural produce” eligible for exemption available for loading, unloading, packing, storage or warehousing of agricultural produce. Same is the case with coffee obtained after processing of coffee beans.</p> <p>5. Similarly, processing of sugarcane into jaggery changes its essential characteristics. Thus, jaggery is also not an agricultural produce.</p> <p>6. Pulses commonly known as dal are obtained after dehusking or splitting or both. The process of dehusking or splitting is usually not carried out by</p>

		<p>farmers or at farm level but by the pulse millers. Therefore pulses (dehusked or split) are also not agricultural produce. However whole pulse grains such as whole gram, rajma etc. are covered in the definition of agricultural produce.</p> <p>7. In view of the above, it is hereby clarified that processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (dehusked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc. fall outside the definition of agricultural produce given in notification No. 11/2017-CT (Rate) and 12/2017-CT(Rate) and corresponding notifications issued under IGST and UGST Acts and therefore the exemption from GST is not available to their loading, packing, warehousing etc. and that any clarification issued in the past to the contrary in the context of Service Tax or VAT/ Sales Tax is no more relevant.</p>
2.	Is GST leviable on inter-state transfer of aircraft engines, parts and accessories for use by their own airlines?	<p>1. Under Schedule I of the CGST Act, supply of goods or services or both between related persons or between distinct persons as specified in Section 25, when made in the course or furtherance of business, even if, without consideration, attracts GST.</p> <p>2. It is hereby clarified that credit of GST paid on aircraft engines, parts & accessories will be available for discharging GST on inter–state supply of such aircraft engines, parts & accessories by way of inter-state stock transfers between distinct persons as specified in section 25 of the CGST Act, notwithstanding that credit of input tax charged on consumption of such goods is not allowed for supply of service of transport of passengers by air in economy class at GST rate of 5%.</p>
3	Is GST leviable on General Insurance policies provided by a State	It is hereby clarified that services provided to the Central Government, State Government, Union territory under any insurance scheme for which total

	<p>Government to employees of the State government/ Police personnel, employees of Electricity Department or students of colleges/ private schools etc. (a) where premium is paid by State Government and (b) where premium is paid by employees, students etc.?</p>	<p>premium is paid by the Central Government, State Government, Union territory are exempt from GST under Sl. No. 40 of notification No. 12/2017-Central Tax (Rate). Further, services provided by State Government by way of general insurance (managed by government) to employees of the State government/ Police personnel, employees of Electricity Department or students are exempt vide entry 6 of notification No. 12/2017- CT(R) which exempts Services by Central Government, State Government, Union territory or local authority to individuals.</p>
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5.1.2.2 Departmental Clarifications - Clarification on various doubts related to treatment of sales promotion schemes under GST- [Circular No. 92/11/2019-GST dated 7th March, 2019](#)

Various representations have been received seeking clarification on issues raised with respect to tax treatment of sales promotion schemes under GST. To ensure uniformity in the implementation 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 said Act”) hereby clarifies the issues in succeeding paragraphs.

2. It has been noticed that there are several promotional schemes which are offered by taxable persons to increase sales volume and to attract new customers for their products. Some of these schemes have been examined and clarification on the aspects of taxability, valuation, availability or otherwise of Input Tax Credit in the hands of the supplier (hereinafter referred to as the “ITC”) in relation to the said schemes are detailed hereunder:

A. Free samples and gifts:

i. It is a common practice among certain sections of trade and industry, such as, pharmaceutical companies which often provide drug samples to their stockists, dealers, medical practitioners, etc. without charging any consideration. As per subclause (a) of sub-section (1) of section 7 of the said Act, the expression “supply” includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. Therefore, the goods or services or both which are supplied free of cost (without any consideration) shall not be treated as „supply” under GST (except in case of activities mentioned in Schedule I of the said Act). Accordingly, it is clarified that samples which are supplied free of cost, without any consideration, do not qualify as „supply” under GST, except where the activity falls within the ambit of Schedule I of the said Act.

ii. Further, clause (h) of sub-section (5) of section 17 of the said Act provides that ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Thus, it is clarified that input tax credit shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration. However, where the activity of distribution of gifts or free samples falls within the scope of „supply“ on account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail of the ITC.

B. Buy one get one free offer:

i. Sometimes, companies announce offers like ‘Buy One, Get One free“ For example, „buy one soap and get one soap free“ or „Get one tooth brush free along with the purchase of tooth paste“. As per sub-clause (a) of sub-section (1) of section 7 of the said Act, the goods or services which are supplied free of cost (without any consideration) shall not be treated as „supply“ under GST (except in case of activities mentioned in Schedule I of the said Act). It may appear at first glance that in case of offers like „Buy One, Get One Free“, one item is being „supplied free of cost“ without any consideration. In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

ii. Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act.

iii. It is also clarified that ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

C. Discounts including ‘Buy more, save more’ offers:

i. Sometimes, the supplier offers staggered discount to his customers (increase in discount rate with increase in purchase volume). For example- Get 10 % discount for purchases above Rs. 5000/-, 20% discount for purchases above Rs. 10,000/- and 30% discount for purchases above Rs. 20,000/-. Such discounts are shown on the invoice itself.

ii. Some suppliers also offer periodic / year ending discounts to their stockists, etc. For example- Get additional discount of 1% if you purchase 10000 pieces in a year, get additional discount of 2% if you purchase 15000 pieces in a year. Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end. In commercial parlance, such discounts are colloquially referred to as “volume discounts“. Such discounts are passed on by the supplier through credit notes.

iii. It is clarified that discounts offered by the suppliers to customers (including staggered discount under „Buy more, save more“ scheme and post supply / volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in sub-section (3) of section 15 of the said Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.

iv. It is further clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.

D. Secondary Discounts

i. These are the discounts which are not known at the time of supply or are offered after the supply is already over. For example, M/s A supplies 10000 packets of biscuits to M/s B at Rs. 10/- per packet. Afterwards M/s A re-values it at Rs. 9/- per packet. Subsequently, M/s A issues credit note to M/s B for Rs. 1/- per packet.

ii. The provisions of sub-section (1) of section 34 of the said Act provides as under: "Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed."

iii. Representations have been received from the trade and industry that whether credit notes(s) under sub-section (1) of section 34 of the said Act can be issued in such cases even if the conditions laid down in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied. It is hereby clarified that financial / commercial credit note(s) can be issued by the supplier even if the conditions mentioned in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied. In other words, credit note(s) can be issued as a commercial transaction between the two contracting parties.

iv. It is further clarified that such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied.

v. In other words, value of supply shall not include any discount by way of issuance of credit note(s) as explained above in para 2 (D)(iii) or by any other means, except in cases where the provisions contained in clause (b) of sub-section (3) of section 15 of the said Act are satisfied.

vi. There is no impact on availability or otherwise of ITC in the hands of supplier in this case.

5.1.2.2A Departmental Clarifications - Clarification on various doubts related to treatment of secondary or post-sales discounts under GST - [Circular No. 105/24/2019-GST dated 28th June, 2019](#)

[Circular No. 92/11/2019-GST dated 7th March, 2019](#) was issued providing clarification on various doubts related to treatment of sales promotion schemes under GST. Post issuance of the said Circular various representations have been received from the trade and industry seeking clarifications in respect of tax treatment in cases of secondary discounts or post sales discount. The matter has been examined in order to ensure uniformity in the implementation 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") clarifies the issues in succeeding paragraphs.

2. For the purpose of value of supply, post sales discounts are governed by the provisions of clause (b) of sub-section (3) of section 15 of the CGST Act. It is crucial to examine the true nature of discount given by the manufacturer or wholesaler, etc. (hereinafter referred to as "the supplier of goods") to the dealer. It would be important to examine whether the additional

discount is given by the supplier of goods in lieu of consideration for any additional activity / promotional campaign to be undertaken by the dealer.

3. It is clarified that if the post-sale discount is given by the supplier of goods to the dealer without any further obligation or action required at the dealer's end, then the post sales discount given by the said supplier will be related to the original supply of goods and it would not be included in the value of supply, in the hands of supplier of goods, subject to the fulfilment of provisions of sub-section (3) of section 15 of the CGST Act. However, if the additional discount given by the supplier of goods to the dealer is the post-sale incentive requiring the dealer to do some act like undertaking special sales drive, advertisement campaign, exhibition etc., then such transaction would be a separate transaction and the additional discount will be the consideration for undertaking such activity and therefore would be in relation to supply of service by dealer to the supplier of goods. The dealer, being supplier of services, would be required to charge applicable GST on the value of such additional discount and the supplier of goods, being recipient of services, will be eligible to claim input tax credit (hereinafter referred to as the "ITC") of the GST so charged by the dealer.

4. It is further clarified that if the additional discount is given by the supplier of goods to the dealer to offer a special reduced price by the dealer to the customer to augment the sales volume, then such additional discount would represent the consideration flowing from the supplier of goods to the dealer for the supply made by dealer to the customer. This additional discount as consideration, payable by any person (supplier of goods in this case) would be liable to be added to the consideration payable by the customer, for the purpose of arriving value of supply, in the hands of the dealer, under section 15 of the CGST Act. The customer, if registered, would be eligible to claim ITC of the tax charged by the dealer only to the extent of the tax paid by the said customer to the dealer in view of second proviso to sub-section (2) of section 16 of the CGST Act.

5. There may be cases where post-sales discount granted by the supplier of goods is not permitted to be excluded from the value of supply in the hands of the said supplier not being in accordance with the provisions contained in sub-section (3) of section 15 of CGST Act. It has already been clarified vide [Circular No. 92/11/2019-GST dated 7th March, 2019](#) that the supplier of goods can issue financial / commercial credit notes in such cases but he will not be eligible to reduce his original tax liability. Doubts have been raised as to whether the dealer will be eligible to take ITC of the original amount of tax paid by the supplier of goods or only to the extent of tax payable on value net of amount for which such financial / commercial credit notes have been received by him. It is clarified that the dealer will not be required to reverse ITC attributable to the tax already paid on such post-sale discount received by him through issuance of financial / commercial credit notes by the supplier of goods in view of the provisions contained in second proviso to sub-rule (1) of rule 37 of the CGST Rules read with second proviso to sub-section (2) of section 16 of the CGST Act as long as the dealer pays the value of the supply as reduced after adjusting the amount of post-sale discount in terms of financial / commercial credit notes received by him from the supplier of goods plus the amount of original tax charged by the supplier.

5.1.2.2A Departmental Clarifications - Withdrawal of [Circular No. 105/24/2019-GST dated 28.06.2019](#) - [Circular No. 112/31/2019 – GST dated 3rd October, 2019](#)

Kind attention is invited to [Circular No. 105/24/2019-GST dated 28.06.2019](#) wherein certain clarifications were given in relation to various doubts related to treatment of secondary or post-sales discounts under GST.

2. Numerous representations were received expressing apprehensions on the implications of the said Circular. In view of these apprehensions and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168(1) of the Central Goods and Services Tax Act, 2017, hereby withdraws, ab-initio, [Circular No. 105/24/2019-GST dated 28.06.2019](#).

5.1.2.3 Departmental Clarifications - Restriction in availment of input tax credit in terms of sub-rule (4) of rule 36 of CGST Rules, 2017 - [Circular No. 123/42/2019- GST dated 11th November, 2019](#)

Sub-rule (4) to rule 36 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) has been inserted vide [notification No. 49/2019- Central Tax, dated 09.10.2019](#). The said sub-rule provides restriction in availment of input tax credit (ITC) in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act).

2. 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 various issues in succeeding paragraphs.

3. The conditions and eligibility for the ITC that may be availed by the recipient shall continue to be governed as per the provisions of Chapter V of the CGST Act and the rules made thereunder. This being a new provision, the restriction is not imposed through the common portal and it is the responsibility of the taxpayer that credit is availed in terms of the said rule and therefore, the availment of restricted credit in terms of sub-rule (4) of rule 36 of CGST Rules shall be done on self-assessment basis by the tax payers. Various issues relating to implementation of the said sub-rule have been examined and the clarification on each of these points is as under: -

Sl. No	Issue	Clarification
1.	What are the invoices / debit notes on which the restriction under rule 36(4) of the CGST Rules shall apply?	The restriction of availment of ITC is imposed only in respect of those invoices / debit notes, details of which are required to be uploaded by the suppliers under sub-section (1) of section 37 and which have not been uploaded. Therefore, taxpayers may avail full ITC in respect of IGST paid on import, documents issued under RCM, credit received from ISD etc. which are outside the ambit of sub-section (1) of section 37, provided that eligibility conditions for availment of ITC are met in respect of the same. The restriction of 36(4) will be applicable only on the invoices / debit notes on which credit is availed after 09.10.2019.
2.	Whether the said restriction is to be	The restriction imposed is not supplier wise. The credit available under sub-rule (4) of rule 36 is linked to total

				1,20,000 (i.e. 20% of amount of eligible ITC available, as per details uploaded by the suppliers) = Rs. 7,20,000/-
		Case 2	Suppliers have furnished in FORM GSTR-1 80 invoices involving ITC of Rs. 7 lakhs as on the due date of furnishing of the details of outward supplies by the suppliers.	Rs.1,40,000/- Rs 7,00,000 + Rs. 1,40,000 = Rs. 8,40,000/-
		Case 3	Suppliers have furnished in FORM GSTR-1 75 invoices having ITC of Rs. 8.5 lakhs as on the due date of furnishing of the details of outward supplies by the suppliers.	Rs. 1,70,000/- Rs. 8,50,000/- + Rs. 1,50,000/-* = Rs. 10,00,000 * The additional amount of ITC availed shall be limited to ensure that the total ITC availed does not exceed the total eligible ITC.
5.	When can balance ITC be claimed in case availment of ITC is restricted as per the provisions of rule 36(4)?	The balance ITC may be claimed by the taxpayer in any of the succeeding months provided details of requisite invoices are uploaded by the suppliers. He can claim proportionate ITC as and when details of some invoices are uploaded by the suppliers provided that credit on		

	<p>invoices, the details of which are not uploaded (under sub-section (1) of section 37) remains under 20 per cent of the eligible input tax credit, the details of which are uploaded by the suppliers. Full ITC of balance amount may be availed, in present illustration by "R", in case total ITC pertaining to invoices the details of which have been uploaded reaches Rs. 8.3 lakhs (Rs 10 lakhs /1.20). In other words, taxpayer may avail full ITC in respect of a tax period, as and when the invoices are uploaded by the suppliers to the extent Eligible ITC/ 1.2. The same is explained for Case No. 1 and 2 of the illustrations provided at Sl. No. 4 above as under:</p>
Case 1	"R" may avail balance ITC of Rs. 2.8 lakhs in case suppliers upload details of some of the invoices for the tax period involving ITC of Rs. 2.3 lakhs out of invoices involving ITC of Rs. 4 lakhs details of which had not been uploaded by the suppliers. [Rs. 6 lakhs + Rs. 2.3 lakhs = Rs. 8.3 lakhs]
Case 2	"R" may avail balance ITC of Rs. 1.6 lakhs in case suppliers upload details of some of the invoices involving ITC of Rs. 1.3 lakhs out of outstanding invoices involving Rs. 3 lakhs. [Rs. 7 lakhs + Rs. 1.3 lakhs = Rs. 8.3 lakhs]

5.1.2.4 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.	Notification No. 30/2020-Central Tax, dated 03.04.2020	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 FORM CMP-02 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.	Notification No. 31/2020-Central Tax, dated 03.04.2020	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.	Notification No. 32/2020-Central Tax, dated 03.04.2020	Notification under section 128 of CGST Act for waiver of late fee for delay in furnishing returns in FORM GSTR-3B 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.	Notification No. 33/2020-Central Tax, dated 03.04.2020	Notification under section 128 of CGST Act for waiver of late fee for delay in furnishing the statement of outward supplies in FORM GSTR-1 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.	Notification No. 34/2020-Central Tax, dated 03.04.2020	Extension of due date of furnishing statement, containing the details of payment of self-assessed tax in FORM GST CMP- 08 for the quarter ending 31st March, 2020 till the 7th day of July, 2020 and filing FORM GSTR-4 for the financial year ending 31st March, 2020 till the 15th day of July, 2020.
6.	Notification No. 35/2020-Central Tax, dated 03.04.2020	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	<p>1. The said class of taxpayers, as per the notification No. 34/2020-Central Tax, dated 03.04.2020, 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>	(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)	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.					

	<p>or those availing the option to pay tax under the notification No. 02/2019- Central Tax (Rate), dated the 7th March, 2019?</p>	<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 notification No. 30/2020- Central Tax, dated 03.04.2020, to, —</p> <table border="1" data-bbox="517 331 1417 443"> <tr> <td data-bbox="517 331 571 389">(i)</td> <td data-bbox="571 331 1417 389">file an intimation in FORM GST CMP-02 by 30.06.2020; and</td> </tr> <tr> <td data-bbox="517 389 571 443">(ii)</td> <td data-bbox="571 389 1417 443">furnish the statement in FORM GST ITC-03 till 31.07.2020.</td> </tr> </table>	(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)	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.					
<p>2. Whether due date of furnishing FORM GSTR-3B for the months of February, March and April, 2020 has been extended ?</p>		<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 notification No. 31/2020- Central Tax, dated 03.04.2020, 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. 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 notification No. 32/2020- Central Tax, dated 03.04.2020, Government has waived the late fees for delay in furnishing the return in FORM GSTR-3B 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 FORM GSTR-3B by the date(s) as specified in the Notification.</p>				
<p>3. 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>				
<p>4. How to calculate the interest for late payment of tax for the months of February, March and April, 2020 for a registered person whose</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>				

aggregate turnover in preceding financial year is above Rs. 5 Crore?	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
	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 notification No. 31/2020- Central Tax, dated 03.04.2020.</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 notification No. 33/2020- Central Tax, dated 03.04.2020, 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	<p>Vide notification No. 30/2020- Central Tax, dated 03.04.2020, a proviso has been inserted in CGST Rules 2017 to provide that the said</p>				

	rule 36(4) of the CGST Rules would apply during the lockdown period?	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).
8.	What will be the status of e-way bills which have expired during the lockdown period?	In terms of notification No. 35/2020- Central Tax, dated 03.04.2020 , 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.
9.	What are the measures that have been specifically taken for taxpayers who are required to deduct tax at source under section 51, Input Service Distributors and Non-resident Taxable persons?	Under the provisions of section 168A of the CGST Act, in terms of notification No. 35/2020- Central Tax, dated 03.04.2020 , 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, 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 notification No. 35/2020- Central Tax, dated 03.04.2020 , 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 notification No. 35/2020- Central Tax, dated 03.04.2020 , 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.

5.1.2.5 Departmental Clarifications - Clarification in respect of certain GST related issues- [Circular No. 160/16/2021-GST dated 20th September, 2021](#) Relevant extract only

Various representations have been received from taxpayers and other stakeholders seeking clarification in respect of certain issues pertaining to GST laws. The issues have been examined. In order to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies each of these issues as under:

S. No.	Issue	Clarification
1.	<p>Section 16 (4), as amended with effect from 1-1-2021, provides that a registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.</p> <p>Doubts have been raised seeking following clarification:</p> <p>1. Which of the following dates are relevant to determine the 'financial year' for the purpose of section 16(4):</p> <p>(a) date of issuance of debit note, or</p> <p>(b) date of issuance of underlying invoice.</p> <p>2. Whether any availment of input tax credit, on or after 1-1-2021, in respect of debit notes issued either prior to or after 1-1-2021, will be governed by the provisions of the amended section 16(4), or the amended provision will be applicable only in respect of the debit notes issued after 1-1-2021?</p>	<p>1. With effect from 1-1-2021, section 16(4) of the CGST Act, 2017 was amended <i>vide</i> the Finance Act, 2020, so as to delink the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing input tax credit. The amendment made is shown as below:</p> <p><i>"A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier."</i></p> <p>As can be seen, the words "invoice relating to such" were omitted w.e.f. 1-1-2021.</p> <p>2. The intent of law as specified in the Memorandum explaining the Finance Bill, 2020 states that "Clause 118 of the Bill seeks to amend sub-section (4) of section 16 of the Central Goods and Services Tax Act so as to delink the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing input tax credit.</p> <p>3. Accordingly, it is clarified that:</p> <p>(a) w.e.f. 1-1-2021, in case of debit notes, the date of issuance of debit note (not the date of underlying invoice) shall determine the relevant financial year for the purpose of section 16(4) of the CGST Act.</p> <p>(b) The availment of ITC on debit notes in respect of amended provision shall be</p>

		<p>applicable from 1-1-2021. Accordingly, for availment of ITC on or after 1-1-2021, in respect of debit notes issued either prior to or after 1-1-2021, the eligibility for availment of ITC will be governed by the amended provision of section 16(4), whereas any ITC availed prior to 1-1-2021, in respect of debit notes, shall be governed under the provisions of section 16(4), as it existed before the said amendment on 1-1-2021.</p> <p><i>Illustration 1.</i> A debit note dated 7-7-2021 is issued in respect of the original invoice dated 16-3-2021. As the invoice pertains to F.Y. 2020-21, the relevant financial year for availment of ITC in respect of the said invoice in terms of section 16(4) of the CGST shall be 2020-21. However, as the debit note has been issued in FY 2021-22, the relevant financial year for availment of ITC in respect of the said debit note shall be 2021-22 in terms of amended provision of section 16(4) of the CGST Act.</p> <p><i>Illustration 2.</i> A debit note has been issued on 10-11-2020 in respect an invoice dated 15-7-2019. As per amended provision of section 16(4), the relevant financial year for availment of input tax credit on the said debit note, on or after 1-1-2021, will be FY 2020-21 and accordingly, the registered person can avail ITC on the same till due date of furnishing of FORM GSTR-3B for the month of September, 2021 or furnishing of the annual return for FY 2020-21, whichever is earlier.</p>
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Departmental Clarifications - Clarification on various issues relating to applicability of demand and penalty provisions under the Central Goods and Services Tax Act, 2017 in respect of transactions involving fake invoices— [Circular No. 171/03/2022-GST dated 6th July, 2022](#)

A number of cases have come to notice where the registered persons are found to be involved in issuing tax invoice, without actual supply of goods or services or both (hereinafter referred to as “fake invoices”), in order to enable the recipients of such invoices to avail and utilize input tax credit (hereinafter referred to as “ITC”) fraudulently. Representations are being received from the trade as well as the field formations seeking clarification on the issues relating to applicability of demand and penalty provisions under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), in respect of such transactions involving fake invoices. In order to clarify these issues and to ensure uniformity in the implementation of the

provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby clarifies the issues detailed hereunder.

Sl. No.	Issues	Clarification
2.	A registered person "A" has issued tax invoice to another registered person "B" without any underlying supply of goods or services or both. 'B' avails input tax credit on the basis of the said tax invoice. B further issues invoice along with underlying supply of goods or services or both to his buyers and utilizes ITC availed on the basis of the above mentioned invoices issued by 'A', for payment of his tax liability in respect of his said outward supplies. Whether 'B' will be liable for the demand and recovery of the said ITC, along with penal action, under the provisions of section 73 or section 74 or any other provisions of the CGST Act.	Since the registered person 'B' has availed and utilized fraudulent ITC on the basis of the said tax invoice, without receiving the goods or services or both, in contravention of the provisions of section 16(2)(b) of CGST Act, he shall be liable for the demand and recovery of the said ITC, along with penal action, under the provisions of section 74 of the CGST Act, along with applicable interest under provisions of section 50 of the said Act. Further, as per provisions of section 75(13) of CGST Act, if penal action for fraudulent availment or utilization of ITC is taken against 'B' under section 74 of CGST Act, no penalty for the same act, i.e. for the said fraudulent availment or utilization of ITC, can be imposed on 'B' under any other provisions of CGST Act, including under section 122.
3.	A registered person 'A' has issued tax invoice to another registered person 'B' without any underlying supply of goods or services or both. 'B' avails input tax credit on the basis of the said tax invoice and further passes on the said input tax credit to another registered person 'C' by issuing invoices without underlying supply of goods or services or both. Whether 'B' will be liable for the demand and recovery and penal action, under the provisions of section 73 or section 74 or any other provisions of the CGST Act.	In this case, the input tax credit availed by 'B' in his electronic credit ledger on the basis of tax invoice issued by 'A', without actual receipt of goods or services or both, has been utilized by 'B' for passing on of input tax credit by issuing tax invoice to 'C' without any underlying supply of goods or services or both. As there was no supply of goods or services or both by 'B' to 'C' in respect of the said transaction, no tax was required to be paid by 'B' in respect of the same. The input tax credit availed by 'B' in his electronic credit ledger on the basis of tax invoice issued by 'A', without actual receipt of goods or services or both, is ineligible in terms of section 16 (2)(b) of the CGST Act. In this case, there was no supply of goods or services or both by 'B' to 'C' in respect of the said transaction and also no tax was required to be paid in respect of the said transaction. Therefore, in these specific cases, no demand and recovery of either input tax credit wrongly/ fraudulently availed by 'B' in such case or tax liability in respect of the said outward transaction by 'B' to 'C' is required to be made from 'B'

		<p>under the provisions of section 73 or section 74 of CGST Act.</p> <p>However, in such cases, 'B' shall be liable for penal action both under section 122(1)(<i>ii</i>) and section 122(1)(<i>vii</i>) of the CGST Act, for issuing invoices without any actual supply of goods and/or services as also for taking/ utilizing input tax credit without actual receipt of goods and/or services.</p>
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2. The fundamental principles that have been delineated in the above scenarios may be adopted to decide the nature of demand and penal action to be taken against a person for such unscrupulous activity. Actual action to be taken against a person will depend upon the specific facts and circumstances of the case which may involve complex mixture of above scenarios or even may not be covered by any of the above scenarios. Any person who has retained the benefit of transactions specified under sub-section (1A) of section 122 of CGST Act, and at whose instance such transactions are conducted, shall also be liable for penal action under the provisions of the said sub-section. It may also be noted that in such cases of wrongful/ fraudulent availment or utilization of input tax credit, or in cases of issuance of invoices without supply of goods or services or both, leading to wrongful availment or utilization of input tax credit or refund of tax, provisions of section 132 of the CGST Act may also be invocable, subject to conditions specified therein, based on facts and circumstances of each case.

5.1.2.7 Departmental Clarifications - Clarification to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for FY 2017-18 and 2018-19- [Circular No. 183/15/2022-GST dated 27th December, 2022](#)

Section 16 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”) provides for eligibility and conditions for availing Input Tax Credit (ITC). During the initial period of implementation of GST, during the financial years 2017-18 and 2018-19, in many cases, the suppliers have failed to furnish the correct details of outward supplies in their FORM GSTR-1, which has led to certain deficiencies or discrepancies in FORM GSTR-2A of their recipients. However, the concerned recipients may have availed input tax credit on the said supplies in their returns in FORM GSTR-3B. The discrepancies between the amount of ITC availed by the registered persons in their returns in FORM GSTR3B and the amount as available in their FORM GSTR-2A are being noticed by the tax officers during proceedings such as scrutiny/ audit/ investigation etc. due to such credit not flowing to FORM GSTR-2A of the said registered persons. Such discrepancies are considered by the tax officers as representing ineligible ITC availed by the registered persons, and are being flagged seeking explanation from the registered persons for such discrepancies and/or for reversal of such ineligible ITC.

2. It is mentioned that FORM GSTR-2A could not be made available to the taxpayers on the common portal during the initial stages of implementation of GST. Further, restrictions

regarding availment of ITC by the registered persons upto certain specified limit beyond the ITC available as per FORM GSTR-2A were provided under rule 36(4) of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “CGST Rules”) only with effect from 9th October 2019. However, the availability of ITC was subjected to restrictions and conditions specified in Section 16 of CGST Act from 1st July, 2017 itself. In view of this, various representations have been received from the trade as well as the tax authorities, seeking clarification regarding the manner of dealing with such discrepancies between the amount of ITC availed by the registered persons in their FORM GSTR-3B and the amount as available in their FORM GSTR-2A during FY 2017-18 and FY 2018-19.

3. 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 as follows:

<i>Sl. No.</i>	<i>Scenario</i>	<i>Clarification</i>
a.	Where the supplier has failed to file FORM GSTR-1 for a tax period but has filed the return in FORM GSTR-3B for said tax period, due to which the supplies made in the said tax period do not get reflected in FORM GSTR-2A of the recipients.	In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided in para 4 below.
b.	Where the supplier has filed FORM GSTR-1 as well as return in FORM GSTR-3B for a tax period, but has failed to report a particular supply in FORM GSTR-1, due to which the said supply does not get reflected in FORM GSTR-2A of the recipient.	In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided in para 4 below.
c.	Where supplies were made to a registered person and invoice is issued as per Rule 46 of CGST Rules containing GSTIN of the recipient, but supplier has wrongly reported the said supply as B2C supply, instead of B2B supply, in his FORM GSTR-1, due to which the said supply does not get reflected in FORM GSTR-2A of the said registered person.	In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided in para 4 below.

d.	Where the supplier has filed FORM GSTR-1 as well as return in FORM GSTR-3B for a tax period, but he has declared the supply with wrong GSTIN of the recipient in FORM GSTR-1 .	<p>In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided in para 4 below.</p> <p>In addition, the proper officer of the actual recipient shall intimate the concerned jurisdictional tax authority of the registered person, whose GSTIN has been mentioned wrongly, that ITC on those transactions is required to be disallowed, if claimed by such recipients in their FORM GSTR-3B. However, allowance of ITC to the actual recipient shall not depend on the completion of the action by the tax authority of such registered person, whose GSTIN has been mentioned wrongly, and such action will be pursued as an independent action.</p>
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4. The proper officer shall first seek the details from the registered person regarding all the invoices on which ITC has been availed by the registered person in his FORM GSTR 3B but which are not reflecting in his FORM GSTR 2A. He shall then ascertain fulfillment of the following conditions of Section 16 of CGST Act in respect of the input tax credit availed on such invoices by the said registered person:

- i) that he is in possession of a tax invoice or debit note issued by the supplier or such other tax paying documents;
- ii) that he has received the goods or services or both;
- iii) that he has made payment for the amount towards the value of supply, along with tax payable thereon, to the supplier.

Besides, the proper officer shall also check whether any reversal of input tax credit is required to be made in accordance with section 17 or section 18 of CGST Act and also whether the said input tax credit has been availed within the time period specified under sub-section (4) of section 16 of CGST Act.

4.1 In order to verify the condition of clause (c) of sub-section (2) of Section 16 of CGST Act that tax on the said supply has been paid by the supplier, the following action may be taken by the proper officer:

4.1.1 In case, where difference between the ITC claimed in FORM GSTR-3B and that available in FORM GSTR 2A of the registered person in respect of a supplier for the said financial year exceeds Rs 5 lakh, the proper officer shall ask the registered person to produce a certificate for the concerned supplier from the Chartered Accountant (CA) or the Cost Accountant (CMA), certifying that supplies in respect of the said invoices of supplier have actually been made by the supplier to the said registered person and the tax on such supplies has been paid by the said supplier in his return in FORM GSTR 3B. Certificate issued by CA or CMA shall contain UDIN. UDIN of the certificate issued by CAs can be verified from ICAI

website <https://udin.icai.org/search-udin> and that issued by CMAs can be verified from ICAI website <https://eicmai.in/udin/VerifyUDIN.aspx> .

4.1.2 In cases, where difference between the ITC claimed in FORM GSTR-3B and that available in FORM GSTR 2A of the registered person in respect of a supplier for the said financial year is upto Rs 5 lakh, the proper officer shall ask the claimant to produce a certificate from the concerned supplier to the effect that said supplies have actually been made by him to the said registered person and the tax on said supplies has been paid by the said supplier in his return in FORM GSTR 3B.

4.2 However, it may be noted that for the period FY 2017-18, as per proviso to section 16(4) of CGST Act, the aforesaid relaxations shall not be applicable to the claim of ITC made in the FORM GSTR-3B return filed after the due date of furnishing return for the month of September, 2018 till the due date of furnishing return for March, 2019, if supplier had not furnished details of the said supply in his FORM GSTR-1 till the due date of furnishing FORM GSTR 1 for the month of March, 2019.

5. It may also be noted that the clarifications given hereunder are case specific and are applicable to the bonafide errors committed in reporting during FY 2017-18 and 2018- 19. Further, these guidelines are clarificatory in nature and may be applied as per the actual facts and circumstances of each case and shall not be used in the interpretation of the provisions of law.

6. These instructions will apply only to the ongoing proceedings in scrutiny/audit/ investigation, etc. for FY 2017-18 and 2018-19 and not to the completed proceedings. However, these instructions will apply in those cases for FY 2017-18 and 2018-19 where any adjudication or appeal proceedings are still pending.

5.1.2.8 Departmental Clarifications - Clarification on the entitlement of input tax credit where the place of supply is determined in terms of the proviso to sub-section (8) of section 12 of the Integrated Goods and Services Tax Act, 2017- [Circular No. 184/16/2022-GST dated 27th December, 2022](#)

Attention is invited to sub-section (8) of section 12 of Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as "IGST Act") which provides for the place of supply of services by way of transportation of goods, including by mail or courier, where location of the supplier as well as the recipient of services is in India. As per clause (a) of the aforesaid subsection, the place of supply of services by way of transportation of goods, including by mail or courier, to a registered person shall be the location of such registered person. However, the proviso to the aforesaid sub-section which was inserted vide the Integrated Goods and Services Tax (Amendment) Act, 2018 w.e.f. 01.02.2019 provides that where the transportation of goods is to a place outside India, the place of supply of the said service shall be the place of destination of such goods. In such cases, as the place of supply of services, as per the proviso to sub-section (8) of section 12 of IGST Act, is the concerned foreign destination and not the State where the recipient is registered under GST, doubts are being raised regarding the availability of input tax credit of the said services to the recipient located in India.

2. In order to clarify this issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section

168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies the issues as under:

Sl. No.	Issue	Clarification
1.	In case of supply of services by way of transportation of goods, including by mail or courier, where the transportation of goods is to a place outside India, and where the supplier and recipient of the said supply of services are located in India, what would be the place of supply of the said services?	<p>The place of supply of services by way of transportation of goods, including by mail or courier, where both the supplier and the recipient are located in India, is determined in terms of sub-section (8) of section 12 of the IGST Act which reads as follows:</p> <p>"(8) The place of supply of services by way of transportation of goods, including by mail or courier to,—</p> <p>(a) a registered person, shall be the location of such person;</p> <p>(b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation:</p> <p>Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods"</p> <p>Hence, in case of supply of services by way of transportation of goods, including by mail or courier, where the transportation of goods is to a place outside India, and where the supplier and recipient of the said supply of services are located in India, the place of supply is the concerned foreign destination where the goods are being transported, in accordance with the proviso to the sub-section (8) of section 12 of IGST Act, which was inserted <i>vide</i> the Integrated Goods and Services Tax (Amendment) Act, 2018 w.e.f. 1-2-2019.</p> <p>Illustration:</p> <p>X is a person registered under GST in the state of West Bengal who intends to export goods to a person Y located in Singapore. X avails the services for transportation of goods by air to Singapore from an air cargo operator Z, who is also registered under GST in the state of West Bengal.</p> <p>In this case, the place of supply of the services provided by Z to X is the place of destination of goods <i>i.e.</i>, Singapore, in terms of the proviso to sub-section (8) of section 12 of IGST Act.</p>

2.	In the case given in Sl. No. 1, whether the supply of services will be treated as inter-State supply or intra-State supply?	<p>The aforesaid supply of services would be considered as inter-State supply in terms of sub-section (5) of section 7 of the IGST Act since the location of the supplier is in India and the place of supply is outside India. Therefore, integrated tax (IGST) would be chargeable on the said supply of services.</p> <p>In respect of the illustration given in Sl. No. 1. above, Z would charge IGST from X in terms of sub-section (5) of section 7 of the IGST Act, for supply of services by way of transportation of goods.</p>
3.	In the case given in Sl. No. 1, whether the recipient of service of transportation of goods would be eligible to avail input tax credit in respect of the said input service of transportation of goods?	<p>Section 16 of the CGST Act lays down the eligibility and conditions for taking input tax credit whereas, section 17 of the CGST Act provides for apportionment of credit and blocked credits under circumstances specified therein. The said provisions of law do not restrict availment of input tax credit by the recipient located in India if the place of supply of the said input service is outside India. Thus, the recipient of service of transportation of goods shall be eligible to avail input tax credit in respect of the IGST so charged by the supplier, subject to the fulfilment of other conditions laid down in sections 16 and 17 of the CGST Act.</p> <p>In the illustration given in Sl. No. 1 above, X would be eligible to take input tax credit of IGST in respect of supply of services received by him from Z, subject to the fulfilment of other conditions laid down in sections 16 and 17 of the CGST Act.</p>
4.	In the case mentioned at Sl. No. 1, what state code has to be mentioned by the supplier of the said service of transportation of goods, where the transportation of goods is to a place outside India, while reporting the said supply in FORM GSTR-1?	The supplier of service shall report place of supply of such service by selecting State code as '96- Foreign Country' from the list of codes in the drop-down menu available on the portal in FORM GSTR-1.

5.2 Apportionment of credit and blocked credits. [Section 17]

Section 17(1)	01.07.2017 to till date	The amount of credit shall be restricted to proportionate input tax as is attributable to the purposes of his business where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes
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		Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.
Section 17(2)	01.07.2017 to till date	<p>The amount of credit shall be restricted to proportionate input tax as is attributable to the purposes of his business where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the IGST Act and partly for effecting exempt supplies under the said Acts</p> <p>Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.</p>
Section 17(3)	01.07.2017 to till date	<p>‘Value of exempt supply’ under sub-section (2) of section 17 shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.</p> <p>The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.</p>
¹ [Explanation	1.02.2019 to 30.09.2023	<p>‘Value of exempt supply’ under sub-section (2) of section 17 shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule.</p> <p>For the purposes of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule.]</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>1 Inserted w.e.f. 01.02.2019 vide clause (a) of Section 9 of the Central Goods and Services Tax (Amendment) Act, 2018 which comes into force vide Notification No. 02/2019 – Central Tax dated 29th January, 2019.</p> </div>
	01.10.2023 to till date	‘Value of exempt supply’ under sub-section (2) of section 17 shall not include the value of activities or transactions specified in Schedule III, except (i) the value of activities or transactions specified in paragraph 5 of the said

		<p>Schedule; and (ii) the value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule</p> <p>[Explanation.— For the purposes of this sub-section, the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, ¹{ except,—</p> <p>(i) the value of activities or transactions specified in paragraph 5 of the said Schedule; and</p> <p>(ii) the value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule”]</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>1. Substituted for the words and figure “except those specified in paragraph 5 of the said Schedule”, vide Section 139(a) of the Finance Act 2023 and has come into force w.e.f. 01.10.2023 as the Central Government has appointed the 1st day of October, 2023, as the date on which the provisions have come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023.</p> </div>
Section 17(4)	01.07.2017 to till date	<p>Option to a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances, to either comply with the provisions of sub-section (2), or avail of, every month, an amount equal to fifty per cent. of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse:</p> <p>A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of sub-section (2), or avail of, every month, an amount equal to fifty per cent. of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse:</p>
First Proviso	01.07.2017 to till date	<p>Option once exercised shall not be withdrawn during the remaining part of the financial year</p> <p>Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year:</p>
Second Proviso	01.07.2017 to till date	<p>Restriction of fifty per cent. shall not apply to the tax paid on supplies made by one registered person to another</p>

		<p>registered person having the same Permanent Account Number</p> <p>Provided further that the restriction of fifty per cent. shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.</p>																
Section 17(5)	01.07.2017 to 31.01.2019	<p>Blocked Credits – Non availability of input tax credit</p> <p>Notwithstanding anything contained in sub-section (1) of section 16 and subsection (1) of section 18, input tax credit shall not be available in respect of the following, namely:—</p> <table border="1"> <tr> <td>(a)</td> <td>motor vehicles and other conveyances except when they are used—</td> </tr> <tr> <td>(i)</td> <td>for making the following taxable supplies, namely:— (A) further supply of such vehicles or conveyances ; or (B) transportation of passengers; or (C) imparting training on driving, flying, navigating such vehicles or conveyances;</td> </tr> <tr> <td>(ii)</td> <td>for transportation of goods;</td> </tr> </table> <p>(b) the following supply of goods or services or both—</p> <table border="1"> <tr> <td>(i)</td> <td>food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;</td> </tr> <tr> <td>(ii)</td> <td>Membership of a club, health and fitness center;</td> </tr> <tr> <td>(iii)</td> <td>rent-a-cab, life insurance and health insurance except where—</td> </tr> <tr> <td>(A)</td> <td>the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or</td> </tr> <tr> <td>(B)</td> <td>Such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable</td> </tr> </table>	(a)	motor vehicles and other conveyances except when they are used—	(i)	for making the following taxable supplies, namely:— (A) further supply of such vehicles or conveyances ; or (B) transportation of passengers; or (C) imparting training on driving, flying, navigating such vehicles or conveyances;	(ii)	for transportation of goods;	(i)	food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;	(ii)	Membership of a club, health and fitness center;	(iii)	rent-a-cab, life insurance and health insurance except where—	(A)	the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or	(B)	Such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable
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(i)	food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;																	
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(B)	Such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable																	

			supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and
		(iv)	travel benefits extended to employees on vacation such as leave or home travel concession;
		(c)	works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;
		(d)	goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business. Explanation. —For the purposes of clauses (c) and (d), the expression “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;
		(e)	goods or services or both on which tax has been paid under section 10;
		(f)	goods or services or both received by a non-resident taxable person except on goods imported by him;
		(g)	goods or services or both used for personal consumption;
		(h)	goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and
		(i)	any tax paid in accordance with the provisions of sections 74, 129 and 130.
	01.02.2019 to 30.09.2023	Blocked Credits – Non availability of input tax credit	
		Notwithstanding anything contained in sub-section (1) of section 16 and subsection (1) of section 18, input tax credit shall not be available in respect of the following, namely:—	
		¹ (a)	motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:—
			(A) further supply of such motor vehicles; or
			(B) transportation of passengers; or
			(C) imparting training on driving such motor vehicles;
		(aa)	vessels and aircraft except when they are used—

			<table border="1"> <tr> <td>(i)</td> <td>for making the following taxable supplies, namely:— (A) further supply of such vessels or aircraft; or (B) transportation of passengers; or (C) imparting training on navigating such vessels; or (D) imparting training on flying such aircraft;</td> </tr> <tr> <td>(ii)</td> <td>for transportation of goods;</td> </tr> </table>	(i)	for making the following taxable supplies, namely:— (A) further supply of such vessels or aircraft; or (B) transportation of passengers; or (C) imparting training on navigating such vessels; or (D) imparting training on flying such aircraft;	(ii)	for transportation of goods;		
(i)	for making the following taxable supplies, namely:— (A) further supply of such vessels or aircraft; or (B) transportation of passengers; or (C) imparting training on navigating such vessels; or (D) imparting training on flying such aircraft;								
(ii)	for transportation of goods;								
		(ab)	<p>services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):</p> <p>Provided that the input tax credit in respect of such services shall be available—</p> <table border="1"> <tr> <td>(i)</td> <td>where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;</td> </tr> <tr> <td>(ii)</td> <td>where received by a taxable person engaged— (I) in the manufacture of such motor vehicles, vessels or aircraft; or (II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;</td> </tr> </table>	(i)	where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;	(ii)	where received by a taxable person engaged— (I) in the manufacture of such motor vehicles, vessels or aircraft; or (II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;		
(i)	where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;								
(ii)	where received by a taxable person engaged— (I) in the manufacture of such motor vehicles, vessels or aircraft; or (II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;								
		(b)	<p>the following supply of goods or services or both—</p> <table border="1"> <tr> <td>(i)</td> <td>food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance: Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;</td> </tr> <tr> <td>(ii)</td> <td>membership of a club, health and fitness centre; and</td> </tr> <tr> <td>(iii)</td> <td>travel benefits extended to employees on vacation such as leave or home travel concession:</td> </tr> </table>	(i)	food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance: Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;	(ii)	membership of a club, health and fitness centre; and	(iii)	travel benefits extended to employees on vacation such as leave or home travel concession:
(i)	food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance: Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;								
(ii)	membership of a club, health and fitness centre; and								
(iii)	travel benefits extended to employees on vacation such as leave or home travel concession:								

			<p>Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.]</p>
			<p>1. Substituted for clauses (a) and (b) w.e.f. 01.02.2019 vide clause (b) of Section 9 of the Central Goods and Services Tax (Amendment) Act, 2018 which comes into force vide Notification No. 02/2019 – Central Tax dated 29th January, 2019.</p>
		(c)	works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;
		(d)	<p>goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.</p> <p>Explanation.—For the purposes of clauses (c) and (d), the expression “construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;</p>
		(e)	goods or services or both on which tax has been paid under section 10;
		(f)	goods or services or both received by a non-resident taxable person except on goods imported by him;
		(g)	goods or services or both used for personal consumption;
		(h)	goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and
		(i)	any tax paid in accordance with the provisions of sections 74, 129 and 130.

	01.10.2023 to till date	<p>Blocked Credits – Non availability of input tax credit</p> <p>Notwithstanding anything contained in sub-section (1) of section 16 and subsection (1) of section 18, input tax credit shall not be available in respect of the following, namely:—</p> <table border="1" data-bbox="598 421 1385 2018"> <tr> <td data-bbox="598 421 694 763">[(a)</td> <td data-bbox="694 421 1385 763"> motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:— <table border="1" data-bbox="703 622 1375 763"> <tr> <td data-bbox="703 622 778 658">(A)</td> <td data-bbox="778 622 1375 658">further supply of such motor vehicles; or</td> </tr> <tr> <td data-bbox="703 658 778 694">(B)</td> <td data-bbox="778 658 1375 694">transportation of passengers; or</td> </tr> <tr> <td data-bbox="703 694 778 763">(C)</td> <td data-bbox="778 694 1375 763">imparting training on driving such motor vehicles;</td> </tr> </table> </td> </tr> <tr> <td data-bbox="598 763 694 1137">(aa)</td> <td data-bbox="694 763 1385 1137"> vessels and aircraft except when they are used— <table border="1" data-bbox="703 831 1375 1137"> <tr> <td data-bbox="703 831 778 1106">(i)</td> <td data-bbox="778 831 1375 1106"> for making the following taxable supplies, namely:— <ul style="list-style-type: none"> (A) further supply of such vessels or aircraft; 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			<p>specified therein, life insurance and health insurance:</p> <p>Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;</p>
		(ii)	<p>membership of a club, health and fitness centre; and</p>
		(iii)	<p>travel benefits extended to employees on vacation such as leave or home travel concession:</p> <p>Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.]</p>
		(c)	<p>works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;</p>
		(d)	<p>goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.</p> <p>Explanation.—For the purposes of clauses (c) and (d), the expression “construction” includes reconstruction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;</p>
		(e)	<p>goods or services or both on which tax has been paid under section 10;</p>
		(f)	<p>goods or services or both received by a non-resident taxable person except on goods imported by him;</p>
		¹ [(fa)	<p>goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate</p>

		<p>social responsibility referred to in section 135 of the Companies Act, 2013;</p> <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <p>1. Inserted vide Section 139(b) of the Finance Act 2023 and have come into force w.e.f. 01.10.2023 as the Central Government has appointed the 1st day of October, 2023, as the date on which the provisions have come into force vide Notification No. 28/2023–Central Tax dated 31.07.2023.</p> </div>						
		(g) goods or services or both used for personal consumption;						
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		(i) any tax paid in accordance with the provisions of sections 74, 129 and 130.						
Section 17(6)	01.07.2017 to till date	<p>The Government to prescribe the manner of determination of input tax credit referred to in sub-sections (1) and (2) of section 17.</p> <p>The Government may prescribe the manner in which the credit referred to in sub-sections (1) and (2) may be attributed.</p>						
Explanation	01.07.2017 to till date	<p>The expression “plant and machinery” for the purposes of this Chapter and Chapter VI</p> <p>For the purposes of this Chapter and Chapter VI, the expression “plant and machinery” means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes—</p> <table border="1" style="width: 100%;"> <tr> <td>(i)</td> <td>land, building or any other civil structures;</td> </tr> <tr> <td>(ii)</td> <td>telecommunication towers; and</td> </tr> <tr> <td>(iii)</td> <td>pipelines laid outside the factory premises.</td> </tr> </table>	(i)	land, building or any other civil structures;	(ii)	telecommunication towers; and	(iii)	pipelines laid outside the factory premises.
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5.2.1.1 Removal of Difficulty Order - Removal of Difficulty Order to remove difficulty in case of supply of services covered by clause (b) of paragraph 5 of Schedule II of the CGST Act, 2017 - [Central Goods and Services Tax \(Fourth Removal of Difficulties\) Order, 2019 dated 29th March, 2019.](#)

[Central Goods and Services Tax \(Fourth Removal of Difficulties\) Order, 2019](#) effective from 1st day of April, 2019 - For the removal of difficulties, it is hereby clarified that in case of supply of services covered by clause (b) of paragraph 5 of Schedule II of the said Act, the amount of credit attributable to the taxable supplies including zero rated supplies and exempt supplies shall be determined on the basis of the area of the construction of the complex, building, civil structure or a part thereof, which is taxable and the area which is exempt.

5.2.2.1 Departmental Clarifications - Clarification on various doubts related to treatment of sales promotion schemes under GST- [Circular No. 92/11/2019-GST dated 7th March, 2019](#)

Various representations have been received seeking clarification on issues raised with respect to tax treatment of sales promotion schemes under GST. To ensure uniformity in the implementation 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 said Act") hereby clarifies the issues in succeeding paragraphs.

2. It has been noticed that there are several promotional schemes which are offered by taxable persons to increase sales volume and to attract new customers for their products. Some of these schemes have been examined and clarification on the aspects of taxability, valuation, availability or otherwise of Input Tax Credit in the hands of the supplier (hereinafter referred to as the "ITC") in relation to the said schemes are detailed hereunder:

A. Free samples and gifts:

i. It is a common practice among certain sections of trade and industry, such as, pharmaceutical companies which often provide drug samples to their stockists, dealers, medical practitioners, etc. without charging any consideration. As per subclause (a) of sub-section (1) of section 7 of the said Act, the expression "supply" includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. Therefore, the goods or services or both which are supplied free of cost (without any consideration) shall not be treated as „supply" under GST (except in case of activities mentioned in Schedule I of the said Act). Accordingly, it is clarified that samples which are supplied free of cost, without any consideration, do not qualify as „supply" under GST, except where the activity falls within the ambit of Schedule I of the said Act.

ii. Further, clause (h) of sub-section (5) of section 17 of the said Act provides that ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Thus, it is clarified that input tax credit shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration. However, where the activity of distribution of gifts or free samples falls within the scope of „supply" on account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail of the ITC.

B. Buy one get one free offer:

i. Sometimes, companies announce offers like ‘Buy One, Get One free’ For example, „buy one soap and get one soap free” or „Get one tooth brush free along with the purchase of tooth paste”. As per sub-clause (a) of sub-section (1) of section 7 of the said Act, the goods or services which are supplied free of cost (without any consideration) shall not be treated as „supply” under GST (except in case of activities mentioned in Schedule I of the said Act). It may appear at first glance that in case of offers like „Buy One, Get One Free”, one item is being „supplied free of cost” without any consideration. In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.

ii. Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act.

iii. It is also clarified that ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

C. Discounts including ‘Buy more, save more’ offers:

i. Sometimes, the supplier offers staggered discount to his customers (increase in discount rate with increase in purchase volume). For example- Get 10 % discount for purchases above Rs. 5000/-, 20% discount for purchases above Rs. 10,000/- and 30% discount for purchases above Rs. 20,000/-. Such discounts are shown on the invoice itself.

ii. Some suppliers also offer periodic / year ending discounts to their stockists, etc. For example- Get additional discount of 1% if you purchase 10000 pieces in a year, get additional discount of 2% if you purchase 15000 pieces in a year. Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end. In commercial parlance, such discounts are colloquially referred to as “volume discounts”. Such discounts are passed on by the supplier through credit notes.

iii. It is clarified that discounts offered by the suppliers to customers (including staggered discount under „Buy more, save more” scheme and post supply / volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in sub-section (3) of section 15 of the said Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.

iv. It is further clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.

D. Secondary Discounts

i. These are the discounts which are not known at the time of supply or are offered after the supply is already over. For example, M/s A supplies 10000 packets of biscuits to M/s B at Rs. 10/- per packet. Afterwards M/s A re-values it at Rs. 9/- per packet. Subsequently, M/s A issues credit note to M/s B for Rs. 1/- per packet.

ii. The provisions of sub-section (1) of section 34 of the said Act provides as under: “Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax

payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.”

iii. Representations have been received from the trade and industry that whether credit notes(s) under sub-section (1) of section 34 of the said Act can be issued in such cases even if the conditions laid down in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied. It is hereby clarified that financial / commercial credit note(s) can be issued by the supplier even if the conditions mentioned in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied. In other words, credit note(s) can be issued as a commercial transaction between the two contracting parties.

iv. It is further clarified that such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied.

v. In other words, value of supply shall not include any discount by way of issuance of credit note(s) as explained above in para 2 (D)(iii) or by any other means, except in cases where the provisions contained in clause (b) of sub-section (3) of section 15 of the said Act are satisfied.

vi. There is no impact on availability or otherwise of ITC in the hands of supplier in this case.

5.2.2.2 Departmental Clarifications - Clarification on various doubts related to treatment of secondary or post-sales discounts under GST - [Circular No. 105/24/2019-GST dated 28th June, 2019](#)

[Circular No. 92/11/2019-GST dated 7th March, 2019](#) was issued providing clarification on various doubts related to treatment of sales promotion schemes under GST. Post issuance of the said Circular various representations have been received from the trade and industry seeking clarifications in respect of tax treatment in cases of secondary discounts or post sales discount. The matter has been examined in order to ensure uniformity in the implementation 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”) clarifies the issues in succeeding paragraphs.

2. For the purpose of value of supply, post sales discounts are governed by the provisions of clause (b) of sub-section (3) of section 15 of the CGST Act. It is crucial to examine the true nature of discount given by the manufacturer or wholesaler, etc. (hereinafter referred to as “the supplier of goods”) to the dealer. It would be important to examine whether the additional discount is given by the supplier of goods in lieu of consideration for any additional activity / promotional campaign to be undertaken by the dealer.

3. It is clarified that if the post-sale discount is given by the supplier of goods to the dealer without any further obligation or action required at the dealer’s end, then the post sales discount given by the said supplier will be related to the original supply of goods and it would not be included in the value of supply, in the hands of supplier of goods, subject to the fulfilment of provisions of sub-section (3) of section 15 of the CGST Act. However, if the additional discount given by the supplier of goods to the dealer is the post-sale incentive requiring the dealer to do some act like undertaking special sales drive, advertisement campaign, exhibition etc., then such transaction would be a separate transaction and the additional discount will be

the consideration for undertaking such activity and therefore would be in relation to supply of service by dealer to the supplier of goods. The dealer, being supplier of services, would be required to charge applicable GST on the value of such additional discount and the supplier of goods, being recipient of services, will be eligible to claim input tax credit (hereinafter referred to as the "ITC") of the GST so charged by the dealer.

4. It is further clarified that if the additional discount is given by the supplier of goods to the dealer to offer a special reduced price by the dealer to the customer to augment the sales volume, then such additional discount would represent the consideration flowing from the supplier of goods to the dealer for the supply made by dealer to the customer. This additional discount as consideration, payable by any person (supplier of goods in this case) would be liable to be added to the consideration payable by the customer, for the purpose of arriving value of supply, in the hands of the dealer, under section 15 of the CGST Act. The customer, if registered, would be eligible to claim ITC of the tax charged by the dealer only to the extent of the tax paid by the said customer to the dealer in view of second proviso to sub-section (2) of section 16 of the CGST Act.

5. There may be cases where post-sales discount granted by the supplier of goods is not permitted to be excluded from the value of supply in the hands of the said supplier not being in accordance with the provisions contained in sub-section (3) of section 15 of CGST Act. It has already been clarified vide [Circular No. 92/11/2019-GST dated 7th March, 2019](#) that the supplier of goods can issue financial / commercial credit notes in such cases but he will not be eligible to reduce his original tax liability. Doubts have been raised as to whether the dealer will be eligible to take ITC of the original amount of tax paid by the supplier of goods or only to the extent of tax payable on value net of amount for which such financial / commercial credit notes have been received by him. It is clarified that the dealer will not be required to reverse ITC attributable to the tax already paid on such post-sale discount received by him through issuance of financial / commercial credit notes by the supplier of goods in view of the provisions contained in second proviso to sub-rule (1) of rule 37 of the CGST Rules read with second proviso to sub-section (2) of section 16 of the CGST Act as long as the dealer pays the value of the supply as reduced after adjusting the amount of post-sale discount in terms of financial / commercial credit notes received by him from the supplier of goods plus the amount of original tax charged by the supplier.

5.2.2.2A Departmental Clarifications - Withdrawal of [Circular No. 105/24/2019-GST dated 28.06.2019](#) - [Circular No. 112/31/2019 – GST dated 3rd October, 2019](#)

Kind attention is invited to [Circular No. 105/24/2019-GST dated 28.06.2019](#) wherein certain clarifications were given in relation to various doubts related to treatment of secondary or post-sales discounts under GST.

2. Numerous representations were received expressing apprehensions on the implications of the said Circular. In view of these apprehensions and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168(1) of the Central Goods and Services Tax Act, 2017, hereby withdraws, ab-initio, [Circular No. 105/24/2019-GST dated 28.06.2019](#).

**5.2.2.3 Departmental Clarifications - Clarification on various issue pertaining to GST- -
[Circular No. 172/04/2022-GST dated 6th July, 2022](#) - Relevant extracts only**

Various representations have been received from the field formations seeking clarification on certain issues with respect to –

- i. refund claimed by the recipients of supplies regarded as deemed export;
- ii. interpretation of section 17(5) of the CGST Act;

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarify the issues as under:

S. No.	Issue	Clarification
Refund claimed by the recipients of supplies regarded as deemed export		
1.	Whether the Input Tax Credit (ITC) availed by the recipient of deemed export supply for claiming refund of tax paid on supplies regarded as deemed exports would be subjected to provisions of Section 17 of the CGST Act, 2017.	The refund in respect of deemed export supplies is the refund of tax paid on such supplies. However, the recipients of deemed export supplies were facing difficulties on the portal to claim refund of tax paid due to requirement of the portal to debit the amount so claimed from their electronic credit ledger. Considering this difficulty, the tax paid on such supplies, has been made available as ITC to the recipients vide Circular No. 147/03/2021-GST dated 12.03.2021 only for enabling them to claim such refunds on the portal. The ITC of tax paid on deemed export supplies, allowed to the recipients for claiming refund of such tax paid, is not ITC in terms of the provisions of Chapter V of the CGST Act, 2017. Therefore, the ITC so availed by the recipient of deemed export supplies would not be subjected to provisions of Section 17 of the CGST Act, 2017.
Clarification on various issues of section 17(5) of the CGST Act		
3.	Whether the proviso at the end of clause (b) of sub-section (5) of section 17 of the CGST Act is applicable to the entire clause (b) or the said proviso is applicable only to sub-clause (iii) of clause (b)?	<ol style="list-style-type: none"> 1. <i>Vide</i> the Central Goods and Service Tax (Amendment Act) 2018, clause (b) of sub-section (5) of section 17 of the CGST Act was substituted with effect from 01.02.2019. After the said substitution, the proviso after sub-clause (iii) of clause (b) of sub-section (5) of section 17 of the CGST Act provides as under: "Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force."

		<p>2. The said amendment in sub-section (5) of section 17 of the CGST Act was made based on the recommendations of GST Council in its 28th meeting. The intent of the said amendment in sub-section (5) of section 17, as recommended by the GST Council in its 28th meeting, was made known to the trade and industry through the Press Note on Recommendations made during the 28th meeting of the GST Council, dated 21.07.2018. It had been clarified "that scope of input tax credit is being widened, and it would now be made available in respect of Goods or services which are obligatory for an employer to provide to its employees, under any law for the time being in force."</p> <p>3. Accordingly, it is clarified that the proviso after sub-clause (iii) of clause (b) of sub-section (5) of section 17 of the CGST Act is applicable to the whole of clause (b) of sub-section (5) of section 17 of the CGST Act.</p>
4.	<p>Whether the provisions of sub-clause (i) of clause (b) of sub-section (5) of section 17 of the CGST Act bar availment of ITC on input services by way of "leasing of motor vehicles, vessels or aircraft" or ITC on input services by way of any type of leasing is barred under the said provisions?</p>	<p>1. Sub-clause (i) of clause (b) of sub-section (5) of section 17 of the CGST Act provides that ITC shall not be available in respect of following supply of goods or services or both—</p> <p>"(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:</p> <p>Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply"</p> <p>2. It is clarified that "leasing" referred in sub-clause (i) of clause (b) of sub-section (5) of section 17 refers to leasing of motor vehicles, vessels and aircrafts only and not to leasing of any other items. Accordingly, availment of ITC is not barred under sub-clause (i) of clause (b) of sub-section (5) of section 17 of the CGST Act in case of leasing, other than leasing of motor vehicles, vessels and aircrafts.</p>

5.3 Availability of credit in special circumstances. [Section 18]

Section 18(1)	01.07.2017 to till date	<p>Availability of credit in special circumstances</p> <p>Subject to such conditions and restrictions as may be prescribed—</p>
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		<p>(a) A person who has applied for registration under this Act within thirty days from the date on which he becomes liable to registration and has been granted such registration</p> <p>a person who has applied for registration under this Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act;</p> <p>(b) A person who takes registration under sub-section (3) of section 25</p> <p>a person who takes registration under sub-section (3) of section 25 shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration;</p> <p>(c) Where any registered person ceases to pay tax under section 10 i.e. Composition levy</p> <p>where any registered person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9:</p> <p>Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed;</p> <p>(d) Where an exempt supply of goods or services or both by a registered person becomes a taxable supply</p> <p>where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relating to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable:</p>
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		<p>Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed.</p>
Section 18(2)	01.07.2017 to till date	<p>No input tax credit under sub-section (1) of section 18 after the expiry of one year from the date of issue of tax invoice relating to such supply</p> <p>A registered person shall not be entitled to take input tax credit under sub-section (1) in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice relating to such supply.</p>
Section 18(3)	01.07.2017 to till date	<p>Transfer of the unutilised input tax credit where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities.</p> <p>Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.</p>
Section 18(4)	01.07.2017 to till date	<p>Payment of input tax credit where any registered person who has availed of input tax credit opts to pay tax under section 10 or, where the goods or services or both supplied by him become wholly exempt.</p> <p>Where any registered person who has availed of input tax credit opts to pay tax under section 10 or, where the goods or services or both supplied by him become wholly exempt, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption:</p>
First Proviso	01.07.2017 to till date	<p>After payment of input tax credit, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.</p> <p>Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.</p>

<p>Section 18(5)</p>	<p>01.07.2017 to till date</p>	<p>The amount of credit under sub-section (1) and the amount payable under sub-section (4) shall be calculated in such manner as may be prescribed^{\$}.</p> <p>The amount of credit under sub-section (1) and the amount payable under sub-section (4) shall be calculated in such manner as may be prescribed^{\$}.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>^{\$} Please refer to Rule 40 for the input tax credit claimed in accordance with the provisions of sub-section (1) of section 18 and Rule 44 for the manner to determine the amount of input tax credit relating to inputs held in stock, inputs contained in semi-finished and finished goods held in stock, and capital goods held in stock shall, for the purposes of sub-section (4) of section 18.</p> </div>
<p>Section 18(6)</p>	<p>01.07.2017 to till date</p>	<p>Payment of input tax credit in case of supply of capital goods or plant and machinery on which input tax credit has been taken or the tax on the transaction value of such capital goods or plant and machinery determined under section 15 ?</p> <p>In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery determined under section 15, whichever is higher:</p>
<p>First Proviso</p>	<p>01.07.2017 to till date</p>	<p>Payment of tax on the transaction value of refractory bricks, moulds and dies, jigs and fixtures which are supplied as scrap, determined under section 15.</p> <p>Provided that where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined under section 15.</p>

5.3.1.1 Departmental Notifications – Extention of the time limit for submission of FORM GST ITC-01

[Notification No. 44/2017 – Central Tax dated 13th October, 2017](#) - The Commissioner, has extended the time limit for making a declaration, in FORM GST ITC-01, by the registered persons, who have become eligible during the months of July, 2017, August, 2017 and

September, 2017, to the effect that they are eligible to avail the input tax credit under sub-section (1) of section 18 of the said Act, till the 31st day of October, 2017.

Further, [Notification No. 52/2017 – Central Tax dated 28th October, 2017](#) has amended [Notification No. 44/2017 – Central Tax dated 13th October, 2017](#) as follows:

In the said notification, for the words, figures and letters “the 31st day of October, 2017”, the words, figures and letters “the 30th day of November, 2017” shall be substituted.

Further, [Notification No. 67/2017 – Central Tax dated 21st December, 2017](#) has superseded [Notification No. 44/2017 – Central Tax dated 13th October, 2017](#) and the Commissioner, has extended the time limit for making a declaration, in FORM GST ITC-01, by the registered persons, who have become eligible during the months of July, 2017, August, 2017, September, 2017, October, 2017 and November, 2017 to the effect that they are eligible to avail the input tax credit under sub-section (1) of section 18 of the said Act, till the 31st day of January, 2018.

[Notification No.42/2018 – Central Tax dated 4th September 2018](#) has further extended the time limit for making the declaration in FORM GST ITC-01 of the said rules, by registered persons who have filed the application in FORM GST-CMP-04 of the said rules between the 2nd day of March, 2018 and the 31st day of March, 2018, for a period of thirty days from the date of publication of this notification in the Official Gazette.

5.3.1.2 Departmental Notifications - Special procedure for taxpayers in Dadra and Nagar Haveli and Daman and Diu consequent to merger of the two UTs

[Notification No. 10/2020 – Central Tax dated 21st March, 2020](#) - The Government, on the recommendations of the Council, has notified those persons whose principal place of business or place of business was in the erstwhile Union territory of Daman and Diu or in the erstwhile Union territory of Dadra and Nagar Haveli till the 26th day of January, 2020; and is in the merged Union territory of Daman and Diu and Dadra and Nagar Haveli from the 27th day of January, 2020 onwards, as the class of persons who shall, except as respects things done or omitted to be done before the notification, follow the following special procedure till the 31st day of May, 2020 (hereinafter referred to as the transition date) as mentioned below.

2. The said registered person shall,-

(i) ascertain the tax period as per sub-clause (106) of section 2 of the said Act for the purposes of any of the provisions of the said Act for the month of January, 2020 and February, 2020 as below:-

(a) January, 2020: 1st January, 2020 to 25th January, 2020;

(b) February, 2020: 26th January, 2020 to 29th February, 2020;

(ii) irrespective of the particulars of tax charged in the invoices, or in other like documents, raised from the 26th January, 2020 till the transition date, pay the appropriate applicable tax in the return under section 39 of the said Act;

(iii) who have registered Goods and Services Tax Identification Number (GSTIN) in the erstwhile Union territory of Daman and Diu and the erstwhile Union territory of Dadra and

Nagar Haveli till the 25th day of January, 2019 have an option to transfer the balance of input tax credit (ITC) after the filing of the return for January, 2020, from the registered Goods and Services Tax Identification Number (GSTIN) in the erstwhile Union territory of Daman and Diu to the registered GSTIN in the new Union territory of Daman and Diu and Dadra and Nagar Haveli by following the procedure as below:-

(a) the said class of persons shall intimate the jurisdictional tax officer of the transferor and the transferee regarding the transfer of ITC, within one month of obtaining new registration;

(b) the ITC shall be transferred on the basis of the balance in the electronic credit ledger upon filing of the return in the erstwhile Union territory of Daman and Diu, for the tax period immediately before the transition date;

(c) the transfer of ITC shall be carried out through the return under section 39 of the said Act for the tax period immediately before the transition date and the transferor GSTIN shall debit the said ITC from its electronic credit ledger in Table 4(B)(2) of FORM GSTR-3B and the transferee GSTIN shall credit the equal amount of ITC in its electronic credit ledger in Table 4(A)(5) of FORM GSTR-3B.

The balance of Union territory taxes in electronic credit ledger of the said class of persons, whose principal place of business lies in the Union territory of Daman and Diu, as on the 25th day of January, 2020, shall be transferred as balance of Union territory tax in the electronic credit ledger.

Further, [Notification No. 45/2020 – Central Tax dated 9th June, 2020](#) has amended [Notification No. 10/2020 – Central Tax dated 21st March, 2020](#) as follows:

In the said notification, in the first paragraph, for the figures, letters and words "31st day of May, 2020", the figures, letters and words "31st day of July, 2020" shall be substituted.

5.3.2.1 Departmental Clarifications - Clarification on removal of restriction of refund of accumulated ITC on fabrics- [Circular No.56/30/2018-GST dated 24th August, 2018](#)

Certain doubts have been raised regarding the applicability and intent of [notification No. 20/2018-Central Tax \(Rate\) dated 26th July, 2018](#) (which seeks to amend [Notification No. 5/2017-Central Tax \(Rate\) dated 28.06.2017](#)) relating to the provision for lapsing of input tax credit accumulated on account of inverted duty structure on fabrics for the period upto the 31st July, 2018.

2. The said [notification No. 5/2017-Central Tax \(Rate\)](#) was issued in exercise of powers vested under section 54 of the Central Goods and Services Tax Act, 2017(CGST Act, 2017). It notifies the items on which refund of accumulated input tax credit on account of inverted duty structure is not allowed. Some of the items notified under this notification are fabrics. A total 10 categories of fabrics covered in the notification are as follows:

S. No.	Tariff item, heading, sub-heading or Chapter	Description of Goods
(1)	(2)	(3)

1.	5007	Woven fabrics of silk or of silk waste
2.	5111 to 5113	Woven fabrics of wool or of animal hair
3.	5208 to 5212	Woven fabrics of cotton
4.	5309 to 5311	Woven fabrics of other vegetable textile fibres, paper yarn
5.	5407, 5408	Woven fabrics of manmade textile materials
6.	5512 to 5516	Woven fabrics of manmade staple fibres
6A#	5608	Knotted netting of twine, cordage or rope; made up fishing nets and other made up nets, of textile materials
6B*	5801	Corduroy fabrics
6C#	5806	Narrow woven fabrics, other than goods of heading 5807; narrow fabrics consisting of warp without weft assembled by means of an adhesive
7.	60	Knitted or crocheted fabrics [All goods]

*Inserted in the month of Sep 17, # Inserted in the month of Nov 17.

3. In the 28th GST Council meeting, it was decided to remove the restriction of not allowing refund of ITC accumulated on account of inverted duty structure on fabrics with prospective effect on the input supplies received after the date of issue of notification. It was also decided to simultaneously lapse the accumulated ITC, lying unutilised, for the past period, after the payment of GST for the month of July, 2018. Accordingly, to give effect to this decision, the [notification No. 20/2018-Central Tax \(Rate\)](#) has been issued amending [Notification No. 5/2017-Central Tax\(Rate\)](#). To keep the accounting simple, it was decided to make these changes effective from the 1st day of August, 2018.

4. *Vide* the said [notification No. 20/2018-Central Tax \(Rate\)](#), the following proviso has been inserted in [notification No. 5/2017-Central Tax \(Rate\)](#).

"**Provided** that,-

(i)	nothing contained in this notification shall apply to the input tax credit accumulated on supplies received on or after the 1st day of August, 2018, in respect of goods mentioned at serial numbers 1, 2, 3, 4, 5, 6, 6A, 6B, 6C and 7 of the Table below; and
(ii)	in respect of said goods, the accumulated input tax credit lying unutilised in balance, after payment of tax for and upto the month of July, 2018, on the inward supplies received up to the 31st day of July 2018, shall lapse. "

5. The doubts raised, with reference to changes made [vide notification No. 20/2018- Central Tax \(Rate\)](#) are as follows:

(1)	Whether this notification seeks to lapse all the input tax credit lying unutilised after payment of tax upto the month of July. 2018?
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(2)	Whether unutilised ITC in respect of services and capital goods shall also be disallowed?
(3)	Implication to fabrics like cotton and silk where there was no inverted duty structure?
(4)	Whether accumulated ITC in respect of exports shall also be made to lapse?

6. The matter has been examined. Section 54 of the CGST Act, 2017 provides for refund of accumulated credit on inputs on account of inverted duty structure, i.e., GST rate on inputs being higher than the GST rates on finished goods. However, proviso (ii) to section 54 (3) provides that in respect of notified goods, the refund of such accumulated input tax credit shall not be allowed. [Notification No. 5/2017-Central Tax \(Rate\)](#) has been issued in terms of this provision and it *interalia* prescribes that refund of accumulated ITC on account of inverted duty structure shall not be allowed in respect of fabrics as mentioned in para 2. Therefore, the restriction of refund of accumulated ITC under [notification No. 5/2017-Central Tax \(rate\) dated 28.06.2017](#) is applicable only in respect of refund of accumulated ITC on inputs. This notification does not put any restriction in relation to the ITC on input services and capital goods.

7. The proviso has to be read with the principal part of the notification. A comprehensive reading of amended notification makes it clear that the proviso seeks to lapse only such input tax credit which is the subject matter of principal notification, i.e. accumulated credit on account of inverted duty structure in respect of stated fabrics. The net effect of clause (ii) in the said proviso is that it provides for lapsing of input tax credit that would have been refundable in terms of section 54 of the Act, for the period prior to the 31st July, 2018, but for the restriction imposed vide said [notification No. 5/2017-Central Tax \(Rate\)](#) and that too to the extent of accumulated ITC lying unutilised after making payment of GST upto the month of July, 2018. In other words, in terms of amended notification, the input tax credit on account of inverted duty structure lying in balance after payment of GST for the month of July (on purchases made on or before the 31st July, 2018) shall lapse.

8. As the [notification No. 5/2017-Central Tax \(Rate\)](#) does not put any restriction in respect of ITC on input services and capital goods, therefore the proviso now inserted in the said [notification No. 5/2017-Central Tax \(Rate\) vide notification No. 20/2018](#) does not affect the ITC availed on input services and capital goods.

9. As regards, the legislative power of providing for lapsing of input tax credit, the same flows inherently from the power to deny refund of accumulated ITC on account of inverted structure.

10. Doubts have also been raised as regards the manner of calculating the ITC amount accumulated on account of inverted duty structure on the inputs of said fabrics that would lapse on account of above stated change. It is clarified that for determination of such amount, the formula as prescribed in rule 89 (5) of the CGST rules shall *mutatis mutandis* apply as it applies for determination of refundable amount for inverted duty structure. Such amount shall be determined for the months from July, 2017 to July 2018 [or for the relevant period for such fabrics on which refund was blocked subsequently by inserting entries in [notification No. 5/2017-Central Tax \(Rate\)](#)]. The accumulated input tax credit determined by each supplier using the prescribed formula lying unutilised in balance after making the payment of GST for the month of July, 2018 shall lapse.

Illustrations:

(1) A manufacturer who produces only manmade fibre fabrics, had a turnover of Rs 5 crore for the period from July, 2017 to July 2018 [or for the relevant period for fabrics on which refund was blocked subsequently by inserting entries in [notification No. 5/2017-Central Tax \(Rate\)](#)]. Tax payable thereon is Rs 25 lakh (@ 5%). Assuming the net ITC availed on inputs, during this period, was Rs 30 lakh. Applying the formula prescribed in rule 89 (5), the accumulated ITC on account of inverted duty structure comes to Rs 5 lakh. In other words, this manufacturer has accumulated Rs 5 lakh on inputs on account of inverted duty structure during the said period. If ITC balance lying unutilized with him is more than this amount, say Rs 10 lakh, the ITC equal to Rs 5 lakh will only lapse. However, if for any reason, the ITC balance lying unutilized is less than Rs 5 lakh, say Rs 3 lakh, the ITC equal to Rs 3 lakh will lapse.

(2) A manufacturer who produces, say, grey manmade fibre fabrics and cotton fabrics, had a turnover of Rs 5 crore and 2 crore respectively for manmade fabrics and cotton fabrics for the months from July, 2017 to July 2018 [or for the relevant period for fabrics on which refund was blocked subsequently by inserting entries in [notification No. 5/2017-Central Tax \(Rate\)](#)]. Tax payable thereon is Rs 25 lakh on MMF fabrics and Rs 10 lakh on cotton fabrics. MMF fabric has inverted duty structure while cotton fabric does not have inverted duty structure. Assuming the net ITC availed on inputs, during this period, was Rs 35 lakh, i.e.,

= ((Turnover of inverted rated supply of goods / Adjusted Total Turnover) x Net ITC) - tax payable on such inverted rated supply of goods

The accumulated ITC on account of inverted duty structure shall be equal to nil (5/7*35-25). Thus no amount shall lapse. However, assuming that in this case the ITC availed on input is Rs. 42 lakh, the accumulated ITC on account of inverted duty structure is Rs 5 lakh (5/7*42-25)

The manner of calculation as provided in rule 89(5) would *mutatis mutandis* apply.

10.1 As illustrated, the application of formula prescribed in rule 89(5) ensures that ITC relating to capital goods and input services does not lapse.

11. However, a manufacturer may have closing stock of finished goods and inputs as on 31.7.2018. A doubt has been raised as to whether input tax relating thereto shall also lapse and concern has been expressed that this would amount to double taxation. It is clarified that the proposed amendment seeks to lapse only such credit that has been accumulated on inputs on account of inverted duty structure. Therefore, in case a manufacturer, whose accumulated ITC is liable to lapse in terms of said notification, has certain stock lying in balance as on 31.7.2018, the input tax credit involved in inputs contained in such stock (including inputs lying as such) may be excluded for determination of Net ITC for the purposes of applying the said formula. For this purpose, the ITC relating to inputs contained in stock may be determined in the manner as provided in S. No. 7 of Form GST ITC-01.

12. As regards the applicability of said proviso to cotton, silk and other natural fibre fabrics, which do not suffer inverted duty structure, this is clarified that the said condition of lapsing of ITC would apply only if input tax credit on inputs has been accumulated on account of inverted duty structure. The aforesaid formula takes care of this aspect.

13. As regards accumulated ITC in relation to exports, the refund of such ITC on exports is separately determined under rule 89 (4). Application of formula, as prescribed in rule 89(5),

ensures that accumulated ITC on exports does not lapse as this formula excludes zero rated supplies. Further [notification No. 5/2017-Central Tax \(Rate\)](#) does not impose any restriction of refunds on zero rated supplies as was also clarified *vide* CGST [circular no. 18/2017-Central Tax dated 16th November, 2017](#). Hence the proviso has no applicability to the input tax credit relating to zero rated supplies. Accordingly, accumulated ITC on zero rated supplies shall not lapse. This is ensured by application of formula.

14. The procedure to be followed for lapsing of accumulated input tax credit - A taxable person, whose input tax credit is liable to be lapsed in terms of said notification, shall calculate the amount of such accumulated ITC, in the manner as clarified above. This amount shall, upon self-assessment, be furnished by such person in his GSTR 3B return for the month of August, 2018. The amount shall be furnished in column 4B (2) of the return [ITC amount to be reversed for any reason (others)]. Verification of accumulated ITC amount so lapsed may be done at the time of filing of first refund (on account of inverted duty structure on fabrics) by such person. Therefore, a detailed calculation sheet in respect of accumulated ITC lapsed shall be prepared by the taxable person and furnished at the time of filing of first refund claim on account of inverted duty structure.

5.3.2.2 Departmental Clarifications - Clarification in respect of transfer of input tax credit in case of death of sole proprietor- [Circular No. 96/15/2019-GST dated 28th March, 2019](#)

Doubts have been raised whether sub-section (3) of section 18 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as „CGST Act“) provides for transfer of input tax credit which remains unutilized to the transferee in case of death of the sole proprietor. As per sub-rule (1) of rule 41 of the Central Goods and Services Rules, 2017 (hereinafter referred to as „CGST Rules“), the registered person (transferor of business) can file FORM GST ITC-02 electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee. Further, clarification has also been sought regarding procedure of filing of FORM GST ITC-02 in case of death of the sole proprietor. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby clarifies the issues raised as below.

2. Clause (a) of sub-section (1) of section 29 of the CGST Act provides that reason of transfer of business includes “death of the proprietor”. Similarly, for uniformity and for the purpose of sub-section (3) of section 18, sub-section (3) of section 22, sub-section (1) of section 85 of the CGST Act and sub-rule (1) of rule 41 of the CGST Rules, it is clarified that transfer or change in the ownership of business will include transfer or change in the ownership of business due to death of the sole proprietor.

3. In case of death of sole proprietor if the business is continued by any person being transferee or successor, the input tax credit which remains un-utilized in the electronic credit ledger is allowed to be transferred to the transferee as per provisions and in the manner stated below –

a. Registration liability of the transferee / successor: As per provisions of sub-section (3) of section 22 of the CGST Act, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession, where a business is transferred to another person for any reasons including death of the proprietor.

While filing application in FORM GST REG-01 electronically in the common portal the applicant is required to mention the reason to obtain registration as “death of the proprietor”

b. Cancellation of registration on account of death of the proprietor: Clause (a) of subsection (1) of section 29 of the CGST Act, allows the legal heirs in case of death of sole proprietor of a business, to file application for cancellation of registration in FORM GST REG-16 electronically on common portal on account of transfer of business for any reason including death of the proprietor. In FORM GST REG-16, reason for cancellation is required to be mentioned as “death of sole proprietor”. The GSTIN of transferee to whom the business has been transferred is also required to be mentioned to link the GSTIN of the transferor with the GSTIN of transferee.

c. Transfer of input tax credit and liability: In case of death of sole proprietor, if the business is continued by any person being transferee or successor of business, it shall be construed as transfer of business. Sub-section (3) of section 18 of the CGST Act, allows the registered person to transfer the unutilized input tax credit lying in his electronic credit ledger to the transferee in the manner prescribed in rule 41 of the CGST Rules, where there is specific provision for transfer of liabilities. As per sub-section (1) of section 85 of the CGST Act, the transferor and the transferee / successor shall jointly and severally be liable to pay any tax, interest or any penalty due from the transferor in cases of transfer of business “in whole or in part, by sale, gift, lease, leave and license, hire or in any other manner whatsoever”. Furthermore, sub-section (1) of section 93 of the CGST Act provides that where a person, liable to pay tax, interest or penalty under the CGST Act, dies, then the person who continues business after his death, shall be liable to pay tax, interest or penalty due from such person under this Act. It is therefore clarified that the transferee / successor shall be liable to pay any tax, interest or any penalty due from the transferor in cases of transfer of business due to death of sole proprietor.

d. Manner of transfer of credit: As per sub-rule (1) of rule 41 of the CGST Rules, a registered person shall file FORM GST ITC-02 electronically on the common portal with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason. In case of transfer of business on account of death of sole proprietor, the transferee / successor shall file FORM GST ITC-02 in respect of the registration which is required to be cancelled on account of death of the sole proprietor. FORM GST ITC-02 is required to be filed by the transferee/successor before filing the application for cancellation of such registration. Upon acceptance by the transferee / successor, the unutilized input tax credit specified in FORM GST ITC-02 shall be credited to his electronic credit ledger.

5.3.2.3 Departmental Clarifications - Clarification in respect of apportionment of input tax credit (ITC) in cases of business reorganization under section 18 (3) of CGST Act read with rule 41(1) of CGST Rules - [Circular No.133/03/2020-GST dated 23rd March, 2020](#)

Representations have been received from various taxpayers seeking clarification in respect of apportionment and transfer of ITC in the event of merger, demerger, amalgamation or change in the constitution/ownership of business. Certain doubts have been raised regarding the interpretation of subsection (3) of section 18 of the Central Goods and Services Tax Act, 2017

(hereinafter referred to as the CGST Act) and sub-rule (1) of rule 41 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) in the context of business reorganization.

2. According to sub-section (3) of section 18 of the CGST Act,

“Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilized in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.”

Further, according to sub-rule (1) of rule 41 of the CGST Rules:

“A registered person shall, in the event of sale, merger, de-merger, amalgamation, lease or transfer or change in the ownership of business for any reason, furnish the details of sale, merger, demerger, amalgamation, lease or transfer of business, in FORM GST ITC-02, electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee:

Provided that in the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.

Explanation:- For the purpose of this sub-rule, it is hereby clarified that the “value of assets” means the value of the entire assets of the business, whether or not input tax credit has been availed thereon.

3. The issues raised in various representations have been analyzed in the light of various legal provisions under GST. In order to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by sub-section (1) of section 168 of the CGST Act clarifies the issues involved in the Table below.

S. No.	Issue / Question	Clarification
a.	(i) In case of demerger, proviso to rule 41 (1) of the CGST Rules provides that the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme. However, it is not clear as to whether the value of assets of the new units is to be considered at State	Proviso to sub-rule (1) of rule 41 of the CGST Rules provides for apportionment of the input tax credit in the ratio of the value of assets of the new units as specified in the demerger scheme. Further, the explanation to sub-rule (1) of rule 41 of the CGST Rules states that "value of assets" means the value of the entire assets of the business, whether or not input tax credit has been availed thereon. Under the provisions of the CGST Act, a person/ company (having same PAN) is required to obtain separate registration in different States and each such registration is considered a distinct person for the purpose of the Act. Accordingly, for the purpose of apportionment of ITC pursuant to a demerger under sub-rule (1) of rule 41 of the CGST Rules, the value of assets of the new units is to be taken at the State level (at the level of distinct person) and not at the all-India level. <i>Illustration</i> A company XYZ is registered in two States of M.P. and U.P. Its total value of assets is worth Rs. 100 crore, while its assets in State of M.P. and U.P are Rs 60 crore and Rs 40 crore respectively. It demerges a part of its business to company ABC. As a part of such demerger, assets

	level or at all-India level.	of XYZ amounting to Rs 30 Crore are transferred to company ABC in State of M.P, while assets amounting to Rs 10 crore only are transferred to ABC in State of U.P. (Total assets amounting to Rs 40 crore at all-India level are transferred from XYZ to ABC). The unutilized ITC of XYZ in State of M.P. shall be transferred to ABC on the basis of ratio of value of assets in State of M.P., i.e. $30/60 = 0.5$ and not on the basis of all-India ratio of value of assets, i.e. $40/100=0.4$. Similarly, unutilized ITC of XYZ in State of U.P. will be transferred to ABC in ratio of value of assets in State of U.P., i.e. $10/40 = 0.25$.
	(ii) Is the transferor required to file FORM GST ITC - 02 in all States where it is registered?	No. The transferor is required to file FORM GST ITC-02 only in those States where both transferor and transferee are registered.
b.	The proviso to rule 41 (1) of the CGST Rules explicitly mentions 'demerger'. Other forms of business reorganization where part of business is hived off or business is transferred as a going concern etc. have not been covered in the said rule. Wherever business reorganization results in partial transfer of business assets along with liabilities, whether the proviso to rule 41(1) of the CGST Rules, 2017 shall be applicable to calculate the amount of transferable ITC?	Yes, the formula for apportionment of ITC, as prescribed under proviso to sub-rule (1) of rule 41 of the CGST Rules, shall be applicable for all forms of business re-organization that results in partial transfer of business assets along with liabilities.
c.	(i) Whether the ratio of value of assets, as prescribed under proviso to rule 41 (1) of the CGST Rules, shall be applied in respect of each of the	No, the ratio of value of assets, as prescribed under proviso to sub-rule (1) of rule 41 of the CGST Rules, shall be applied to the total amount of unutilized input tax credit (ITC) of the transferor i.e. sum of CGST, SGST/UTGST and IGST credit. The said formula need not be applied separately in respect of each heads of ITC (CGST/SGST/IGST). Further, the said formula shall also be applicable for apportionment of Cess between the transferor and transferee.

heads of input tax credit viz. CGST/SGST/IGST/ Cess?	<p><i>Illustration A:</i> The ITC balances of transferor X in the State of Maharashtra under CGST, SGST and IGST heads are 5 lakh, 5 lakh and 10 lakh respectively. Pursuant to a scheme of demerger, X transfers 60% of its assets to transferee B. Accordingly, the amount of ITC to be transferred from A to B shall be 60% of 20 lakh (total sum of CGST, SGST and IGST credit) i.e. 12 lakh.</p>																																																
<p>(ii) How to determine the amount of ITC that is to be transferred to the transferee under each tax head (IGST/CGST/SGST) while filing of FORM GST ITC-02 by the transferor?</p>	<p>The total amount of ITC to be transferred to the transferee (i.e. sum of CGST, SGST/UTGST and IGST credit) should not exceed the amount of ITC to be transferred, as determined under sub-rule (1) of rule 41 of the CGST Rules [refer 3 (c) (i) above]. However, the transferor shall be at liberty to determine the amount to be transferred under each tax head (IGST, CGST, SGST/UTGST) within this total amount, subject to the ITC balance available with the transferor under the concerned tax head. This is shown in the illustration below:</p> <table border="1" data-bbox="541 775 1477 1715"> <thead> <tr> <th>(1)</th> <th>(2)</th> <th>(3)</th> <th>(4)</th> <th>(5)</th> <th>(6)</th> </tr> <tr> <th>State</th> <th>Asset Ratio of Transferee</th> <th>Tax Heads</th> <th>ITC balance of Transferor (pre-apportionment) as on the date of filing FORM GST ITC-02)</th> <th>Total amount of ITC transferred to the Transferee under FORM GST ITC-02</th> <th>ITC balance of Transferor (post apportionment) after filing of FORM GST ITC-02 [Col (4) - Col (5)]</th> </tr> </thead> <tbody> <tr> <td rowspan="4">Delhi</td> <td rowspan="4">70%</td> <td>CGST</td> <td>10,00,000</td> <td>10,00,000</td> <td>0</td> </tr> <tr> <td>SGST</td> <td>10,00,000</td> <td>10,00,000</td> <td>0</td> </tr> <tr> <td>IGST</td> <td>30,00,000</td> <td>15,00,000</td> <td>15,00,000</td> </tr> <tr> <td>Total</td> <td>50,00,000</td> <td>35,00,000</td> <td>15,00,000</td> </tr> <tr> <td rowspan="4">Haryana</td> <td rowspan="4">40%</td> <td>CGST</td> <td>25,00,000</td> <td>3,00,000</td> <td>22,00,000</td> </tr> <tr> <td>SGST</td> <td>25,00,000</td> <td>5,00,000</td> <td>20,00,000</td> </tr> <tr> <td>IGST</td> <td>20,00,000</td> <td>20,00,000</td> <td>0</td> </tr> <tr> <td>Total</td> <td>70,00,000</td> <td>28,00,000</td> <td>42,00,000</td> </tr> </tbody> </table>	(1)	(2)	(3)	(4)	(5)	(6)	State	Asset Ratio of Transferee	Tax Heads	ITC balance of Transferor (pre-apportionment) as on the date of filing FORM GST ITC-02)	Total amount of ITC transferred to the Transferee under FORM GST ITC-02	ITC balance of Transferor (post apportionment) after filing of FORM GST ITC-02 [Col (4) - Col (5)]	Delhi	70%	CGST	10,00,000	10,00,000	0	SGST	10,00,000	10,00,000	0	IGST	30,00,000	15,00,000	15,00,000	Total	50,00,000	35,00,000	15,00,000	Haryana	40%	CGST	25,00,000	3,00,000	22,00,000	SGST	25,00,000	5,00,000	20,00,000	IGST	20,00,000	20,00,000	0	Total	70,00,000	28,00,000	42,00,000
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<p>d. (i) In order to calculate the amount of transferable ITC, the apportionment formula under proviso to rule 41(1) of the CGST Rules has to be applied to</p>	<p>According to sub-section (3) of section 18 of the CGST Act, "Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilized in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed." Further, sub-rule (1) of rule 41 of the CGST Rules prescribes</p>																																																

<p>the unutilized ITC balance of the transferor. However, it is not clear as to which date shall be relevant to calculate the amount of unutilized ITC balance of transferor.</p>	<p>that the registered person shall file the details in FORM GST ITC-02 for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee.</p> <p>A conjoint reading of sub-section (3) of section 18 of the CGST Act along with sub-rule (1) of rule 41 of the CGST Rules would imply that the apportionment formula shall be applied on the ITC balance of the transferor as available in electronic credit ledger on the date of filing of FORM GST ITC - 02 by the transferor.</p>
<p>(ii) Which date shall be relevant to calculate the ratio of value of assets, as prescribed in the proviso to rule 41 (1) of the CGST Rules, 2017?</p>	<p>According to section 232(6) of the Companies Act, 2013, "The scheme under this section shall clearly indicate an appointed date from which it shall be effective and the scheme shall be deemed to be effective from such date and not at a date subsequent to the appointed date". The said legal provision appears to indicate that the "appointed date of demerger" is the date from which the scheme for demerger comes into force and it is specified in the respective scheme of demerger. Therefore, for the purpose of apportionment of ITC under rule sub-rule (1) of rule 41 of the CGST Rules, the ratio of the value of assets should be taken as on the "appointed date of demerger".</p> <p>In other words, for the purpose of apportionment of ITC under sub-rule (1) of rule 41 of the CGST Rules, while the ratio of the value of assets should be taken as on the "appointed date of demerger", the said ratio is to be applied on the ITC balance of the transferor on the date of filing FORM GST ITC - 02 to calculate the amount to transferable ITC.</p>

5.4 Taking input tax credit in respect of inputs and capital goods sent for job work. [Section 19]

<p>Section 19(1)</p>	<p>01.07.2017 to till date</p>	<p>The principal shall be allowed input tax credit on inputs sent to a job worker for job work.</p> <p>The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on inputs sent to a job worker for job work.</p>
<p>Section 19(2)</p>	<p>01.07.2017 to till date</p>	<p>The principal shall be entitled to take input tax credit even if the inputs are directly sent to a job worker for job work without being first brought to his place of business.</p> <p>Notwithstanding anything contained in clause (b) of sub-section (2) of section 16, the principal shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job work without being first brought to his place of business.</p>
<p>Section 19(3)</p>	<p>01.07.2017 to till date</p>	<p>Deemed supply of inputs where the inputs sent for job work are not received back by the principal after</p>

		<p>completion of job work or otherwise or are not supplied from the place of business of the job worker in accordance with clause (a) or clause (b) of sub-section (1) of section 143 within one year of being sent out.</p> <p>Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise or are not supplied from the place of business of the job worker in accordance with clause (a) or clause (b) of sub-section (1) of section 143 within one year of being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out:</p>
First Proviso	01.07.2017 to till date	<p>The period of one year shall be counted from the date of receipt of inputs by the job worker, where the inputs are sent directly to a job worker.</p> <p>Provided that where the inputs are sent directly to a job worker, the period of one year shall be counted from the date of receipt of inputs by the job worker.</p>
Section 19(4)	01.07.2017 to till date	<p>The principal shall be allowed input tax credit on capital goods sent to a job worker for job work.</p> <p>The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on capital goods sent to a job worker for job work.</p>
Section 19(5)	01.07.2017 to till date	<p>The principal shall be entitled to take input tax credit even if the capital goods are directly sent to a job worker for job work without being first brought to his place of business.</p> <p>Notwithstanding anything contained in clause (b) of sub-section (2) of section 16, the principal shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job work without being first brought to his place of business.</p>
Section 19(6)	01.07.2017 to till date	<p>Deemed supply of capital goods where the capital goods sent for job work are not received back by the principal within a period of three years of being sent out.</p> <p>Where the capital goods sent for job work are not received back by the principal within a period of three years of being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out:</p>

First Proviso	01.07.2017 to till date	The period of three year shall be counted from the date of receipt of capital goods by the job worker, where the inputs are sent directly to a job worker. Provided that where the capital goods are sent directly to a job worker, the period of three years shall be counted from the date of receipt of capital goods by the job worker.
Section 19(7)	01.07.2017 to till date	The provisions of deemed supply if the Inputs or Capital goods are not returned within specified period, shall not apply to moulds and dies, jigs and fixtures, or tools sent out to a job worker for job work. Nothing contained in sub-section (3) or sub-section (6) shall apply to moulds and dies, jigs and fixtures, or tools sent out to a job worker for job work.
Explanation	01.07.2017 to till date	“principal” For the purpose of section 19. For the purpose of this section, “principal” means the person referred to in section 143.

5.4.1.1 Departmental Notifications – Extention of the due date for submission of details in FORM GST-ITC-04

[Notification No. 53/2017 – Central Tax dated 28th October, 2017](#) - The Commissioner, with the approval of the Board, has extended the time limit for making the declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the quarter July to September, 2017, till the 30th day of November, 2017.

Further, [Notification No. 63/2017 – Central Tax dated 15th November, 2017](#) has amended [Notification No. 53/2017 – Central Tax dated 28th October, 2017](#) as follows:

In the said notification, for the words, figures and letters “the 30th day of November, 2017”, the words, figures and letters “the 31st day of December, 2017” shall be substituted.

Further, [Notification No. 40/2018 – Central Tax dated 4th September, 2018](#) has superseded [Notification No. 53/2017 – Central Tax dated 28th October, 2017](#) and the Commissioner, has extended the time limit for making the declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the period from July, 2017 to June, 2018 till the 30th day of September, 2018.

Further, [Notification No. 59/2018 – Central Tax dated 26th October, 2018](#) has superseded [Notification No. 40/2018 – Central Tax dated 4th September, 2018](#) and the Commissioner, has extended the time limit for furnishing the declaration in FORM GST ITC-04 of the said rules, in respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the period from July, 2017 to September, 2018 till the 31st day of December, 2018.

Further, [Notification No. 78 /2018 – Central Tax dated 31st December, 2018](#) has superseded [Notification No. 59/2018 – Central Tax dated 26th October, 2018](#) and the Commissioner, hereby extends the time limit for furnishing the declaration in FORM GST ITC-04 of the said rules, in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2017 to December, 2018 till the 31st day of March, 2019.

Further, [Notification No. 15/2019 – Central Tax dated 28th March ,2019](#) has superseded [Notification No. 78 /2018 – Central Tax dated 31st December, 2018](#) and the Commissioner, hereby extends the time limit for furnishing the declaration in FORM GST ITC-04 of the said rules, in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2017 to March, 2019 till the 30th day of June, 2019.

Further, [Notification No. 32/2019 – Central Tax dated 28th June, 2019](#) has superseded [Notification No. 15/2019 – Central Tax dated 28th March ,2019](#) and the Commissioner, hereby extends the time limit for furnishing the declaration in FORM GST ITC-04 of the said rules, in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2017 to June, 2019 till the 31st day of August, 2019.

[Notification No. 38/2019 – Central Tax dated 31st August, 2019](#) - The Central Government, on the recommendations of the Council, has notified the registered persons required to furnish the details of challans in FORM ITC-04 under sub-rule (3) of rule 45 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), read with section 143 of the said Act, as the class of registered persons who shall follow the special procedure such that the said persons shall not be required to furnish FORM ITC-04 under subrule (3) of rule 45 of the said rules for the period July, 2017 to March, 2019:

Provided that the said persons shall furnish the details of all the challans in respect of goods dispatched to a job worker in the period July, 2017 to March, 2019 but not received from a job worker or not supplied from the place of business of the job worker as on the 31st March, 2019, in serial number 4 of FORM ITC-04 for the quarter April-June, 2019.

[Notification No. 87/2020 – Central Tax dated 10th November, 2020](#) effective from 25th day of October, 2020.- The Commissioner, with the approval of the Board, has extended the time limit for furnishing the declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2020 to September, 2020 till the 30th day of November, 2020.

[Notification No. 11/2021 – Central Tax dated 1st May, 2021](#) effective from 25th day of April, 2021 - The Commissioner, with the approval of the Board, has extended the time period upto the 31st day of May, 2021, for furnishing the declaration in FORM GST ITC-04, in respect of goods dispatched to a job worker or received from a job worker, during the period from 1 st January, 2021 to 31st March, 2021.

Further, [Notification No. 26/2021 – Central Tax dated 1st June, 2021](#) effective from 31st day of May, 2021 has amended [Notification No. 11/2021 – Central Tax dated 1st May, 2021](#) as follows:

In the said notification, in the first paragraph, for the figures, letters and words “31st day of May, 2021”, the figures, letters and words “30th day of June, 2021” shall be substituted.

5.4.2.1 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.

5.4.2.1A 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.

5.5 Manner of distribution of credit by Input Service Distributor [Section 20]

Section 20(1)	01.07.2017 to till date	<p>The Input Service Distributor shall distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax in such manner as may be prescribed.</p> <p>The Input Service Distributor shall distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit being distributed in such manner as may be prescribed.</p>
Section 20(2)	01.07.2017 to till date	<p>Conditions for distribution of credit by the Input Service Distributor.</p> <p>The Input Service Distributor may distribute the credit subject to the following conditions, namely:–</p>

		<p>(a) the credit can be distributed to the recipients of credit against a document containing such details as may be prescribed;</p> <p>(b) the amount of the credit distributed shall not exceed the amount of credit available for distribution;</p> <p>(c) the credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;</p> <p>(d) the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed amongst such recipients to whom the input service is attributable and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;</p> <p>(e) the credit of tax paid on input services attributable to all recipients of credit shall be distributed amongst such recipients and such distribution shall be pro rata on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period.</p>						
<p>Explanation</p>	<p>01.07.2017 to 31.01.2019</p>	<p>The expressions - “relevant period”, “recipient of credit” and “turnover” for the purposes of this section.</p> <p>For the purposes of this section,—</p> <table border="1" data-bbox="628 1559 1375 2029"> <tr> <td data-bbox="628 1559 703 2029">(a)</td> <td data-bbox="703 1559 1375 2029"> <p>the “relevant period” shall be—</p> <table border="1" data-bbox="708 1626 1366 2029"> <tr> <td data-bbox="708 1626 772 1827">(i)</td> <td data-bbox="772 1626 1366 1827"> <p>if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or</p> </td> </tr> <tr> <td data-bbox="708 1827 772 2029">(ii)</td> <td data-bbox="772 1827 1366 2029"> <p>if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are</p> </td> </tr> </table> </td> </tr> </table>	(a)	<p>the “relevant period” shall be—</p> <table border="1" data-bbox="708 1626 1366 2029"> <tr> <td data-bbox="708 1626 772 1827">(i)</td> <td data-bbox="772 1626 1366 1827"> <p>if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or</p> </td> </tr> <tr> <td data-bbox="708 1827 772 2029">(ii)</td> <td data-bbox="772 1827 1366 2029"> <p>if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are</p> </td> </tr> </table>	(i)	<p>if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or</p>	(ii)	<p>if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are</p>
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(ii)	<p>if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are</p>							

		<table border="1"> <tr> <td data-bbox="614 215 699 322"></td> <td data-bbox="699 215 1386 322">available, previous to the month during which credit is to be distributed;</td> </tr> <tr> <td data-bbox="614 322 699 495">(b)</td> <td data-bbox="699 322 1386 495">the expression “recipient of credit” means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor;</td> </tr> <tr> <td data-bbox="614 495 699 763">(c)</td> <td data-bbox="699 495 1386 763">the term “turnover”, in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.</td> </tr> </table>		available, previous to the month during which credit is to be distributed;	(b)	the expression “recipient of credit” means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor;	(c)	the term “turnover”, in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.				
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Explanation	01.02.2019 to till date	<p>The expressions - “relevant period”, “recipient of credit” and “turnover” for the purposes of this section.</p> <p>For the purposes of this section,—</p> <table border="1"> <tr> <td data-bbox="614 949 699 1532">(a)</td> <td data-bbox="699 949 1386 1532"> <p>the “relevant period” shall be—</p> <table border="1"> <tr> <td data-bbox="699 1016 767 1223">(i)</td> <td data-bbox="767 1016 1386 1223">if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or</td> </tr> <tr> <td data-bbox="699 1223 767 1532">(ii)</td> <td data-bbox="767 1223 1386 1532">if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed;</td> </tr> </table> </td> </tr> <tr> <td data-bbox="614 1532 699 1704">(b)</td> <td data-bbox="699 1532 1386 1704">the expression “recipient of credit” means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor;</td> </tr> <tr> <td data-bbox="614 1704 699 1973">(c)</td> <td data-bbox="699 1704 1386 1973">the term “turnover”, in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied ¹[under entries 84 and 92A] of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.</td> </tr> </table>	(a)	<p>the “relevant period” shall be—</p> <table border="1"> <tr> <td data-bbox="699 1016 767 1223">(i)</td> <td data-bbox="767 1016 1386 1223">if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or</td> </tr> <tr> <td data-bbox="699 1223 767 1532">(ii)</td> <td data-bbox="767 1223 1386 1532">if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed;</td> </tr> </table>	(i)	if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or	(ii)	if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed;	(b)	the expression “recipient of credit” means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor;	(c)	the term “turnover”, in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied ¹ [under entries 84 and 92A] of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.
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		1 Substituted for the words and figures “under entry 84,” w.e.f. 01.02.2019 vide Section 10 of the Central Goods and Services Tax (Amendment) Act, 2018 which comes into force vide Notification No. 02/2019 – Central Tax dated 29th January, 2019 .
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5.5 Manner of distribution of credit by Input Service Distributor [Section 20]

Notes	
1.	To be substituted for Section 20 vide section 12 of the Finance Act 2024 (No.8 of 2024) and shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Section 20(1)	From a date to be notified	Any office of the supplier of goods or services or both which receives tax invoices towards the receipt of input services, including invoices in respect of services liable to tax under sub-section (3) or sub-section (4) of section 9, for or on behalf of distinct persons referred to in section 25, shall be required to be registered as Input Service Distributor under clause (viii) of section 24 and shall distribute the input tax credit in respect of such invoices.
Section 20(2)	From a date to be notified	The Input Service Distributor shall distribute the credit of central tax or integrated tax charged on invoices received by him, including the credit of central or integrated tax in respect of services subject to levy of tax under sub-section (3) or sub-section (4) of section 9 paid by a distinct person registered in the same State as the said Input Service Distributor, in such manner, within such time and subject to such restrictions and conditions as may be prescribed.
Section 20(3)	From a date to be notified	The credit of central tax shall be distributed as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit, in such manner as may be prescribed.

5.5.1.1 Departmental Clarifications - Clarifications of issues under GST related to casual taxable person and recovery of excess Input Tax Credit distributed by an Input Service distributor- [Circular No. 71/45/2018-GST dated 26th October, 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:

S. No.	Issue	Clarification
1	<p>Whether the amount required to be deposited as advance tax while taking registration as a casual taxable person (CTP) should be 100% of the estimated gross tax liability or the estimated tax liability payable in cash should be calculated after deducting the due eligible ITC which might be available to CTP?</p>	<p>1. It has been noted that while applying for registration as a casual taxable person, the FORM GST REG-1 (S. No. 11) seeks information regarding the "estimated net tax liability" only and not the gross tax liability.</p> <p>2. It is accordingly clarified that the amount of advance tax which a casual taxable person is required to deposit while obtaining registration should be calculated after considering the due eligible ITC which might be available to such taxable person.</p>
2.	<p>As per section 27 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the said Act), period of operation by causal taxable person is ninety days with provision for extension of same by the proper officer for a further period not exceeding ninety days. Various representations have been received for further extension of the said period beyond the period of 180 days, as mandated in law.</p>	<p>1. It is clarified that in case of long running exhibitions (for a period more than 180 days), the taxable person cannot be treated as a CTP and thus such person would be required to obtain registration as a normal taxable person.</p> <p>2. While applying for normal registration the said person should upload a copy of the allotment letter granting him permission to use the premises for the exhibition and the allotment letter/consent letter shall be treated as the proper document as a proof for his place of business.</p> <p>3. In such cases he would not be required to pay advance tax for the purpose of registration.</p> <p>4. He can surrender such registration once the exhibition is over.</p>
3.	<p>Representations have been received regarding the manner of recovery of excess credit distributed by an Input Service Distributor (ISD) in contravention of the provisions contained in section 20 of the CGST Act.</p>	<p>1. According to Section 21 of the CGST Act where the ISD distributes the credit in contravention of the provisions contained in section 20 of the CGST Act resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest and penalty if any.</p> <p>2. The recipient unit(s) who have received excess credit from ISD may deposit the said excess amount voluntarily along with interest if any by using FORM GST DRC-03.</p> <p>3. If the said recipient unit(s) does not come forward voluntarily, necessary proceedings</p>

		<p>may be initiated against the said unit(s) under the provisions of section 73 or 74 of the CGST Act as the case may be. FORM GST DRC-07 can be used by the tax authorities in such cases.</p> <p>4. It is further clarified that the ISD would also be liable to a general penalty under the provisions contained in section 122(1)(ix) of the CGST Act.</p>
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5.6 Manner of recovery of credit distributed in excess [Section 21]

Section 21	01.07.2017 to till date	<p>Excess distribution of credit to be recovered from recipients along with interest</p> <p>Where the Input Service Distributor distributes the credit in contravention of the provisions contained in section 20 resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest, and the provisions of section 73 or section 74, as the case may be, shall, mutatis mutandis, apply for determination of amount to be recovered.</p>
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5.6.1.1 Departmental Clarifications - Clarifications of issues under GST related to casual taxable person and recovery of excess Input Tax Credit distributed by an Input Service distributor- [Circular No. 71/45/2018-GST dated 26th October, 2018](#)

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S. No.	Issue	Clarification
1	Whether the amount required to be deposited as advance tax while taking registration as a casual taxable person (CTP) should be 100% of the estimated gross tax liability or the estimated tax liability payable in cash should be calculated after deducting the due eligible ITC which might be available to CTP?	<p>1. It has been noted that while applying for registration as a casual taxable person, the FORM GST REG-1 (S. No. 11) seeks information regarding the "estimated net tax liability" only and not the gross tax liability.</p> <p>2. It is accordingly clarified that the amount of advance tax which a casual taxable person is required to deposit while obtaining registration should be calculated after considering the due eligible ITC which might be available to such taxable person.</p>

<p>2.</p>	<p>As per section 27 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the said Act), period of operation by causal taxable person is ninety days with provision for extension of same by the proper officer for a further period not exceeding ninety days. Various representations have been received for further extension of the said period beyond the period of 180 days, as mandated in law.</p>	<p>1. It is clarified that in case of long running exhibitions (for a period more than 180 days), the taxable person cannot be treated as a CTP and thus such person would be required to obtain registration as a normal taxable person.</p> <p>2. While applying for normal registration the said person should upload a copy of the allotment letter granting him permission to use the premises for the exhibition and the allotment letter/consent letter shall be treated as the proper document as a proof for his place of business.</p> <p>3. In such cases he would not be required to pay advance tax for the purpose of registration.</p> <p>4. He can surrender such registration once the exhibition is over.</p>
<p>3.</p>	<p>Representations have been received regarding the manner of recovery of excess credit distributed by an Input Service Distributor (ISD) in contravention of the provisions contained in section 20 of the CGST Act.</p>	<p>1. According to Section 21 of the CGST Act where the ISD distributes the credit in contravention of the provisions contained in section 20 of the CGST Act resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest and penalty if any.</p> <p>2. The recipient unit(s) who have received excess credit from ISD may deposit the said excess amount voluntarily along with interest if any by using FORM GST DRC-03.</p> <p>3. If the said recipient unit(s) does not come forward voluntarily, necessary proceedings may be initiated against the said unit(s) under the provisions of section 73 or 74 of the CGST Act as the case may be. FORM GST DRC-07 can be used by the tax authorities in such cases.</p> <p>4. It is further clarified that the ISD would also be liable to a general penalty under the provisions contained in section 122(1)(ix) of the CGST Act.</p>