



THE INSTITUTE OF CHARTERED ACCOUNTANTS' OF INDIA  
EASTERN INDIA REGIONAL COUNCIL

&

VIP ROAD CHARTERED ACCOUNTANTS' STUDY CIRCLE



9  
CPE  
HRS



3  
Day  
Workshop

26<sup>th</sup> - 28<sup>th</sup>  
MARCH 2020

Wednesday to Friday  
5:30 PM to 8:30 PM

**EIRC Auditorium**  
**7 Russell Street, Kolkata 700 0701**

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## About VIPCA

VIP Road Chartered Accountants' Study Circle – EIRC is THE FIRST Chartered Accountants' Study Circle of Eastern India and also one of the largest Study Circles under the aegis of Institute of Chartered Accountants of India. VIPCA, as it is popularly known, was established in the year 1997 by some energetic, young, forward looking and likeminded professionals with the object of providing a common platform to the members from CA fraternity in and around VIP Road and North Kolkata to interact with each other for the advancement of profession and fellowship.

VIPCA having a membership strength of around 600, dedicated CA professionals has emerged as one of the most coveted professional bodies under the EIRC of ICAI with the un-tiring, continuous and relentless efforts of its office bearers in organizing successful seminars, conferences, study circle meetings, group discussions and fellowship programs.

CA Subodh Kr. Agarwal, Past President of ICAI is one of the founder members and was President of VIPCA during the year 2001-02. VIPCA received the Best Study Circle Award from EIRC and for “Highly Commended Performance” in the years 2007, 2012, 2013 and 2014.

VIPCA organizes its Annual Conference every year and dignitaries like the Governor, Central and State Ministers, Renowned Industrialists and eminent CA Professionals from across the Country have graced our most important event. In the year 2016, His Excellency Hon'ble Governor of West Bengal Sri Keshari Nath Tripathi was the Chief Guest and in the year 2015 Sri S.S. Ahluwalia, MP, was the Chief Guest. The annual conference is attended by more than 700 delegates.

VIPCA has also a fully equipped air-conditioned library cum meeting room, where a large number of members and students are reaping the benefits of the vision of its dedicated members. VIPCA is proudly marching forward with its objective of providing a platform for knowledge sharing to its members in their quest for professional excellence.

The quarterly journals of VIPCA are widely circulated and highly appreciated by the CA fraternity.

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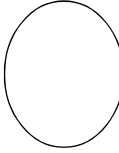
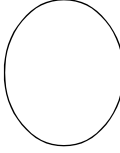
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## Programme Schedule



### Day 1 Wednesday , 26th Feb - 5.30P.M TO 8.30 P.M.

Speaker	Topic
 CAVivek Jalan	How to reply to notices under GST & How to Handle Litigation under GST (including suggested replies of notices )
 Adv. T .B. Chatterjee	Landmark High Court judgements under GST & How to Approach High Court

### Day 2 Thursday, 27th Feb - 5.30P.M TO 8.30 P.M.

Speaker	Sector-wise issue and recommendation in GST Topic
 CA Arun Agarwal	Works Contract and Jewellery
 CA Pulak Saha	Real Estate

### Day 3 Friday, 28th Feb - 5.30P.M TO 8.30 P.M.

Speaker	Topic
 CA Vikash Kr Banka	E- Invoicing
 CA Ankit Kanodia	New Returns under GST

## KEY HIGHLIGHTS IN GST AMENDMENTS (FINANCE BILL 2020)

In the structural reforms, the Goods and Services Tax (GST) has been the most historic in our country. The Honourable Finance Minister during her speech mention that during this phase of maturing, GST did face certain challenges. This was natural as transition was daunting. GST Council has been proactive in resolving issues during transition. In the last two years we have added more than 60 lakh new taxpayers, a total of about 40 crore returns were filed, 800 crore invoices were uploaded, and 105 crore e-way bills were generated. There has been extensive engagement with stakeholders. A simplified new return system is being introduced from April 1, 2020. It will make return filing simple with features like SMS based filing for nil return, return pre-filing, improved input tax credit flow and overall simplification. The Finance minister has also given emphasis on deep data analytics and artificial intelligence tools are being used for reviewing input tax credit and refunds claimed by taxpayers and to detect frauds.

The Government has like last year proposed certain amendments to the GST Laws through the Financial Bill. This article contains gist of most significant amendments:

### 1. Penalty in case of Fake invoicing

The following amendment has been proposed under clause 124 (Relevant to section 122 of CGST Act) to impose penalty on the beneficiary person for fake invoicing.

Excerpt of the Finance Bill:

*In section 122 of the Central Goods and Services Tax Act, after sub-section (1), the following sub-section shall be inserted, namely: —*

*“(1A) Any person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on.”.*

Excerpt of the relevant section:

*(i) supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;*

*(ii) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder*

*(vii) takes or utilises input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder;*

*(ix) takes or distributes input tax credit in contravention of section 20, or the rules made thereunder;*

Our comment: Penalty provision extended to the person retaining the benefit of the transaction and at whose instance such transaction is conducted to the extent of tax evaded or ITC availed of or passed on. Also under the Income tax Act, A new section 271AAD has been proposed to be inserted to impose penalty in case of fake invoices.

### 2. Time Limit for ITC availment in respect of Debit Note.

The following amendment has been proposed under clause 118 (Relevant to section 16 of CGST Act) to allow input tax credit vis a vis debit note in the year of its issuance, instead of the year of debit note under underlying invoice.

Excerpt of the Finance Bill:

*In section 16 of the Central Goods and Services Tax Act, in sub-section (4), the words “invoice relating to such” shall be omitted.*

Pre-Amendment

Section 16(4) 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.

Post Amendment:

Section 16(4) 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.

Our Comment: This is a welcome move and relief for the time limit allowed for the availment of input tax credit on debit note. Earlier a person was not entitled to take ITC in respect of Debit note raised for the Invoices on which time limit to avail ITC has been lapsed but now the date of Debit note will be standalone considered for availing Input tax credit.

3. TDS certificate

The following amendment has been proposed in section 51 of the CGST Act, 2017 under clause 122.

Excerpt of the Finance Bill:

*In section 51 of the Central Goods and Services Tax Act, --*

*(a) for sub-section (3), the following sub-section shall be substituted, namely:*

*“(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.”*

*(b) sub-section (4) shall be omitted.”*

Pre-Amendment:

(3) The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed.

(4) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees.

Post Amendment:

(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.

~~(4) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees.~~

Our comment: The Form and manner to issue TDS Certificate will be specify by the Government shortly.

4. Fraudulent claim of ITC under the ambit of Punishment under Section 132

The following amendment has been proposed in section 132 of the CGST Act, 2017 (Punishment for certain offences) under clause 125.

Excerpt of the Finance Bill:

*In section 132 of the Central Goods and Services Tax Act, in sub-section (1), --*

*(i) for the words “Whoever commits any of the following offences”, the words “Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences” shall be substituted;*

*(ii) for clause (c), the following clause shall be substituted, namely:*

*“(c) avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill;”;*

*(iii) in sub-clause (e), the words “, fraudulently avails input tax credit” shall be omitted.*

Pre-Amendment:

(1) Whoever commits any of the following offences, namely: —

(C) avails input tax credit using such invoice or bill referred to in clause (b);

(e) evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);

Post Amendment:

Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences, namely: —

- (c) avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill;
- (e) evades tax, or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d);

Our comment: Before amendment only input tax credit on fake bills were considered as cognizable and non-bailable. Now after amendment, the offence of fraudulent availment of input tax credit without invoice or bill cognizable and non-bailable. Moreover, the prosecution has been extended to the person who retains the benefit of the transactions and at whose instance such transactions are conducted.

#### 5. Eligibility under Composition Levy Scheme Curtailed

The following amendment has been proposed in section 10 of the CGST Act, 2017 under clause 117.

Excerpt of the Finance Bill:

*In section 10 of the Central Goods and Services Tax Act, in sub-section (2), in clauses (b), (c) and (d), after the words "of goods", the words "or services" shall be inserted.*

Pre-Amendment

- 2) The registered person shall be eligible to opt under sub-section (1), if: —
  - (a) he is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II;
  - (b) he is not engaged in making any supply of goods, which are not leviable to tax under this Act;
  - (c) he is not engaged in making any inter-State outward supplies of goods;
  - (d) he is not engaged in making any supply of goods, through an electronic commerce operator who is required to collect tax at source under section 52; and
  - (e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council:

Provided that where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961),

the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.

Post Amendment:

- 2) The registered person shall be eligible to opt under sub-section (1), if: —
  - (a) he is not engaged in the supply of services other than supplies referred to in clause
  - (b) of paragraph 6 of Schedule II;
  - (b) he is not engaged in making any supply of goods or Services which are not leviable to tax under this Act;
  - (c) he is not engaged in making any inter-State outward supplies of goods or Services;
  - (d) he is not engaged in making any supply of goods or Services through an electronic commerce operator who is required to collect tax at source under section 52; and
  - (e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council:

Provided that where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.

Our Comment: In the composition scheme, the following group of persons will also be excluded from opting for the said scheme:

- Persons engaged in making any supply of services which are not leviable to tax,
- Persons engaged in making Inter-state outward supply of services,
- Persons engaged in making supply of services through e-commerce operator required to collect TCS.

Earlier the restriction to opt. for composition scheme was restricted to certain taxpayers with respect of 'Supply of goods', exclusion for 'supply of services' has now been provided.





# BACKGROUND MATERIAL FOR ICAI 26th FEBRUARY 2020



By CA VIVEK JALAN



By CS TIMIR BARAN CHATTERJEE

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### HANDLING LITIGATIONS UNDER GST :

Various Forms of Assessments under GST :

Scrutiny Assessments:

61. (1) The proper officer may scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in such manner as may be prescribed and seek his explanation thereto.

(2) In case the explanation is found acceptable, the registered person shall be informed accordingly and no further action shall be taken in this regard.

(3) In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action including those under section 65 or section 66 or section 67, or proceed to determine the tax and other dues under section 73 or section 74.

Assessment of unregistered persons.

63. Notwithstanding anything to the contrary contained in section 73 or section 74, where a taxable person fails to obtain registration even though liable to do so or whose registration has been cancelled under sub-section

(2) of section 29 but who was liable to pay tax, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgment for the relevant tax periods and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates:

*Provided that no such assessment order shall be passed without giving the person an opportunity of being heard.*

Summary assessment in certain special cases:

64. (1) The proper officer may, on any evidence showing a tax liability of a person coming to his notice, with the previous permission of Additional Commissioner or Joint Commissioner, proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order, if he has sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue:

*Provided that where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and liable to pay tax and any other amount due under this section.*

(2) On an application made by the taxable person within thirty days from the date of receipt of order passed

under sub-section (1) or on his own motion, if the Additional Commissioner or Joint Commissioner considers that such order is erroneous, he may withdraw such order and follow the procedure laid down in section 73 or section 74.

Power of inspection, search and seizure:

67. (1) Where the proper officer, not below the rank of Joint Commissioner, has reasons to believe that—

(a) a taxable person has suppressed any transaction relating to supply of goods or services or both or the stock of goods in hand, or has claimed input tax credit in excess of his entitlement under this Act or has indulged in contravention of any of the provisions of this Act or the rules made thereunder to evade tax under this Act; or

(b) any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act, he may authorise in writing any other officer of central tax to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.

(2) Where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section (1) or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any other officer of central tax to search and seize or may himself search and seize such goods, documents or books or things:

Provided that where it is not practicable to seize any such goods, the proper officer, or any officer authorised by him, may serve on the owner or the custodian of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:

Provided further that the documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceedings under this Act.

(3) The documents, books or things referred to in sub-section (2) or any other documents, books or things

produced by a taxable person or any other person, which have not been relied upon for the issue of notice under this Act or the rules made thereunder, shall be returned to such person within a period not exceeding thirty days of the issue of the said notice.

(4) The officer authorised under sub-section (2) shall have the power to seal or break open the door of any premises or to break open any almirah, electronic devices, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, where access to such premises, almirah, electronic devices, box or receptacle is denied.

(5) The person from whose custody any documents are seized under sub-section (2) shall be entitled to make copies thereof or take extracts therefrom in the presence of an authorised officer at such place and time as such officer may indicate in this behalf except where making such copies or taking such extracts may, in the opinion of the proper officer, prejudicially affect the investigation.

(6) The goods so seized under sub-section (2) shall be released, on a provisional basis, upon execution of a bond and furnishing of a security, in such manner and of such quantum, respectively, as may be prescribed or on payment of applicable tax, interest and penalty payable, as the case may be.

(7) Where any goods are seized under sub-section (2) and no notice in respect thereof is given within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

Provided that the period of six months may, on sufficient cause being shown, be extended by the proper officer for a further period not exceeding six months.

(8) The Government may, having regard to the perishable or hazardous nature of any goods, depreciation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations, by notification, specify the goods or class of goods which shall, as soon as may be after its seizure under sub-section (2), be disposed of by the proper officer in such manner as may be prescribed.

(9) Where any goods, being goods specified under sub-section (8), have been seized by a proper officer, or any officer authorised by him under sub-section (2), he shall prepare an inventory of such goods in such manner as may be prescribed.

(10) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), relating to search and seizure, shall, so far as may be, apply to search and seizure under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the word "Commissioner" were substituted.

(11) Where the proper officer has reasons to believe that any person has evaded or is attempting to evade the payment of any tax, he may, for reasons to be recorded in writing, seize the accounts, registers or documents of such person produced before him and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with any proceedings under this Act or the rules made thereunder for prosecution.

(12) The Commissioner or an officer authorised by him may cause purchase of any goods or services or both by any person authorised by him from the business premises of any taxable person, to check the issue of tax invoices or bills of supply by such taxable person, and on return of goods so purchased by such officer, such taxable person or any person in charge of the business premises shall refund the amount so paid towards the goods after cancelling any tax invoice or bill of supply issued earlier.

Inspection of goods in movement:

68. (1) The Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.

(2) The details of documents required to be carried under sub-section (1) shall be validated in such manner as may be prescribed.

(3) Where any conveyance referred to in sub-section (1) is intercepted by the proper officer at any place, he may require the person in charge of the said conveyance to produce the documents prescribed under the said sub-section and devices for verification, and the said person shall be liable to produce the documents and devices and also allow the inspection of goods.

Power to arrest:

69. (1) Where the Commissioner has reasons to believe that a person has committed any offence specified in clause (a) or clause (b) or clause (c) or clause (d) of sub-

section (1) of section 132 which is punishable under clause (i) or (ii) of sub-section (1), or sub-section (2) of the said section, he may, by order, authorise any officer of central tax to arrest such person.

(2) Where a person is arrested under sub-section (1) for an offence specified under sub-section (5) of section 132, the officer authorised to arrest the person shall inform such person of the grounds of arrest and produce him before a Magistrate within twenty-four hours.

(3) Subject to the provisions of the Code of Criminal Procedure, 1973 (2 of 1974),--

(a) where a person is arrested under sub-section (1) for any offence specified under sub-section (4) of section 132, he shall be admitted to bail or in default of bail, forwarded to the custody of the Magistrate;

(b) in the case of a non-cognizable and bailable offence, the Deputy Commissioner or the Assistant Commissioner shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station.

Power to summon persons to give evidence and produce documents:

70. (1) The proper officer under this Act shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908 (5 of 1908).

(2) Every such inquiry referred to in sub-section (1) shall be deemed to be a "judicial proceedings" within the meaning of section 193 and section 228 of the Indian Penal Code (45 of 1860).

Access to business premises:

71. (1) Any officer under this Act, authorised by the proper officer not below the rank of Joint Commissioner, shall have access to any place of business of a registered person to inspect books of account, documents, computers, computer programs, computer software whether installed in a computer or otherwise and such other things as he may require and which may be available at such place, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.

(2) Every person in charge of place referred to in sub-section (1) shall, on demand, make available to the

officer authorised under sub-section (1) or the audit party deputed by the proper officer or a cost accountant or chartered accountant nominated under section 66-

(i) such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;

(ii) trial balance or its equivalent;

(iii) statements of annual financial accounts, duly audited, wherever required;

(iv) cost audit report, if any, under section 148 of the Companies Act, 2013 (18 of 2013);

(v) the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961 (43 of 1961); and

(vi) any other relevant record,

for the scrutiny by the officer or audit party or the chartered accountant or cost accountant within a period not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the chartered accountant or cost accountant.

**INTEREST LITIGATION UNDER GST:**

**FRAMING THE QUESTION OF LAW**

- I. Whether in the facts and circumstances of the case, the impugned Notice/letter issued by the Respondent without any show cause notice and/or opportunity of personal hearing in gross violation of principle of natural justice?
- II. Whether in the facts and circumstances of the case, the impugned Notice /letter demanding interest under Section 50 of WBGST Act, 2017 issued by the Respondent is in excess of jurisdiction, arbitrary, whimsical and bad in law?
- III. Whether in the facts and circumstances of the case, Respondents have no authority, power and/or jurisdiction to demand interest under Section 50 of WBGST Act, 2017 in respect of ...?
- IV. Whether in the facts and circumstances of the case, demand of interest vide Notice/letter is in violation of Article 19, 21 and 300A of the Constitution of India.
- V. Whether in the facts and circumstances of the case, the conduct and action of Respondents demanding interest by Notice/letter is perverse, unlawful, illegal, contrary to the provision of CGST Act, 2017/ SGST Act, 2017.

Section 50 is reproduced below:

“SECTION 50. Interest on the delayed payment of tax:- Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen percent., as may be notified by the Government on the recommendation of the Council.

- 2) The interest under sub-section (1) shall be calculated, in such manner as be prescribed, from the day succeeding the day on which such tax was due to be paid.

A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) or section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty four per cent., as may be notified by the Government on the recommendations of the Council.”

Sub-section 3 and Sub-section 4 of Section 49 of the WBGST Act are read as follows :

“Section 49 Payment of tax, interest, penalty and other amounts.

XXXXXXX	XXXXXXX	XXXXXX
XXXXXXX	XXXXXXX	XXXXXX
XXXXXXX	XXXXXXX	XXXXXX

- (3) The amount available in the electronic cash ledger may be used for making any payment towards TAX, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.
- (4) The amount available in the electronic credit ledger may be used for making any payment towards OUTPUT TAX under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and withing such time as may be prescribed.”

## ITC IN EXCECSS UNDER GST : SAMPLE REPLY:

To, Date : .....

The .....  
Division:

In the matter of

....  
GSTIN: ....

And in the matter of  
Notice dated ... received on ....

Regarding availment of excess ITC than the credit  
admissible Under Rule 36(4) of CGST Rules, 2017.

Respected Sir/Ma'am,

We refer to the Email (Reference No: NIL) u/s NIL of CGST Act, 2017 and u/r 36(4) of CGST Rules, 2017 dated received on 31-01-2020 from the e-mail ID read as "no-reply@sampark.gov.in". In the said E-mail your goodself have cited that credit to the tune of .....has been availed in GSTR-3B is more than 120% of amount available in GSTR-2A for the month of December, 2019.

Further the following has been advised: -

1. To reverse the amount of credit availed in excess.
2. In case such credit has been utilised for paying tax, the same may be deposited through FORM DRC-03 with applicable interest.

At the outset we beg to state that Circular No. 122/41/2019-GST dated 5th November, 2019 issued by the Central Board of Indirect Taxes and Customs in para 2 states that: -

*"The Board in exercise of its power under Section 168(1) of the CGST Act, 2017/Section 37B of the Central Excise Act, 1944 directs that no search authorization, summons, arrest memo, inspection notices and letters issued in the course of any enquiry shall be issued by any officer under the Board to a taxpayer or any other person, on or after the 8th day of November, 2019 without a computer generated Document Identification Number(DIN) being duly quoted prominently in the body of such communication"*

In light of the above circular and being a Law abiding citizen of India we request you to issue notices, letters or any communication containing electronically generated DIN, because the Board also directs that any specified communication from the department which does not bear the electronically generated DIN and is not covered by the exceptions mentioned in para 3 of the above mentioned circular shall be treated as invalid and shall be deemed to have never been issued.

Although the said notice has been received without any valid DIN, yet to honour a Government Communication, as a law abiding citizen please find our reply as under: -

We submit our reply to Point No. 1 in the ensuing paragraphs: -

As per Notification No. 49/2019-Central Tax dated 9th October, 2019 para 3 states that: - In the said rules, in rule 36, after sub-rule (3), the following sub-rule shall be inserted, namely: -

*"(4) Input tax credit to be availed by a registered person 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, shall not exceed 20 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37."*

Further 38th GST Council Meeting held on 18th December, 2019 recommended in para 4 that: *"Input tax credit to the recipient in respect of invoices or debit notes that are not reflected in his FORM GSTR-2A shall be restricted to 10 per cent of the eligible credit available in respect of invoices or debit notes reflected in his FORM GSTR-2A"*

The above recommendation was given effect through Official Gazette Notification No. 75/2019-Central Tax dated 26th December, 2019 with effect from 1st January, 2020.

In light of the above notifications and obeying the inserted rule, we have filed GSTR-3B for the month of December, 2019 without exceeding the value of hundred and twenty per cent of GSTR-2A in the December month.

The Detailed reconciliation of which is hereunder for your reference in TABLE-A: -

From the above Reconciliation Statements, we would like to draw your kind attention to the fact that ITC availed in GSTR-3B is less than 120% of ITC available in GSTR-2A (i.e. as per Rule 36(4) of CGST Rules, 2017).

Thus, it is respectfully submitted before your honour that, after reconciling GSTR-3B with GSTR-2A there is no excess ITC availed and Rule 36(4) is fully complied with.

Our reply to Point No. 2 is as below: -

Your Honour has asked that excess credit availed to the tune of .....as per your records if has been utilised for paying tax, the same may be deposited through FORM DRC-03 with applicable interest. Accordingly, we need to clarify that even after filing GSTR-3B for the month of

December, 2019, ITC was available in surplus (i.e. ....) in the Electronic Credit ledger of the GST Portal, details of which has been attached and marked as ANNEXURE-A.

We respectfully submit that from the above clarification it is clear that the contented figure of ..... which is the excess credit as per your records is not transcending the Credit available in Electronic Credit Ledger of the GST Portal and thus no requirement to deposit tax through FORM DRC-03 with applicable interest.

In view of the above, it is prayed before your honour to kindly accept our detailed explanation on the matter of excess availment of ITC in GSTR-3B for the month of December,2019 and kindly drop the issue.

**BLOCKAGE OF ITC UNDER GST : SAMPLE REPLY:**

To, Date : .....

The .....  
Division:

In the matter of  
....  
GSTIN: ....

And in the matter of  
Notice dated ... received on .... with the subject  
matter "Intimation of ITC blocked/unblocked amount

Respected Sir/Ma'am,

We confirm having received your mail dated .....from e-mail I.D. "[donotreply@gst.gov.in](mailto:donotreply@gst.gov.in)". In this regard, we submit as follows –

That, in the e-mail received, your honor had cited to check the Electronic Credit Ledger balance in the GST Portal to see the amount of ITC blocked/unblocked for utilization by the Jurisdictional Officer.

On checking the Electronic Credit Ledger in the GST Portal ITC was blocked for the above mentioned assessee with the description as "Temporary blocking of credit by Department".

At the outset we protest the blockage of Input Tax Credit as arbitrary, whimsical, perverse and the action of the department based on assumptions or presumptions that the tax payer has availed ITC fraudulently or availed Ineligible ITC. No reason has been given by the

department for blocking the Input Tax Credit but an e-mail communication has been made citing just as follows:

*"Kindly check your Electronic Credit Ledger balance in the GST Portal to see the amount of ITC blocked/unblocked for utilization by the Jurisdictional Officer."*

As per Notification No. 49/2019-Central Tax dated 9th October, 2019 para 3 states that: - In the said rules, in rule 36, after sub-rule (3), the following sub-rule shall be inserted, namely: -

*"(4) Input tax credit to be availed by a registered person 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, shall not exceed 20 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37."*

Further 38th GST Council Meeting held on 18th December, 2019 recommended in para 4 that: *"Input tax credit to the recipient in respect of invoices or debit notes that are not reflected in his FORM GSTR-2A shall be restricted to 10 per cent of the eligible credit available in respect of invoices or debit notes reflected in his FORM GSTR-2A"*

The above recommendation was given effect through Official Gazette Notification No. 75/2019-Central Tax dated 26th December, 2019 with effect from 1st January, 2020.

In light of the above notifications and obeying the inserted rule, we have filed GSTR-3B for the month of October, 2019 without exceeding the value of hundred and twenty per cent of GSTR-2A in the concerned months.

The Detailed reconciliation of which is hereunder for your reference in TABLE-A: -.....

A detailed statement has been attached herewith for the details of SEZ Purchases for the month of .....

Further Import details has also been attached.

Also there are some Invoices which are not under the ambit of Rule 36(4) and thus taxpayers can avail of full ITC of those invoices which are not required to be reported in Form GSTR-1 by the supplier i.e. IGST paid on import, documents issued under RCM, credit received from ISD, etc.

Furthermore, all the details of supplier filed in 1st and 2nd quarter (i.e. Apr,19 to Sep,19) but invoice booked by SEPL in October, 2019, due to receipt of the goods/ services in the month of October, 2019 and all the ineligible ITC's accumulating in the concerned months are duly disclosed in GSTR-3B in Table 4(D), details of which has been attached

From the above Reconciliation Statements, we would like to draw your kind attention to the fact that ITC availed in GSTR-3B is less than 120% of ITC available in GSTR-2A (i.e. as per Rule 36(4) of CGST Rules, 2017)

Thus, it is respectfully submitted before your honour that, after reconciling GSTR-3B with GSTR-2A there is no excess ITC availed and Rule 36(4) is fully complied with.

In addition to the above mentioned clarifications, the possible reasons of the differences in the ITC figures as per GSTR 2A and GSTR 3B as available on the GST Portal and as reported by us above are summarised below:

- Timing Gap – Wherein the Invoice would be uploaded in the GSTR 1 of the Counter Party in one month/ financial year and the ITC for the same would be availed by us in another month/ financial year.
- There may be certain delays/non-compliance from the supplier's side due to incorrect uploading and data entry mistake in figures or incorrect GSTIN, classifying B2C instead of B2B and there may be some other differences also which are not in our control. In this regard, we also pray to intimate such discrepancy to the suppliers as envisaged u/s 42(3) of The CGST Act 2017.

That, your honour has blocked the differential ITC for our GSTIN by invoking Rule 86(A) of CGST Rules, 2017 whereby it has been specified that:

*86A. Conditions of use of amount available in electronic credit ledger: -*

*(1) The Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, having reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible in as much as*

- a) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36-
 
  - i. issued by a registered person who has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or*
  - ii. without receipt of goods or services or both; or**
- b) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36 in respect of any supply, the tax charged in respect of which has not been paid to the Government; or*
- c) the registered person availing the credit of input tax has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or*
- d) the registered person availing any credit of input tax is not in possession of a tax invoice or debit note or any other document prescribed under rule 36, may, for reasons to be recorded in writing, not allow debit of an amount equivalent to such credit in electronic credit ledger for discharge of any liability under section 49 or for claim of any refund of any unutilised amount.*

*(2) The Commissioner, or the officer authorised by him under sub-rule (1) may, upon being satisfied that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit.*

*(3) Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction.*

It is humbly submitted before your honor that, Rule 86A should not have been invoked on us due to the following reasons:

- No excess Input Tax Credit has been availed through GSTR3B in comparison to GSTR-2A as available on the GST Portal.



- We have not availed any ITC fraudulently.
- We have not availed any Ineligible ITC.
- The ITC has been availed in accordance with Rule 36 of CGST Rules on the basis of valid Tax Invoice/Debit Note/Bill of Entry etc.
- We have availed ITC only after Goods/Service has been received.
- We have taken all the possible actions to ensure that the vendors with whom we are dealing have complied with the GST laws.
- That we have claimed eligible input credit available to us as per Sec. 16 of CGST Act 2017

Further, from the email received, we understand that your honor has no reason to invoke Rule 86A of CGST Rules 2017. Just due to a prima-facia mismatch in ITC availed in GSTR3B vis-à-vis ITC available in GSTR2A. The detailed reason for such differences are explained and justified in our submission above and we hope that the

same will suffice your requirement. Moreover, the blockage of ITC is against the principles of natural justice and in the gross violation of Article 14 and Article 19(1) (g) of the Constitution of India.

Since, we are a law abiding assessee and always comply with the GST Laws, your honor is requested to kindly accept our brief justification in the matter of discrepancies in ITC availed in GSTR-3B and ITC available in GSTR2A for the month of October, 2019.

We request your honor to unblock the ITC, since the blocking of eligible ITC may cause financial hardship to us.

We pray to take our reply on record and rest the issue in the light of Provisions as per Law. For this act of kindness, your petitioner as in duty bound shall remain grateful.

Thanking you

Yours faithfully

### MATCHING CONCEPT UNDER GST (MATCHING of GST-ITC UNDER GS2A Vs 3B) : ULTRA VIRES THE CONSTITUTION

With the advent of GST, one of the major concerns which both the industry and the professionals are facing is the allowance of input tax credit based on Matching Concept. The following are the provisions which lay down the matching concept -

*As per Sec 16(2)(c) of CGST Act, ITC shall be claimed only in case, 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*

*As per Sec 41 of CGST Act, Every registered person shall be entitled to take the credit of eligible input tax, as self assessed, in his return.*

*As per Sec 42 of CGST Act, The details of every inward supply furnished by a registered person shall be matched with the corresponding details of outward supply furnished by the corresponding registered person in his valid return for the same tax period or any preceding tax period for duplication of claims of input tax credit.*

*As per Rule 59(3), The details of outward supplies furnished by the supplier shall be made available electronically to the concerned registered persons (recipients) in Part A of FORM GSTR- 2A.*

*As per Rule 69 of CGST Rules, details relating to the claim of input tax credit on inward supplies, provisionally*

*allowed under section 41, shall be matched under section 42 after the due date for furnishing the return in FORM GSTR-3. The claim of input tax credit shall be considered as matched where the amount of input tax credit claimed is equal to or less than the output tax paid on such tax invoice or debit note by the corresponding supplier.*

*Where the mismatch is not rectified an amount to the extent of discrepancy shall be added to the output tax liability of the recipient in his return to be furnished in FORM GSTR-3 for the month succeeding the month in which the discrepancy is made available..*

As per the above, it is clear that the intention of the Department is to deny the claim of ITC in GSTR 3B (allowed provisionally) if tax charged in respect of such supply has not been actually paid to the Government by the Supplier or the evidence of the same is not available under GSTR 2A

It is to be noted that many Departments have even started issuing notices wherein certain discrepancies in the ITC availed by the noticee in its GSTR 3B have been cited and which are not reflected under the GSTR 2A of the noticee available on the GST Portal. Notwithstanding what is stated here under, GSTR 2A for 17-18 itself is not without errors in many cases and certain invoices are reported twice. The same have been identified and have

been communicated to the CBIC and The GST Council under various cases by us. In the same way, there may be certain invoices which may not have been reflected in the GSTR 2A and regarding which no one would be aware of until the GSTN confirms the same. Hence, at the outset this time is not right for the comparisons between The ITC available as per GSTR 2A and GSTR 3B.

#### It is Impossible Performance

Can the recipient be expected to do the impossible. i.e. to anticipate the selling dealer who will not deposit with the Government the tax collected by him from those purchasing dealer and therefore avoid transacting with such selling dealers

This demands the mention of Doctrine of impossible performance. It is a principle whereby a party may be released from a contract on the ground that uncontrollable circumstances have rendered performance impossible. A thing is impossible in legal contemplation when it is not practicable; and a thing is impracticable when it can only be done at an excessive and unreasonable cost.

In the given case if the seller fails to pay tax to the Government, the bonafide purchaser here is no circumstances to control the seller's act.

#### Infraction of Article 14 of The Constitution of India

Article 14 of the Constitution of India enlists the Fundamental Right of The Citizens which states that "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

It guards the citizen against the arbitrary actions of the Government. The term arbitrary describes a course of action or a decision that is not based on reason or judgment but on personal will or discretion without regard to rules or standards. Where an act is arbitrary it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of Article. 14. E. P. ROYAPPA Vs. STATE OF TAMIL NADU & ANR. [Supreme Court]

An arbitrary decision is one made without regard for the facts and circumstances presented, and it connotes a disregard of the evidence. If the purchaser presents the sellers confirmation with respect to the tax paid on the supplies in question and also the tax invoices as per section 16(2)(a), the input tax credit shall not be denied.

The Hon'ble Delhi High Court in the case of On Quest Merchandising India Pvt. Ltd., Suvasini Charitable Trust,

Arise India Limited, VinayakTrexim, K.R. Anand, ApariciCeramica, Arun Jain (Huf), Damson Technologies Pvt. Ltd., Solvochem, M/S. Meenu Trading Co., & Mahan Polymers Versus Government Of Nct Of Delhi & Ors. & Commissioner Of Trade & Taxes, Delhi And Ors. has held that "*in the event that the selling dealer has failed to deposit the tax collected by him from the purchasing dealer, the remedy for the Department would be to proceed against the defaulting selling dealer to recover such tax and not deny the purchasing dealer the ITC.*"

The Court observed that It is trite that a law that is not capable of honest compliance will fail in achieving its objective. If it seeks to visit disobedience with disproportionate consequences to a bona fide purchasing dealer, it will become vulnerable to invalidation on the touchstone of Article 14 of the Constitution.

Further, The Hon'ble Punjab And Haryana High Court in The Case Of Gheru Lal Bal Chand Versus State Of Haryana And Anr. Has held that

*"Once the law defines the registered dealer and tax-paid goods, the assessee, i.e., purchasing dealer, produced the bill issued by the registered dealer then his burden is discharged and he cannot be held responsible or he cannot be forced to go around from pillar to post to collect the material in order to get the rebate. To conclude, no liability can be fastened on the purchasing registered dealer on account of non-payment of tax by the selling registered unless it is fraudulent, or collusion or connivance with the registered selling dealer or its predecessors with the purchasing registered dealer is established."*

Another decision in this respect has been taken by the Madras High Court in the case of M/s. JKM Graphics Solutions Private Limited Versus The Commercial Tax Officer.

In the given case, the assessment are sought to be re-opened and the ITC availed by the dealers are directed to be reversed, when a mismatch occurs, when either the purchaser or the seller fails to report the transaction in their annexure I or II returns respectively. It was observed that :

*unless invoice wise data of mismatches are provided for each dealer, the dealer under analysis will not be able to come to a conclusion as to specific transactions for which, the tax is being demanded. Not providing invoice wise data of mismatch would tantamount to violation of principles of natural justice rendering the notices to be struck down by Appellate Forums and the High Courts.*

*The problems on account of the mismatch is a Pan India problem and to my mind, the procedure adopted under the Delhi VAT Act regime and the circulars issued under the said Act, appear to be a more transparent system and assessee friendly. This can be borne in mind by the Revenue for necessary follow up action.*

#### Violation of Substantive Right

It was held in the case of COMMISSIONER OF C. EX., MADRAS VERSUS HOME ASHOK LEYLAND LTD. 2007 (3) TMI 257 - SUPREME COURT OF INDIA, that the assessee was entitled to avail Modvat credit on differential duty paid during the period 21-4-1986 to 2-4-1987 in respect of inputs received in his factory during the year 1986-87 which inputs were utilized between the period 16-8-1987 and 30-12-1987. The courts below were right in holding that Rule 57E was procedural, clarificatory and therefore would not affect the substantive rights of the manufacture of the specified final product to claim Modvat credit for the duty paid on the inputs subsequent to the date of the receipt of those inputs. Consequently, the respondent-manufacturer in the present case was entitled to take credit between the period 16-8-1987 to 30-12-1987 in the sum of Rs. 6,43,994.57. Appeal dismissed. While holding, the Hon'ble Apex Court remarked as follows –

*".....the right to claim Modvat credit existed only in Rule 57A. Even Rule 57E says so. There can be no doubt that right from its inception the right to claim Modvat credit is under Rule 57A. Rule 57A recognizes the right of the manufacturer to claim credit. Rule 57E recognizes not only the right of the manufacturer to claim credit but also the extent to which credit could be claimed for the duty*

*paid on inputs. Therefore, Rule 57A is a substantive provision. However, the procedure of adjustment finds place in Rule 57E. Rule 57E is procedural provision. It deals with adjustments in duty credit. The object behind enacting Rules 57A, 57E and 57G is to avoid duty on duty whereby the price of the final product is loaded. Therefore, Rule 57A recognizes the right of the manufacturer to take credit for the specified duty paid on the inputs, whereas Rule 57E deals with adjustment in the duty credit, such adjustment mean on account of reduction on the credit allowed. It could also be in the event of refund. Suffice it to state that Rule 57E deals only with adjustment in the duty credit. Rule 57G states that credit shall not be taken unless the manufacturer of the final product maintains his records regarding receipt of the inputs in his factory like having again bill of entry certain types of registers (RR-I) or any other document prescribed by Central Board of Excise and Customs.*

*In our view, therefore, the courts below were right in holding that Rule 57E was procedural, clarificatory and therefore would not affect the substantive rights of the manufacture of the specified final product to claim Modvat credit for the duty paid on the inputs subsequent to the date of the receipt of those inputs. Consequently, the respondent-manufacturer in the present case was entitled to take credit between the period 16-8-1987 to 30-12-1987 in the sum of Rs. 6,43,994.57."*

On the basis of the above, it seems just a matter of time before the Vires of these provisions of the CGST Act 2017 may be challenged. The Govt. May just be trying to delegate its responsibility of Administration at the expense of Hardship of the Trade and Industry at large by The Matching Concept.

### CROSS CHARGE UNDER GST:

Recently The Appellate AAR in Karnataka has opened a Pandora's box in the case of M/s COLUMBIA ASIA HOSPITALS PVT LTD. In the ruling it has held that "the services of the employees at the Corporate Office in so far as they are benefiting the other registered units of the Appellant are to be considered as a 'supply of service' by one distinct person to another, by virtue of the entry 2 of Schedule I, supply of services between distinct persons even if without consideration"

Another issue on which it has not dwelt is the fact "whether Cross Charge can be a substitute for ISD registration"

In this article we will dwell on both the above issues. First the fact whether the services of the employees at the Corporate Office are to be considered as supply of services to the branches. Our views are the following –

1. The fact that the branch and head office are distinct entities for the purpose of GST is not a matter of dispute. The legal fiction of service/ goods supplied by distinct persons is to ensure that the respective consuming states get the revenue from GST.
2. A commercial organization establishes its branches to further the commercial activity that the principal body is engaged in. Commercial feasibility mandates

that such branches exist to render services or to facilitate placement of goods. Therefore, to posit that the employees in the HO control the branches or make policy or co-ordinate activities does not require genius of a high order.

A branch, by its very nature, cannot survive without the HO. The credibility of the business in the eyes of the clients lies in the name and style of the HO. It cannot be substituted by any other entity. The activity of the head office and branch are thus inextricably enmeshed. There is no independent existence of the branch as a business. The economic survival of the branch is also entirely dependent on finances provided by the head office. Its mortality is entirely contingent upon the will and pleasure of the head office.

3. The employees of the HO as well as the branches are the employees of the organization itself. The benefit of activities of the HO Employees will, undoubtedly, accrue to the branches. Similarly the benefit of activities of the Branch Employees will also accrue to the HO. Further, in case of need the employees of the branches/ HO travel to other branches/ HO to render services there. Furthermore an employee can also travel to a state where no registration has been obtained and render services in that state of value which can be more than the threshold limit of Rs.20 Lakhs. However, reasonable intelligence suffices to identify the nature of the service rendered.

More so, the supplier of the service in the instant case u/s 2(105) of The CGST Act is the "employee". The employment contract between the employee and the legal entity requires the employee to perform duties at any deputed place and is not confined to the location of the registered person from where the said employee renders services.

Entry 2 in Sch I cannot disregard the contract and change the supplier of service from the "employee" to the HO/ Branch. On the contrary, even seen from the angle of GST, it is the service by an employee to various distinct persons as is the case of *Joint Employment where staff is employed by one or more employers (distinct persons in the instant case) who normally share the cost of such employment. The revenue would have had no objection if the contract of employment with the employees had been signed*

*jointly by all the employer-companies, and if these employer-companies were paying their respective share of salary to the employees directly. The problem in the present case has arisen only because instead of the Branches signing the appointment letter jointly, only one of them has signed the same. The reason for entering into such an arrangement is not difficult to see as employees may not be willing to sign contracts with several branches who collectively do not even constitute a separate legal entity. Not only for this reason, but even for the sake of convenience in contracting and accounting, contracts of such employment may be signed by only at one place and not by all. This, however, cannot make a difference to the taxability or otherwise of the employment contract.*

*Another arrangement could be where one entity pays the salary and other expenses of the staff on behalf of other joint employers which are later trcouped from the other employers on an agreed basis on actual. Such recoveries will not be liable to service tax as it is merely a case of cost reimbursement.*

4. Arguments against the decision of the Appellate AAR in Karnataka in the case of M/s COLUMBIA ASIA HOSPITALS PVT LTD –
  - a. There is no doubt that the provision of services by employees to distinct entities (HO & branches) is a supply.
  - b. 2 activities are covered in Entry 2 of Sch I for taxability of supply without consideration –
    - i. Supply of services between related persons (Employees to Employers)
    - ii. Supply of services between distinct persons u/s 25(4) (between HO and Branch)

The Entry 2 in Sch I which seeks to tax the services without consideration between distinct persons, cannot change the nature of the service itself from related persons (employer-employee) to some other service. "The Nature of the service" remains *Services by an employee to the employer in the course of or in relation to his employment* which is not within the purview of GST as per Entry 1 of Schedule III.

In the instant case, the AAAR has classified the supply as a supply between distinct persons u/s 25(4) rather than going into the substance of the activity which essentially is the Supply of services between related persons (Employees to Employers).

**CONCLUSION:** In the above case, we are of the opinion that the decision of the AAAR in the instant case of M/s COLUMBIA ASIA HOSPITALS PVT LTD certainly needs attention of the GST Council.

It may be noted that the GST Council has been very proactive in deciding a unique rate of GST in the case of SOLAR PLANTS in its 31st GST Council Meeting and this matter is a fit case for the GST Council to take up.

#### CROSS CHARGE INSTEAD OF TAKING ISD REGISTRATION:

In the instant case it is also seen that the entity M/s COLUMBIA ASIA HOSPITALS PVT LTD in the instant case is not registered as an ISD and instead is cross charging certain common expenses. The AAAR has not dwelt in the fact "*whether Cross Charge can be an alternate for ISD registration. In this regard, if we look into the provisions of the law we note the following –*

1. For services Procured from third party (Legal fees, audit fees, professional charges etc.), the HO is not the supplier of such services and is neither the agent as envisaged u/s 2(105) of The CGST Act. Further the other states are not the recipients of such services as they are not paying consideration for such services as envisaged u/s 2(93) of The CGST Act.
2. Since the other branches are not recipients and the supplier is also a person other than the actual supplier, the condition u/s 16(2)(b) of the CGST Act to avail such ITC may not be fulfilled and hence, in our view, may come up for departmental questioning in future.

It is to overcome such procedural irregularity that ISD mechanism specifically finds a place in the CGST Act 2017.

Hence, in our view cross charge cannot be a substitute for availing ISD registration. ISD registration must be taken.

#### APPROACHING COURTS UNDER GST:

Article 226 and 227 are the two important parts of the Constitution of India, which confers the special powers to every High Court to provide immediate remedy or relief to the affected parties. Article 226 of constitution empowers the High Courts to issue, to any person or authority, including the government, directions, orders or writs. Article 227 of constitution confers that every High Court shall have power of superintendence over "all courts and tribunals" in their territorial jurisdiction.

Article 226 of the Constitution of India refers to power of High Court's to issue certain writs throughout the territory in relation to which it exercises jurisdiction. A writ is a written order or direction may be issued by the High Court, which an immediate relief to the affected parties.

Articles 32 and 226 specifically provide for five kinds of writs. These writs are issued in different circumstances and have different implications. They are:

Types of Writs:

Habeas Corpus

'Habeas Corpus' literally means "to have a body of". This writ is used to release a person who has been unlawfully detained or imprisoned. By virtue of this writ, the Court directs the person so detained to be brought before it to examine the legality of his detention. If the Court concludes that the detention was unlawful, then it directs the person to be released immediately.

Examples of unlawful detention are :

1. The detention was not done in accordance with the procedure laid down. For instance, the person was not produced before a Magistrate within 24 hours.
2. The person was arrested when he did not violate any law.
3. An arrest was made under a law that is unconstitutional.

This writ can be filed by the detained person himself or his relatives or friends on his behalf. It can be issued against both public authorities and individuals.

Mandamus

'Mandamus' means 'we command'. It is issued by the Court to direct a public authority to perform the legal duties which it has not or refused to perform.

It can be issued by the Court against a public official, public corporation, tribunal, inferior court or the government. It cannot be issued against a private individual or body, the President or Governors of States or against a working Chief Justices.

Further, it cannot be issued in the following circumstances:

1. The duty in question is discretionary and not mandatory.
2. For the performance of a non-statutory function.
3. Performance of the duty involves rights of purely private nature.

4. Where such direction involves violation of any law. A writ petition seeking mandamus must be filed by the person who has an interest in the performance of the duty by the public authority.

#### Quo Warranto

'Quo Warranto' means 'by what warrant'. Through this writ, the Court calls upon a person holding a public office to show under what authority he holds that office. If it is found that the person is not entitled to hold that office, he may be ousted from it. Its objective is to prevent a person from holding an office he is not entitled to therefore preventing usurpation of any public office. It cannot be issued with respect to a private office.

#### Certiorari

'Certiorari' means to 'certify'. Certiorari is a curative writ. When the Court is of the opinion that a lower court or a tribunal has passed an order which is beyond its powers or committed an error of law then, through the writ of certiorari, it may transfer the case to itself or quash the order passed by the lower court or tribunal.

#### Prohibition

A writ of prohibition is issued by a Court to prohibit the lower courts, tribunals and other quasi-judicial authorities from doing something beyond their authority. It is issued to direct inactivity and thus differs from mandamus which directs activity.

#### WRITS IN TAX CASES

Generally, the writ petition are filed in contravention of principles of natural justice and an allegation of infringement of fundamental rights of an individual get immediate remedy. The Court may admit writ petition and exercise "writ jurisdiction" wherein it feels that the action or order was passed under the following situations:

1. A writ petition can be filed against Central and State Government authorities when their field officials denied the legitimate benefits available in the provisions of Rules or laws.
2. A writ petition can be filed against authority that acting under a statute does not have power to issue the order beyond his scope of jurisdiction.
3. A writ petition can be filed against authority where the authority exercised his power dishonestly.
4. A writ petition can be filed against private authorities when they were discharge public functions.

5. A writ can be filed against Lower Court Orders passed in defiance of the fundamental principles of judicial procedure and non-application of his mind.

The tax litigations mainly relating to the following may be filed writ petition before the High Court:

1. Illegal Inspection, Search & Seizure under Sec 67 of CGST Act 2017 and in sharp contrast to the CBIC's Flyer -

Sec 67(1) read with Rule 139(1) and CBIC's Flyer make it abundantly clear that Inspection can be carried out only after fulfilling the following conditions –

1. Inspection can be carried out only in exceptional circumstances of suppression, evasion, contravention or manipulation
2. Inspection should be carried out as a last resort
3. Inspection provisions should be carried out properly, effectively and the rights of tax payers should also be protected
4. Inspection can only be carried out when an officer, of the rank of Joint Commissioner or above, has reason to believe the existence of such exceptional circumstances
5. Such reason to believe should be indicated atleast in the Notified Form INS-1 which required selection of the checkbox to give an indication to the same.

#### GROUNDINGS AGAINST INVESTIGATION:

- q Please check the GST-INS 01 with the notified form and whether the tick boxes to declare "exceptional circumstances for reasons to believe" are there and whether they have been ticked. If not, then the authorization is faulty and the same may be brought to the notice of the officers
- q Understand from the officer whether any specific "exceptional circumstance exists suppression, evasion, contravention or manipulation to evade tax" incase of your Company
- q Provide necessary documents to the best of the information and in the given circumstances
- q Undertake to provide balance documents in a given period
- q Prepare a fitting submission of "Objections and Protest" against the arbitrary action of Inspection at the assesses' place.

- q Prepare from today with GST sanitization every month – we will discuss GST-sanitization tool in our next article.
2. When the GST officer visited a place of business or any other place for the purpose of inspection, search and seizure of goods, documents, books or things liable to confiscation under Section 139 of the CGST Act, 2017 without obtaining authorisation from the proper officer not below the rank of a joint Commissioner.
  3. When there is illegal arrest under Section 104 of the Customs Act, 1962 and Section 69 of the CGST Act, 2017.
  4. When there is issuance of illegal summon to give evidence or produce documents for investigation under Section 108 of the Customs Act, 1962 and Section 70 of the CGST Act, 2017.

#### DISCIPLINE REGARDING SUMMONS:

- A. Only Gazetted Officers can summon:
- B. Persons should be summoned in normal working hours:
- C. Summoning Documents: While approving the observations the Punjab & Haryana High Court held in *K C Vanaspati v/s Asst. Collector* held "as the documents required to be produced have no relevance to the inquiry involved, but it is an attempt to collect material by wholesale production of documents during a fishing inquiry.
- D. Summon has to be served:  
The summons under Section 14 of the Central Excise Act or under Section 108 of the Customs Act has to be served. The service of the summons must be to the proper person. Thus when the authority want to summon some documents from a company, service of summon to an employee is not proper. In *Chajja Textile Limited v/s Commissioner of Central Excise*, the Tribunal discarded statement recorded under section 14 of the Central Excise Act because summon was not served properly.
- E. No detention for long hours: The Madras High Court in *RoshanBiwee v/s Joint Secretary* held, "since at the stage of enquiry or investigation or interrogation held under Section 107 or Section 108 of the Customs Act, the person required or summoned for such enquiry or examination is not arrested, nor has he become any accused, therefore, if in a given case, the Customs officials detain any

person required or summoned under the provisions of the Customs Act for a prolonged period, even exceeding 24 hours, or keeps him in closed doors as a captive prisoner surrounded by officials or locks him in a room or confines him to an office premises, he does so at his peril, because Sections 107 and 108 of the Customs Act do not authorise the Customs Officer to detain a person for a prolonged custody and deprive him of the elementary facilities and privileges to which he is entitled. In such a situation, the Officer must have overstepped his limits and thus violated the provisions of Article 22(2) of the Constitution."

- F. Remedy against abuse of power by the summoning officer:  
The only remedy, which exists against such abuse summoning power is "freedom of expression". This freedom of expression is basis of all rights which exist anywhere for common people. When any of the rights is violated, an assessee must express himself. He should bring such happening in the notice of other assessees, trade associations, media and authorities. He must insist that cognizance of such violation of assessee's right should be taken and appropriate action be initiated.
- G. Statement recorded must be voluntary: The statements recorded under these Sections are admissible in evidence even against the maker of the statements. Such statements are admissible even if retracted later. However to be admissible, the statement must be voluntary. An Excise or Custom officer cannot compel a person to give statement. There should not be any threat to give the statement.
- H. No violence can be used against the person summoned:  
No violence can be used against a person giving the statement. Violence doesn't merely means physical violence. It includes abusive language, threat of violence or any other legal injury. It needn't be directed against the person summoned, it can be against anyone in whom the person summoned is generally interested.
5. When frivolous show cause notices issued for recovery of illegal demand under Section 28 / 28A of the Customs Act, 1962 and Section 73 / Section 74 of the CGST Act, 2017.

6. Where the benefits available under statutory provisions are denied to the taxpayers or assesseees by the authority in statutory power.
7. When the provisions of an Act and Rules is challengeable for constitutional validity.
8. When the provisions prescribed through Notifications, Instruction, Order and Circular has been misinterpreted and held illegal or ultra vires.
9. The tax authority may file writ petition to seek stay on payment of erroneous refund claim sanctioned by the sanctioning authority.
10. Illegal Access to Business Premises u/s 71 of The CGST Act 2017:  
An objective standard has been assigned to when the verification is necessary at the business premise of the taxpayer for safeguard of revenue.  
The word "necessary" u/s 71 of The CGST Act 2017 means the sufficiency of cause. A person can be supposed to know where there is a direct appeal to his senses, and "verification is necessary" under the present section if he has sufficient cause to suspect the thing but not otherwise. A mismatch in figure, which is true for uptoenno:oftaxayers cannot be said to be sufficient cause to even suspect that the interest of the revenue would be in jeopardize.

## 2020: IMPORTANT CASE LAWS OF HIGH COURT

2020-VIL-22-CAL High Court Cases | SGST07.01.2020 | EMAMI AGROTECH LTD VS THE STATE OF WEST BENGAL

GST – the petitioner of the grievance that, despite the petitioner and like industries having received certain incentives by virtue of schemes framed by the Government of West Bengal, which also stipulated that such provisions of the schemes would apply mutatis mutandis even after the coming into force of new tax legislation, the respondents have not made changes to the said schemes or introduced new schemes compatible with the new tax regime after coming into force of the GST on and from July 1, 2017 - It is submitted that unless such alterations are made, the incentives provided by the said schemes would become infructuous-

HELD - in view of the prayer of the writ petitioner being justified due to change in the tax regime, the Writ Petition is disposed of by directing the respondent to consider the representations given by the petitioner with regard to the alterations/reframing of the schemes in question to bring those in consonance with the provisions of the GST Act and other corollary alterations within April 10, 2020

2020-VIL-71-MAD High Court Cases | SGST06.01.2020 | M/S REFEX INDUSTRIES LIMITED & M/S SHERISHA TECHNOLOGIES PVT LTD VS THE ASSISTANT COMMISSIONER OF CGST & CENTRAL EXCISE, CHENNAI  
GST - Section 50 - Interest on delayed payment of tax – retrospective effect of proviso to Section 50(1) - petitioner case that Section 50 of CGST Act, 2017 that

provides for levy of interest on belated payments would apply only to payments of tax by cash, belatedly, and would not stand triggered in the case of available Input Tax Credit, since such ITC represents credit due to an assessee by the Department held as such - whether in a case where credit is due to an assessee, payment by way of adjustment can still be termed 'belated' or 'delayed' payment of tax –

HELD - The use of the word 'delayed' connotes a situation of deprivation, where the State has been deprived of the funds representing tax component till such time the Return is filed accompanied by the remittance of tax. The availability of ITC runs counter to this, as it connotes the enrichment of the State, to this extent. Thus, Section 50 which is specifically intended to apply to a state of deprivation cannot apply in a situation where the State is possessed of sufficient funds to the credit of the assessee - the proper application of Section 50 is one where interest is levied on a belated cash payment but not on ITC available all the while with the Department to the credit of the assessee. The latter being available with the Department is neither belated nor delayed - The argument of the Revenue that Input Tax Credit is liable to be reversed if it is found to have been erroneously claimed, and that it may be invalidated in some situations, does not militate with aforesaid conclusion – as per proviso to Section 50(1), interest shall be levied only on that part of the tax which is paid in cash, has been inserted with effect from 01.08.2019, but clearly seeks to correct an anomaly in the provision as it existed prior to such insertion. It should thus, be read as



clarificatory and operative retrospectively - the impugned notices are set aside and Writ Petitions are allowed

#### 2020-VIL-67-MAD

THE ASSISTANT COMMISSIONER OF CGST & CENTRAL EXCISE, CHENNAI VS M/S DAEJUNG MOPARTS PVT LTD  
CGST Act, 2017 – Section 50 - whether interest on delayed payment of tax as contemplated under Section 50 of the CGST Act, 2017, is automatic or the same is to be determined on assessment –

HELD - liability to pay interest under Section 50(1) of the CGST Act is undoubtedly an automatic liability fastened on the assessee to pay on his own for the period for which tax or any part thereof remains unpaid. However, perusal of sub Sections (2) and (3) of Section 50 thus would show that though the liability to pay interest under Section 50 is an automatic liability, still the quantification of such liability, certainly, cannot be by way of an unilateral action, more particularly, when the assessee disputes with regard to the period for which the tax alleged to have not been paid or quantum of tax allegedly remains unpaid. Likewise, whether an undue or excess claim of input tax credit or reduction in output tax liability was made, is also a question of fact which needs to be considered and decided after hearing the objections of the assessee, if any. Therefore, though the liability fastened on the assessee to pay interest is an automatic liability, quantification of such liability certainly needs an arithmetic exercise after considering the objections if any, raised by the assessee - the term "automatic" does not mean or to be construed as excluding "the arithmetic exercise" - Therefore, though the liability of interest under section 50 is automatic, quantification of such liability shall have to be made by doing the arithmetic exercise, after considering the objections of the assessee - the writ appeals are dismissed

#### 2020-VIL-57-GUJHigh Court Cases | SGST06.02.2020 | ANOPSINH KIRITSINH SARVAIYA VS STATE OF GUJARAT

GST - Section 67 - inspection, search and seizure - Applicant is owner of godowns which he gave on rent to various entities – The said godowns came to be sealed by the officials of the Department in November, 2018 - the writ applicant, being the owner of the godown is aggrieved with the seal which has been affixed and which continues as on date – applicant seeking appropriate relief –

HELD - if it is the case of the Department that the dealers have stored goods or other articles which are liable to confiscation, then the authorities could have seized such goods and documents long time back. Once the goods and other articles are seized from the premises, then there could be no good reason to keep the godown in a sealed condition - the authorities should not be concerned with the contractual relationship between the writ applicant and the dealers by insisting for proof of ownership and rent agreement. We are of the view that the authorities cannot insist for such documents. The authorities should be more concerned with the goods or other articles stored in the godown which may be liable to confiscation. There is no point in keeping the godown closed with a seal affixed on it – Authorities are directed to break open the seal and undertake the search of the godown by drawing appropriate Panchnama. Once the said exercise is completed, it shall be open for the writ applicant to takeover the possession of the godown - writ application is disposed of

#### 2020-VIL-45-DELHigh Court Cases | SGST21.01.2020 | M/S PITAMBRA BOOKS PVT LTD VS UNION OF INDIA

GST - Petition challenging Circular No.37/11/2018-GST dated 15.03.2018 and Circular No. 125/44/19-GST so far they restricts refund of unutilised Input Tax Credit accrued on Zero rated supply spreading across different financial years - petitioner case that by virtue of the circulars, the petitioner is not able to claim the refund as the option of selecting the tax period has been denied - whether Respondents can restrict the filing of the refund for tax periods spread across two financial years and deprive the petitioner of its valuable right accrued in his favour –

HELD - though the respondents recognise the difficulties faced by the exporters and have permitted them to file refund claim for one calendar month/quarter or by clubbing successive calendar months/quarters, yet the restriction pertaining to the spread of refund claim across different financial years is arbitrary. There is no rationale or justification for such a constraint - businesses do not run according to the whims of the executive authorities. The business world cannot be told when to place orders for exports; when to manufacture the goods for export; and; when to actually undertake the exports - Merely because the petitioner made exports in the month of June, 2018, there is no justification to deny the refund of the ITC which have accumulated in the

previous financial years. The entire concept of refund of ITC relating to zero rated supply would be obliterated in case the respondents are permitted to put any limitation and condition that takes away petitioner's right to claim refund of all the taxes paid on the domestic purchases used for the purpose of zero rated supplies. The incentive given to the exporters would lose its meaning and this would cause grave hardship to the exporters who are earning valuable foreign exchange for the country. The Respondents cannot, artificially by acting contrary to the fundamental spirit and object of the law, contrive ways to deny the benefit, which the substantive provisions of the law confer on the tax payers. Thus, the petitioner has a strong prima facie case, and we cannot deny the petitioner of its right to claim refund which is visible from the mechanism provided under the Act – Circulars might mitigate rigours of law by granting administrative relief beyond relevant provisions of the statute, however, Central Government is not empowered to withdraw benefits or impose stricter conditions than postulated by the law - till the next date of hearing, the rigour of paragraph 8 of Circular No. 125/44/2019-GST dated 18.11.2019 is stayed and the Respondents are directed to either open the online portal so as to enable the petitioner to file the tax refund electronically or to accept the same manually – answered in favour of petitioner

2020-VIL-42-MADHigh Court Cases | SGST24.01.2020 |  
M/S IDEAL MOVERS PRIVATE LIMITED VS THE STATE TAX OFFICER, (ENF), ROVING SQUAD, VELLORE

GST - Interception of goods carrying vehicle for non-possession of valid e-way bill - lapsing of e-way bill for bonafide reasons – quantification of penalty –

HELD - since clauses (a) and (b) of sub-section (1) of Section 129 of CGST Act, 2017 commence with the phrase on payment, it is not sufficient for the consignor to merely make an offer or undertake to remit the tax as in the present case, but actually remit the payment - Section 129 is a complete code for the purpose of addressing all violations committed in transit leading to detention, seizure and release of goods and brings within its sweep all such contraventions, irrespective of the gravity of the violation itself - The second proviso under CGST Rule 138(10) permits a transporter to extend the validity of the expired e-way after updating the details in the relevant Form and this benefit would be available in a case such as the present - the amount to be remitted

would be in terms of Section 129(1)(b) - upon remittance of the taxes and penalty of Rs.5000/-, the consignment shall be released forthwith – The writ petition is disposed  
2020-VIL-37-GUJHigh Court Cases | SGST24.12.2019 |  
PARESH NATHALAL CHAUHAN VS STATE OF GUJARAT

GST – Section 67(2) - powers the proper officer to search and seize - The manner in which the search has taken place, whereby a search for any goods liable to confiscation or any documents or books or things, has literally been converted to a search for the taxable person and the search party has camped in the residential premises of the petitioner for in all eight days, during which period the family members of the petitioner were at the mercy of the authorised officer and were confined to the searched premises and kept under surveillance and were not permitted to leave the premises without the permission of the authorised officer, has shocked the conscience of this court - the power under sub-section (2) of section 67 of the GST Acts has not only not been exercised strictly in accordance with law, but has also not been exercised for the purposes for which the law authorises it to be exercised - the officer who is armed with a search warrant is authorised to search the premises referred to in the warrant of authorisation and to seize goods, documents, articles or things, which are useful for or relevant to any proceedings under the GST Acts. The provisions nowhere arm the officer, in whose favour the authorisation is issued, to search for any person or to remain in the premises after the search is over, or to monitor what the persons residing in the premises are doing and to reside in the premises - The powers vested in the officer armed with a search warrant are limited to searching the entire premises. Once the premises are searched, the search party would have to leave the premises and cannot wait there indefinitely for days on end under the expectation that the person whom they are searching for may return home or may contact his family members - It is a matter of deep regret that the Chief Commissioner of State Tax has attempted to justify such wrongful action on the part of the officers of the department - The GST Acts are new enactments. Officers acting under the relevant provisions are required to study the scope of their powers under the statutory provisions under which they are acting and cannot act on the basis of presumptions or past precedents under a previous enactment. If the common man is supposed to know the law and face penalty for

any infraction thereof, the officers enforcing such provisions are required to be well versed with the statutory provisions and the scope and limits of their power and cannot take shelter behind ignorance of law to justify their illegal actions

2020-VIL-36-GUJ High Court Cases | SGST23.01.2020 | MOHIT MINERALS PVT LTD VS UNION OF INDIA

GST – Challenge to levy of IGST on Ocean Freight paid for the transportation of the goods by the foreign seller as sought to be levied and collected from applicants as the importer of the goods – Constitutional validity of Notification No.8/2017 – Integrated Tax (Rate) dated 28th June 2017 and the Entry 10 of the Notification No.10/2017 – Integrated Tax (Rate) dated 28th June 2017 –

HELD - The issue in the present case is, when the statutory provision empowers collection of tax from the recipient of goods or services, then whether the delegated legislation by way of notification can stipulate imposition of tax on a person who is neither the supplier nor the recipient of service - no tax is leviable under the IGST Act, 2007, on the ocean freight for the services provided by a person located in a non-taxable territory by way of transportation of goods by a vessel from a place outside India upto the customs station of clearance in India and the levy and collection of tax of such ocean freight under the impugned Notifications is not permissible in law - Under the IGST Act, the integrated tax is leviable only on inter-state supplies made or agreed to be made, the supply of services provided by a person in a non-taxable territory to a person in a non-taxable territory by way of transportation of goods in a vessel from a place outside India to the place of customs station of clearance in India is not an inter-state supply as per the provisions of Section 7 of the IGST Act - Further, as per Section 5(3) of the IGST Act, the Government is only authorized to specify the categories of supply on which the tax is to be paid by the recipient of the supply under the reverse charge basis. The Government cannot further specify the person liable to pay tax as other than the recipient of the supply – The impugned Notification No.8/2017 – Integrated Tax (Rate) dated 28th June 2017 and the Entry 10 of the Notification No.10/2017 – Integrated Tax (Rate) dated 28th June 2017 are declared as ultra vires the Integrated Goods and Services Tax Act, 2017, as they lack legislative competency. Both the Notifications are hereby declared to be unconstitutional - the writ applications are allowed

2020-VIL-35-RAJ High Court Cases | SGST20.01.2020 | PARIDHI JAIN VS STATE, THROUGH PP

GST - Bail application in connection with offences under Section 132(1)(i) of Rajasthan GST Act - Claim of false input tax credit –

HELD - the amount of wrongly availed input Tax credit is yet to be ascertained by the authorities - the fact that the petitioner being a practising Chartered Accountant and a lady of 27 years is facing incarceration for last more than one month and in view of the undertaking submitted by the petitioner to fully cooperate with the investigating agency and provide the information or documents asked for by the investigating agency, the Court is of the opinion that the bail applications filed by the petitioner deserve to be accepted - the bail applications are allowed

2020-VIL-33-BOM High Court Cases | SGST17.01.2020 | KAISH IMPEX PRIVATE LIMITED VS THE UNION OF INDIA

CGST - The Petitioner has challenging the action of the authorities for attaching the Petitioner's bank account under section 83 of the CGST Act –

HELD - Section 83 does not provide for an automatic extension to any other taxable person from an inquiry specifically launched against a taxable person under these provisions. Section 83 read with section 159(2), and the form GST DRC-22 show that a proceeding has to be initiated against a specific taxable person, an opinion has to be formed that to protect the interest of Revenue an order of provisional attachment is necessary. The format of form GST DRC-22 also specifies the particulars of a registered taxable person and which proceedings have been launched against the aforesaid taxable person indicating a nexus between the proceedings to be initiated against a taxable person and provisional attachment of bank account of such taxable person - Only upon contingencies provided therein that the power under section 83 can be exercised. This power is to be used in only limited circumstances and it is not an omnibus power. It is therefore not possible to accept the submission of the Respondents that even though specified proceedings have been launched against one taxable person, bank account of another taxable person can be provisionally attached merely based on the summons issued under section 70 to him - the order provisionally attaching the bank account of the Petitioner was without jurisdiction and is liable to be

quashed and set aside - The Petition succeeds and allowed

2020-VIL-17-P&H High Court Cases | SGST20.12.2019 | BINDAL SMELTING PVT LTD VS ADDITIONAL DIRECTOR GENERAL, DIRECTORATE GENERAL OF GST INTELLIGENCE  
GST – Section 83, Rule 159 - Petitioner availed Input Tax Credit on the basis of invoices of suppliers some of whom are not traceable – basis investigation in exercise of power conferred under Section 83 of CGST Act, 2017, the Respondents provisionally attached Bank Account of the Petitioner – petition seeking lifting of attachment of bank account –

HELD - The object and intention of legislature to endow Commissioner with power of attachment under Section 83 is very clear. It is drastic and far-reaching power which must be used sparingly and only on substantive weighty grounds and reasons. The power should be exercised only to protect interest of revenue and not to ruin business of any taxable person. Primarily Section 83 permits to attach property - Cash in hand as well bank account is property, in the form of liquidity which is better than immovable property and directly affects working in the form of working capital of a dealer. A dealer may be having cash in hand or in account in the form of fixed deposit or saving account. The mandate of Section 83 is to attach amount lying in an account in the form of FDR or saving and it cannot be intention or purport of Section 83 to attach an account having debit balance. No purpose leaving aside securing interest of revenue is going to be achieved except closure of business which cannot be permitted unless and until running of business itself is prohibited by law. The contention of Respondent that they have power to attach bank account irrespective of nature of account cannot be countenanced - The impugned order in the teeth of intent and purpose of Section 83 of CGST Act, 2017 is bad and therefore, quashed and set aside - the petition succeed and accordingly allowed

2020-VIL-06-DEL High Court Cases | SGST17.12.2019 | A.B. PAL ELECTRICALS PVT LTD VS UNION OF INDIA

GST – Filing of Form TRAN-1 - Though the case of the petitioner cannot be strictly categorized as covered by “technical glitches”, however the GST System is still in a ‘trial and error phase’ as far as its implementation is concerned and although the failure was on the part of the Petitioner, the error was inadvertent. The petitioner

does not have any evidence or proof in support of his submission that the personnel responsible for dealing with the compliances was unable to file the requisite Form due to non-functioning of GST Portal. However, in large number of matters, the petitioner have similarly complained that before the deadline, they were not able to access the GST Portal. This could be presumably because of low bandwidth, given the fact that before the deadline, a large number of tax payers all over the country, were trying to submit the declaration in form TRAN-1. In these circumstances, we would give the benefit of doubt to the petitioner - It is not fair to expect that each person who may not have been able to upload the Form GST TRAN-1 should have preserved some evidence of it - when the systems of the Respondents were not efficient the Respondents have no cogent ground to deny the benefit of the Notification No. 49/2019 dated 09.10.2019 issued specifically to grant relief to taxpayers who faced difficulty in filing Form GST TRAN-1 due to technical glitches

2020-VIL-02-DEL High Court Cases | SGST21.12.2019 | TMA INTERNATIONAL PVT LTD VS UNION OF INDIA

GST - Section 16(3) of IGST Act, 2017 - Petition challenging denial of IGST refund paid on goods exported during the transitional period after introduction of GST Regime i.e. from 01.07.2017 to 30.09.2017 – rejection of refund on ground of simultaneous availment of duty drawback of custom portion and refund of IGST paid on export of goods –

HELD - During the transitional period, the petitioners have inadvertently claimed benefit of duty drawback, since there was lack of clarity with respect to the refund of IGST - The concept of zero-rated exports envisaged under GST is designed to achieve this objective. In the current scenario, exporters pay IGST and apply for refund. Thus, for wrong input given at the time of claiming drawback should not deprive them of this valuable right. We can't be immune to the fact that taxpayers have faced difficulties in understanding the complexity of GST procedures - Revenue needs to realise the inefficient implementation of the law has had adverse fallout on the taxpayer. Government would have to embrace initiatives that would help the taxpayers in the transformation to the new regime. This would require understanding the difficulties faced by the industry which would be crucial step for success of GST law. Instant case is one such example where Petitioners have

been victim of technical glitches on account of confusion during transitional phase – the taxpayers like the Petitioners should not be denied the substantive benefit of the IGST paid by them on exports – answered in favour of petitioners

2020-VIL-70-MAD High Court Cases | SGST21.01.2020 | M/S SAMRAJYAA AND COMPANY VS DEPUTY COMMISSIONER OF GST & CENTRAL EXCISE, COIMBATORE

GST – petitioner challenging decision of the IT Grievances Redressal Committee for not permitting file GST TRAN-1 in the absence of evidencing of glitches in the GSTN portal –

HELD - the era of GST is in a nascent stage and both the Department as well as assessee are still learning the ropes - a rigid view should thus not be taken in matters involving procedural requirements such as availment of credit - the petitioner in this case, without it being a precedent in other cases, should be permitted to upload Tran-1 declaration and avail of transition of credit - This is also for the reason that the availment of credit by an assessee is distinct from utilization of the same, the latter being a matter of assessment - This writ petition is disposed directing the respondent to permit the petitioner to access the portal for uploading of Tran-1 – answered in favour of assessee

2020-VIL-68-CHG High Court Cases | SGST11.02.2020 | M/S MANGAL COMMERCIAL PVT LTD VS UNION OF INDIA  
GST - Review Petition seeking review of Writ Court Judgement on the ground that the challenge raised against the Circular No. 3/3/2017-GST was not addressed – petitioner case that appointment of Proper Officers could have been effected only by way of notification in the official gazette and since Circular No. 3/3/2017-GST is not a gazette notification, it is liable to be set aside – Petitioner argues that statute does not contemplate appointment of several persons as Proper Officers defined under Section 2(91) of the CGST Act and the scheme of the Act is only that there be 'one assessee', 'one subject matter' and 'one Proper Officer' –

HELD - it is not correct or proper for the Review Petitioners to contend that there is some omission on the part of this Court in considering the challenge raised against Circular No. 3/3/2017-GST dated 05.07.2017. The contention raised by the Department-Respondents as to the circumstances under which the appointment of Proper Officers in different parts of the country is

necessitated, was upheld by the Court. Since this Court has upheld contentions of the Respondents, repelling the contentions raised by the Writ Petitioners to the contrary, there is no error apparent on the face of record, to invoke the power of review - It is quite evident that the attempt of the Review Petitioners is only to have a "re-hearing" of the matter, which is not permissible in exercise of the power of review. The 'review power' can be invoked only when there is any 'error apparent on the face of record' and it is not a substitute for appeal - because of non-bringing of the 'Corrigendum Notification' dated 29.07.2019 to the notice of this Court and in making incorrect submissions, much of the Court's time has already been wasted by the Petitioners, which could have been utilised for other fruitful purposes. Now, the Review Petitioners virtually want to have a 're-hearing'. Such course and conduct of the Review Petitioners cannot but be deprecated. We reluctantly refrain from imposing any cost upon the Review Petitioners - the review petitions are dismissed

2020-VIL-66-GUJ High Court Cases | SGST11.02.2020 | ABB INDIA LIMITED VS UNION OF INDIA

GST - Section 129(6) of CGST Act, 2017 - Relevant period for the purpose of issuing notice in Form GST-MOV-10 – applicant aggrieved by notice in Form GST-MOV-10 notwithstanding deposit of tax and penalty in compliance with ad-interim-order passed by the Hon'ble High Court –

HELD – By way of an ad-interim-order the applicant was directed to deposit tax and penalty in the form of the Bank Guarantee of any Nationalized Bank - It is not in dispute that ad-interim-order, dated 10.01.2020, has been fully complied with by the applicant. However, surprisingly, a notice dated 5th February, 2020, in Form GST-MOV-10, came to be issued - It appears that the authority concerned thoroughly misconstrued the order dated 10.01.2020. The whole basis of issuing Form GST-MOV-10 appears to be erroneous in law - The understanding of the authority is that since the notice under Section 129(3) of the Act is dated 31st December, 2019, the applicant ought to have deposited the amount, towards tax and penalty, within 14 days thereof, and the failure, to deposit such amount, would entail the consequences of notice in Form GST-MOV-10 - there is no question of looking into Section 129(6) of the Act, more particularly, when this Court has passed a specific order dated 10th January, 2020. We fail to understand on what basis the period of 14 days came to be calculated

for the purpose of issuing GST-MOV-10 - except Section 129(6) of the Act, there is no other ground for the purpose of issuing notice in Form GST-MOV-10. If that be the case, then we have no hesitation in quashing the Form GST-MOV-10 notice - The impugned notices issued in Form GST-MOV-10, are quashed and set aside - application succeeds and is allowed

**2020-VIL-56-GUJ** High Court Cases | **SGST29.01.2020** | **JAI JAWAN JAI KISAN SUPPLIERS VS STATE OF GUJARAT**  
 GST - Applicant seeking direction for quashing and setting aside detention order and confiscation order –  
 HELD - the final order of confiscation came to be passed on the very same date on which the notice was issued - In what state of circumstances the authority would be justified to invoke Section 130 of the Act for the purpose of confiscation is now explained in detail by this Court in the case of Synergy Fertichem Pvt. Ltd Vs State of Gujarat – The impugned order of confiscation in Form GST MOV-11 is quashed and set aside. The matter is remitted to the respondent No.2 for fresh consideration so far as the issue of confiscation is concerned - Writ application is allowed in part

**2020-VIL-54-CAL** High Court Cases | **SGST22.01.2020** | **M/S H.M. LEISURE VS STATE OF WEST BENGAL**  
 GST - Challenge to recovery proceeding subsequent to passing of the orders by the First Appellate Authority under State GST –

HELD - It is trite law that when an appeal provision has been provided under the statute, the Authorities are not allowed to recover the amount payable unless there are extenuating circumstances. In the present case the dispute is with regard to classification issue, and therefore, the authorities have acted in haste in recovering the entire amount within the period of three months wherein there is a provision of appeal under Section 112 of the said Act before the Appellate Court - the authorities have a right to recover only a sum upto 20% as per Section 112(8)(b) of the West Bengal GST Act, 2017. Anything over and above tantamount to an excessive recovery made within the period of three months that is allowable for filing of appeal under Section 112 of the said Act - the authorities are directed to remit the excessive recovery to the bank account of the petitioner within a period of 15 days - the petitioner shall be able to operate its account and the order of attachment of the bank account shall stand cancelled – answered in favour of assessee

**2020-VIL-53-RAJ** High Court Cases | **SGST05.02.2020** | **TAX BAR ASSOCIATION VS UNION OF INDIA**

GST - petition raising the issue about non-functionality of the GST portal and, as a consequence of which, various assesseees are unable to upload their returns both GSTR-9 and GSTR-9C –

HELD - We are prima facie satisfied that even if an assessee is ready and willing to comply with the statutory duty, so far as filing of returns are concerned, the website appears to be having technical bottlenecks, which appears to limit the opportunity of an assessee from uploading the forms. Further, the option suggested by the petitioner for submitting their returns on e-mail of a responsible officer has also been turned down by the Union of India - the petitioner and the assessee may keep uploading their returns at the earliest possible and we direct that no late fee shall be charged till 12th of February, 2020 for uploading. The respondents are directed to enable compliance of such uploading by making necessary corrections on its official portal - Since it is well-settled that where the last date of submission has been prescribed by law, it would be incumbent on the part of the revenue to provide for adequate facility for accepting such declarations or returns or forms within the period stipulated – matter listed on 12.02.2020

**2020-VIL-51-CHG** High Court Cases | **SGST27.01.2020** | **M/S JAGADAMBA HARDWARE STORES VS UNION OF INDIA**

GST - Petitioner seeking permission to submit TRAN-1 Form electronically or alternatively, allow it to tender the same manually – whether the relief sought for by the petitioner can be extended to those cases where the assessee defaults in not filling up of TRAN-1 even within the extended period up till 27.12.2017 and also failed to establish of having approached any of the officers in the department raising his concern about his inability in filling up of TRAN-1 –

HELD - the Govt. of India vide circular dated 03.04.2018 permitted filling up of TRAN-1 by the 31.04.2018, the said extended period was however for only those who have in the past attempted but failed to fill up TRAN-1. There is no evidence made available by the petitioner of having tried to fill up TRAN-1, but was unsuccessful for availing the facilities so provided under circular dated 03.04.2018 - the petitioner had approached the GST Help Desk for the first time only on 22.01.2019. There is no proof either oral or documentary to establish or

substantiate his contention of having tried to fill TRAN-1 electronically on the portal - the Govt. of India was very clear on the issue that the last date of filling up of TRAN-1 extended up till 31.04.2018 shall not be applicable in general, but would be entitled for only those genuine tax payers who had in the past attempted to fill TRAN-1 but were unsuccessful - the relief sought for by the petitioner cannot be extended to those cases where the assessee defaults in not filling up of TRAN-1 even within the extended period up till 27.12.2017. The petitioner also failed to establish of having approached any of the officers in the department, nor is there any proof in his possession. There is also no document to show any correspondence made with any of the officers in the department in this regard. The writ benefit cannot be extended to such indolent persons who sleeps over their rights and duties without any plausible explanation and justification and now at the belated stage woke up from slumber and is trying to get a relief from the High Court without any bonafide ground - the petitioner had infact never tried to fill TRAN-1 within the stipulated period or within the extended period and also was not able to take advantage of circular dated 03.04.2018 if at all if he had bonafidely tried to fill TRAN-1 - no strong case is made out by the petitioner for issuance of any sort of writ to the respondents. The writ petition fails and is accordingly rejected

2020-VIL-50-KER High Court Cases | SGST31.01.2020 | UMIYA ENTERPRISE VS ASSISTANT STATE TAX OFFICER

GST - Section 129 – Inter-state movement of goods - Detention of goods as in the invoice the tax element wrongly shown as CGST and SGST as against IGST but the E-way Bill correctly declared tax element as IGST – petitioner plea that there being merely a clerical errors in the invoice, the goods and vehicle detained could be released to on the basis of simple bond instead of bank guarantee for the tax and penalty demanded –

HELD – The provisions of the CGST & IGST Act clearly show that the supplier is liable to collect and pay the tax involved in the inter-state supply of goods covered by invoice and E-Way bill. In the present case, the supplier being a registered taxable person in Tamil Nadu State, the IGST involved in the sale has to be paid over before the GST Authorities having jurisdiction on it in Tamil Nadu - the provisions in the GST Acts and Rules being explicitly clear, the apprehension of the respondent that the State of Kerala is prejudiced by the wrong

description of tax in the invoice is out of context - the respondents do not have any case that the petitioner concern has any previous adverse records of tax evasions of non-compliance of the tax laws. The contentions raised by the petitioner on the basis E-Way bill is substantially strong to persuade that the goods could be released on condition that the petitioner executes a simple bond in that regard – Accordingly, it is ordered that the goods and vehicle detained shall be released forthwith by the respondent to the petitioner, on his executing a simple bond and without insisting on the petitioner furnishing bank guarantee for the demanded value - the Writ Petition is disposed of

2020-VIL-45-DEL High Court Cases | SGST21.01.2020 | M/S PITAMBRA BOOKS PVT LTD VS UNION OF INDIA

GST - Petition challenging Circular No.37/11/2018-GST dated 15.03.2018 and Circular No. 125/44/19-GST so far they restricts refund of unutilised Input Tax Credit accrued on Zero rated supply spreading across different financial years - petitioner case that by virtue of the circulars, the petitioner is not able to claim the refund as the option of selecting the tax period has been denied - whether Respondents can restrict the filing of the refund for tax periods spread across two financial years and deprive the petitioner of its valuable right accrued in his favour –

HELD - though the respondents recognise the difficulties faced by the exporters and have permitted them to file refund claim for one calendar month/quarter or by clubbing successive calendar months/quarters, yet the restriction pertaining to the spread of refund claim across different financial years is arbitrary. There is no rationale or justification for such a constraint - businesses do not run according to the whims of the executive authorities. The business world cannot be told when to place orders for exports; when to manufacture the goods for export; and; when to actually undertake the exports - Merely because the petitioner made exports in the month of June, 2018, there is no justification to deny the refund of the ITC which have accumulated in the previous financial years. The entire concept of refund of ITC relating to zero rated supply would be obliterated in case the respondents are permitted to put any limitation and condition that takes away petitioner's right to claim refund of all the taxes paid on the domestic purchases used for the purpose of zero rated supplies. The incentive given to the exporters would lose its

meaning and this would cause grave hardship to the exporters who are earning valuable foreign exchange for the country. The Respondents cannot, artificially by acting contrary to the fundamental spirit and object of the law, contrive ways to deny the benefit, which the substantive provisions of the law confer on the tax payers. Thus, the petitioner has a strong prima facie case, and we cannot deny the petitioner of its right to claim refund which is visible from the mechanism provided under the Act – Circulars might mitigate rigours of law by granting administrative relief beyond relevant provisions of the statute, however, Central Government

THE STATE OF UTTAR PRADESH VS M/S KAY PAN FRAGRANCE PRIVATE LIMITED

GST – Section 67, Rule 140 & Rule 141 - State appeal challenging the interim order passed by the High Court directing the State to release the seized goods, subject to deposit of security other than cash or bank guarantee or in the alternative, indemnity bond equal to the value of tax and penalty to the satisfaction of the Assessing Authority - Assessee appeal seeking quashing the seizure order passed under Section 67(2) of the CGST Act, 2017 and declaring the search and seizure proceedings to be void and restraining the authorities from taking any coercive action against the petitioner – HELD - a complete mechanism is predicated in the Act and the Rules for release and disposal of the seized goods and for which reason, the High Court ought not to have entertain the Writ Petitions questioning the seizure of goods and to issue directions for its release - the High Court in all such cases ought to have relegated the assessee before the appropriate Authority for complying with the procedure prescribed in Section 67 of the Act read with Rules as applicable for release (including provisional release) of seized goods - There is no reason why any other indulgence need be shown to the assessee, who happen to be the owners of the seized goods. They must take recourse to the mechanism already provided for in the Act and the Rules for release, on a provisional basis, upon execution of a bond and furnishing of a security, in such manner and of such quantum, as may be prescribed or on payment of applicable taxes, interest and penalty payable, as the case may be, as predicated in Section 67(6) of the Act – in the interim orders the High Court has erroneously extricated the assessee concerned from paying the

is not empowered to withdraw benefits or impose stricter conditions than postulated by the law - till the next date of hearing, the rigour of paragraph 8 of Circular No. 125/44/2019-GST dated 18.11.2019 is stayed and the Respondents are directed to either open the online portal so as to enable the petitioner to file the tax refund electronically or to accept the same manually – answered in favour of petitioner.

## IMPORTANT CASE LAWS OF SUPREME COURT

2019-VIL-39-SC Supreme Court Cases |  
SGST22.11.2019 |

applicable tax amount in cash, which is contrary to the said provision - the orders passed by the High Court which are contrary to the stated provisions shall not be given effect to by the authorities. Instead, the authorities shall process the claims of the concerned assessee afresh as per the express stipulations in Section 67 of the Act r/w the relevant rules in that regard. In terms of this order, the competent authority shall call upon every assessee to complete the formality strictly as per the requirements of the stated provisions disregarding the order passed by the High Court in his case, if the same deviates from the statutory compliances - the appeals are disposed of in the afore-stated terms

2019-VIL-24-SC Supreme Court Cases |  
SGST29.05.2019 |

UNION OF INDIA VS SAPNA JAIN

GST – power to arrest in the cases of GST evasion –

HELD - As different High Courts of the country have taken divergent views in the matter, we are of the view that the position in law should be clarified by this Court - As the accused-respondents have been granted the privilege of pre-arrest bail by the High Court by the impugned orders, at this stage, we are not inclined to interfere with the same. However, we make it clear that the High Courts while entertaining such request in future, will keep in mind that this Court by order dated 27.5.2019 had dismissed the special leave petition filed against the judgment and order of the Telangana High Court in a similar matter, wherein the High Court of Telangana had taken a view contrary to what has been held by the Bombay High Court in the present case - The special leave petition is accordingly dismissed.





# New Era of GST- E Invoicing



BY VIKASH BANKA

## Introduction

An e-invoice can be defined as structured invoice data issued in Electronic data interchange (EDI) or XML formats, possibly using Internet-based web forms. These documents can be exchanged in a number of ways including EDI, XML, or CSV files. They can be uploaded using emails, virtual printers, web applications, or FTP sites. The company may use imaging software to capture data from PDF or paper invoices and input it into their invoicing system. This streamlines the filing process while positively impacting sustainability efforts.

## Global Scenario on E Invoicing

The use of electronic invoicing is expected to grow in coming years in Europe. The European Union adopted the compulsory use of e-invoicing on every transaction between public administrations and providers (B2G). The predictable trend is that both SMEs and big companies start to issue electronic invoices aiming at speeding-up and simplifying trade relations with administrations across the EU.

However, this growth may not necessarily be even across the continent. Many European countries had previously adopted national regulations on issuing electronic invoices within their territories.

One of the regions where electronic invoice is expected to experience a highest growth is Asia-Pacific. The implementation process is being fast and automation technologies are being developed to make invoicing procedures even easier. This is a predominant trend in India and China, where the implementing level on B2B transactions reaches 79.3% and 62.8%, respectively.

E-invoice moves differently in other Pacific countries. Singapore was one of the first Asian countries in adopting

it, as it is compulsory for B2G transactions since 2008. However, regulation on B2B and B2C invoicing processes is almost non-existent, and it is based on a greater normalisation regarding the filing of invoices, not on the rules for issuing invoices. A common model is intended to be adopted, so the trend moves toward a standardisation of invoicing systems.

## E Invoicing In India

The GST Council has approved introduction of 'E-invoicing' or 'electronic invoicing' in a phased manner for reporting of business to business (B2B) invoices to GST System, starting from 1st January 2020 on voluntary basis. Since there was no standard for e-invoice existing in the country, standard for the same has been finalized after consultation with trade/industry bodies as well as ICAI after keeping the draft in public place. Having a standard is a must to ensure complete interoperability of e-invoices across the entire GST eco-system so that e-invoices generated by one software can be read by any other software, thereby eliminating the need of fresh data entry – which is a norm and standard expectation today. The machine readability and uniform interpretation is the key objective. This is also important for reporting the details to GST System as part of Return. Apart from the GST System, adoption of a standard will also ensure that an e-invoice shared by a seller with his buyer or bank or agent or any other player in the whole business eco-system can be read by machines and obviate and hence eliminate data entry errors.

The GST Council approved the standard of e-invoice in its 37th meeting held on 20th Sept 2019 and the same along with schema has been published on GST portal.

## A. What is e-invoice?

E-invoice does not mean generation of invoices from a central portal of tax department, as any such centralization will bring unnecessary restriction on the way trade is conducted. In fact, taxpayers have different requirements and expectation, which can't be met from one software generating e-invoices from a portal for the whole country. Invoice generated by each software may look more or less same, however, they can't be

understood by another computer system even though business user sunder stand them fully. The adoption of standards will in no way impact the way user would see the physical (printed) invoice or electronic (ex pdf version) invoice. All these software would adopt the new e-Invoice standard wherein they would re-align their data access and retrieval in the standard format. However, users of the software would not find any change since they would continue to see the physical or electronic (PDF/Excel) output of the invoices in the same manner as it existed before incorporation of e-Invoice standard in the software.

Thus the taxpayer would continue to use his accounting system/ERP or excel based tools or any such tool for creating the electronic invoice as s/he is using today.

**B. e-Invoice and Tax Department**

The e-invoice system being implemented by tax departments across the globe consists of two important parts namely,

- a) Generation of invoice in a standard format so that invoice generated on one system can be read by another system.
- b) Reporting of e-invoice to a central system.

The basic aim behind adoption of e-invoice system by tax departments is ability to pre-populate the return and to reduce the reconciliation problems.

GST Council has given the responsibility to design the standard of e-invoice and update the same from time to time to GSTN which is the custodian of Returns and invoices contained in the same. Adoption of e-invoice by GST System is not only part of Tax reform but also a Business reform as it make the e-invoices completely inter-operable eliminating transcription and other errors.

**C. Other derived benefits of introduction of e-invoice from GST perspective**

Objectives	Outcome
Better Taxpayer services	<ul style="list-style-type: none"> <li>• One time reporting on B2B invoice data in the form it is generated to reduce reporting in multiple formats (one for GSTR-1 and the other for e-waybill).</li> <li>• To generate Sales and purchase register (ANX-1 and ANX-2) from this data to keep the Return (RET-1 etc.) ready for filing under New Return. e-Way bill can also be</li> </ul>

- generated using e-Invoice data
- It will become part of the business process of the taxpayer
- Substantial reduction in input credit verification issues as same data will get reported to tax department as well to buyer in his inward supply (purchase) register.
- On receipt of info thru GST System as buyer can do reconciliation with his Purchase Order and accept/reject in time under New Return

Reduction of Tax evasion	<ul style="list-style-type: none"> <li>• Complete trail of B2B invoices</li> <li>• System level matching of input credit and output tax</li> </ul>
Efficiency in tax administration	<ul style="list-style-type: none"> <li>• Elimination of fake invoices</li> </ul>

Generation of e-invoice will be the responsibility of the taxpayer who will be required to report the same to Invoice Registration Portal (IRP) of GST, which in turn will generate a unique Invoice Reference Number (IRN) and digitally sign the e-invoice and also generate a QR code. The QR Code will contain vital parameters of the e-invoice and return the same to the taxpayer who generated the document in first place. The IRP will also send the signed e-invoice to the recipient of the document on the email provided in the e-invoice.

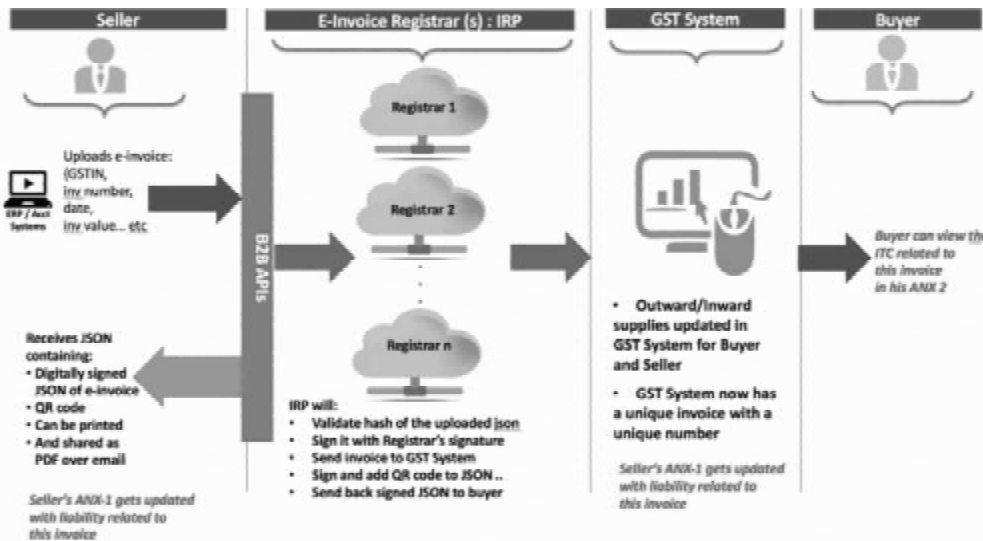
**D. What type of documents are to be reported to GST System?**

While the word invoice is used in the name of e-invoice, it covers other documents that will be required to be reported to IRP by the creator of the document:

- i. Invoice by Supplier
- ii. Credit Note by Supplier
- iii. Debit Note by Supplier
- iv. Any other document as required by law to be reported by the creator of the document (as notified by the Government from time to time).

**E. What will be the workflow involved?**

The flow of the e-invoice generation, registration and receipt of confirmation can be logically divided into two major parts.



invoice must conform to the e-invoice schema (standards) that is published and have the mandatory parameters. The optional parameters can be according to the business need of the supplier. The supplier's (seller's) software should be capable to generate a JSON of the final invoice that is ready to be uploaded to the IRP. The IRP will only take JSON of the e-invoice.

Note:

1. Seller should have a utility that will output invoice data in JSON format,

either from his accounting or billing software or his ERP or excel/word document or even a mobile app. Those who do not use any accounting software or IT tool to generate the invoice, will be provided an offline tool to key-in data of invoice and then submit the same.

2. The small and medium size taxpayers (having annual turnover below Rs 1.5 Crores) can avail accounting and billing system being offered by GSTN free of cost.

- The first part being the interaction between the business (supplier in case of invoice) and the Invoice Registration Portal (IRP).
- The second part is the interaction between the IRP and the GST/E-Way Bill Systems and the Buyer.

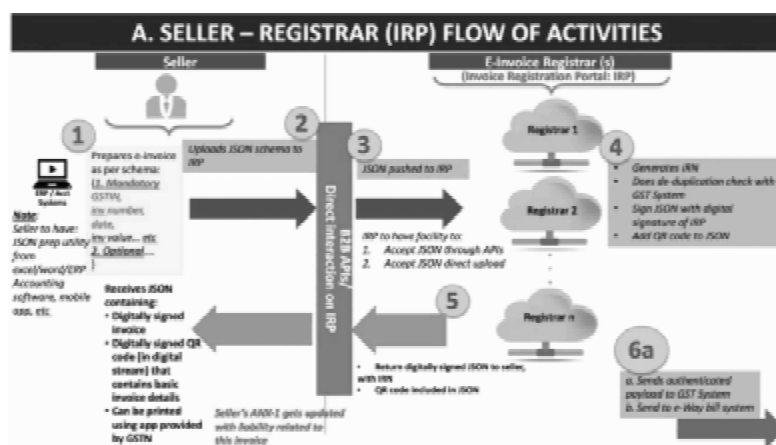
The two parts of the workflow are depicted diagrammatically below and followed up with an explanation of the steps involved. As the process evolves and system matures the same would be intercommunicated between buyer's software and seller's software, banking system etc.

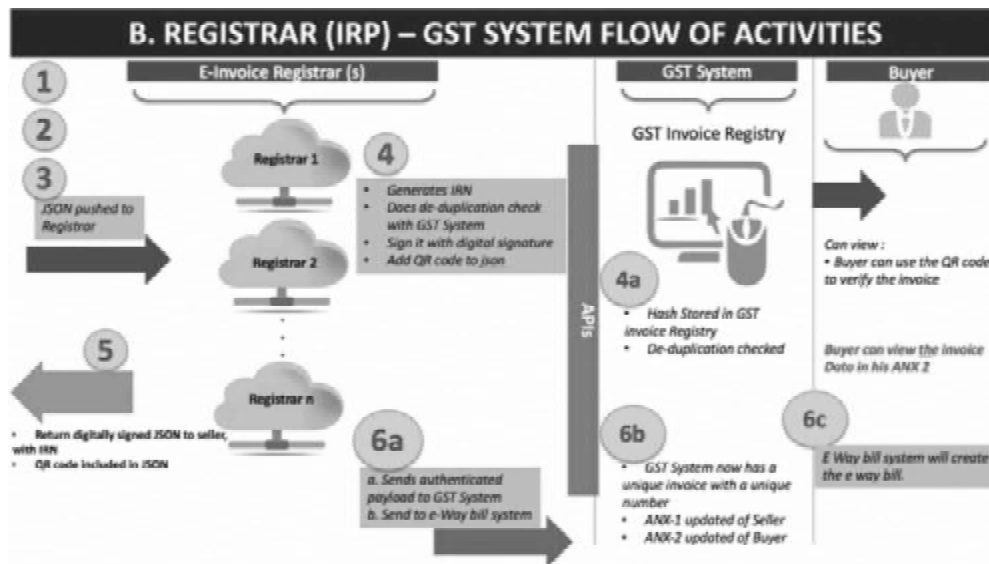
Part A: Flow from Supplier (commonly known as seller) to IRP.

Step-1 is the generation of the invoice by the seller in his own accounting or billing system (it can be any software utility that generates invoice including those using excel or GSTN's provided Offline Utility). The

Step 2 and 3: is to upload and push the JSON of the e-invoice to the IRP by the seller. The JSON may be uploaded directly on the IRP or through GSPs or through third party provided Apps.

Step-4: The IRP will generate the hash based on seller's GSTIN, Document Type, Document Number and Financial Year and check the hash from the Central Registry of GST System to ensure that the same document (invoice etc.) from the same supplier pertaining to same Fin Year is not being up loaded again. On receipt of confirmation from Central Registry, IRP will add its signature on the Invoice Data as well as a QR code to the JSON. The QR code will contain GSTIN of seller and buyer, Invoice number, invoice date, number of line items, HSN of major commodity contained in the invoice as per value, hash etc. *The hash computed by IRP will become the IRN (Invoice Reference Number) of the e-invoice.* This shall be unique to each invoice and hence be the unique identity for each invoice for the entire financial year in the entire GST System for a taxpayer. [GST Systems will create a central registry where hash sent by all IRPs will be kept to ensure uniqueness of the same].





way bill using this data.

*Note 1: The e-invoice standardized schema has mandatory and optional items. The e-invoice shall not be accepted in the GST System unless all the mandatory items are present. The optional items are to be used by the seller and buyer as per their business need to enforce their business obligations relationships.*

*Note 2: Seller may send his e-invoice for registration to more than one registrar. But the GST system and IRP will perform a de-duplication check with central*

In case the same document has been uploaded earlier, the IRP will send an error code back to the seller, when he tries to upload a duplicate e-invoice.

Step 5 will involve returning the digitally signed JSON with IRN back to the seller along with a QR code.

Step 6 will involve sharing the uploaded data of accepted document (invoice etc.) with GST and e-way bill system. More details are given in Part-B below.

Part B: Flow from IRP to GST System/E-Way Bill System & Buyer

The following diagram shows how e-Invoice data would be consumed by GST System for generation of e-way bill or populating relevant parts GST Returns, stated in Step-6 above.

Step 6(a) will be to send the signed and authenticated e-invoice data along with IRN (same as that has been returned by the IRP to the seller) to the GST System as well as to E-Way Bill System.

Step 6 (b) The GST System will update the ANX-1 of the seller and ANX-2 of the buyer, which in turn will determine liability and ITC.

Step 6(c). The e-invoice schema includes parameters e.g. 'Transporter Id' and 'Vehicle Number' that are required for creating and generating e-way bills. Provision has also been made to enter transporter code and vehicle number, if available with seller at the time of generation of e-invoice. In that case, e-way bill can be prepared fully. The E-Way bill system will accordingly create e-

*registry to ensure that the IRN that is generated is unique for each invoice. Therefore, the IRP shall return ONLY ONE registered IRN for each invoice to the seller. In case of multiple registrars (more than one IRPs) only one IRP will return a valid IRN to the seller. Except one, all other IRPs will reject the request of registration.*

*Note 3: The QR code will enable quick view, validation and access of the invoices from the GST system from hand held devices.*

F. Direct Invoice Generation on IRP (Invoice Registration Portal)

Many people think that e-invoice will be generated from government's tax portal. This is a myth and invoices will continue to be generated using an Accounting or a billing software by seller using their respective IT/ERP systems, keeping in view the varied need of item master, buyer master, UQC etc. Thus, direct creation/generation of e-invoice from GST portal or any other government portal is not envisaged/planned. This shall enable the IRP to have the single function of receiving e-invoices, validating and digitally signing them and performing the actions described in preceding paras and hence provide sub-second responses to sellers.

Small taxpayers, whenever so mandated, can use one of the eight free accounting/billing software currently listed by GSTN. Also, GSTN will provide Offline Tools where data of an invoice, generated on paper can be entered which in turn will create JSON file for uploading on the IRP. This upload to the IRP will also happen through APIs. Taxpayers may also use one of the many commercially available accounting/billing software for

this purpose. All accounting and billing software companies are being separately asked to adopt the e-invoice standard so that their users can generate the JSON from the software and upload the same on the IRP.

#### G. Features of e-invoicing system

**The Format of Unique Invoice Reference Number (IRN):**

The unique IRN will be based on the computation of hash of GSTIN of generator of document (invoice or credit note or debit note), Financial Year, Document Type and Document number like invoice number. This hash will be as published in the e-invoice standard and unique for this combination. This way hash will always be the same irrespective of the registrar who processes it.

**Digital Signing by e-Invoice Registration Portal:** The invoice data will be uploaded on the IRP (Invoice Registration Portal), which will also generate the hash (as the IRN) and then digitally sign it with the private key of the IRP. The IRP will sign the complete e-invoice JSON payload (that includes the IRN/hash). Thereafter, this e-invoice signed by the IRP will be a valid e-invoice for the seller and can be used by the seller for his business transactions. The IRP will also push this signed e-invoice to the GST and the E-Way bill systems.

**QR Code:** The IRP will also generate a QR code containing the unique IRN (hash) along with some important parameters of invoice and digital signature so that it can be verified on the central portal as well as by an Offline App. This will be helpful for tax officers checking the invoice on the roadside where Internet may not be available all the time. The seller will be returned a signed JSON with all details including a QR code. The QR code will consist of the following e-invoice parameters:

- a. GSTIN of supplier
- b. GSTIN of Recipient
- c. Invoice number as given by Supplier
- d. Date of generation of invoice
- e. Invoice value (taxable value and gross tax)
- f. Number of line items.
- g. HSN Code of main item (the line item having highest taxable value)
- h. Unique Invoice Reference Number (hash)

**Note:** It is the signed QR code which will be easily verifiable by taxpayers as well as Tax Officers to validate whether the e-invoice has been reported to the IRP and accepted by it, as it will contain both the IRN as well as the Digital Signature of IRP

as proof of having received and registered the e-invoice. If the signed JSON is tampered then e-invoice will become invalid and the digital signature will fail.

**Multiple Registrar for IRN System:** Multiple registrars (IRPs) will be put in place to ensure 24X7 operations without any break. To start with, NIC will be the first Registrar. GST System will also provide IRP services in due course of time. Based on experience, more registrars (IRPs) will be added.

#### H. CREATION OF e-INVOICE

**Modes for getting invoice registered:** Multiple modes will be made available so that taxpayer can use the best mode based on his/her need. The modes given below are envisaged at this stage under the proposed system for e-invoice, through the IRP (Invoice Registration Portal):

- a. Web based,
- b. API based,
- c. mobile app based,
- d. offline tool based and
- e. GSP based.

**API mode:** Using API mode, the applicable tax payers and their ERP/internal IT services/accounting software providers can interface their systems and get the signed e-invoice from IRP after passing the relevant invoice information in JSON format. API request will handle one invoice request at a time to generate the IRN. This mode can also be used for multiple invoices (user can pass the request one after the other and get the IRN response within fraction of second) as well. The e-way bill system provides the same methodology.

#### Printing of Invoice

The businesses will receive a signed JSON from the IRP. This payload can be received, converted to readable format and populated into a PDF file. The taxpayer can then print his paper invoice as he is doing today placing their logo and other information, as per business need. E-invoice schema only mandates what will be reported in electronic format to IRP and to receive the corresponding signed e-invoices from the IRP.

#### Amendments and Cancellation of e-invoice

The cancellation of e-invoice will be done by using the 'Cancel IRN' API (published on the e-invoice portal). The API will be a POST API and will require the IRN that is to

be cancelled as the key parameter of the payload.

Amendment of e-invoice already reported: Amendment of e-invoice already uploaded on IRP will be done only on GST portal. Any amended e-invoice, if reported to IRP, will get rejected as its IRN (unique hash) will be already existing in the IRP system. Hence amendment of invoices will not be possible through the IRP.

### General Questions on e-invoice system

#### Generic questions on e-invoice

1. Will businesses now be required to generate e-invoices on the GST portal or the e-invoice portal or the IRN portal?
  - a. No.
  - b. Businesses will continue to generate e-invoices on their internal systems – whether ERP or their accounting / billing systems or any other application.
  - c. The e-invoicing mechanism only specifies the invoice schema and standards so as to be interoperable amongst all accounting/billing software and all businesses.
2. Please clarify whether the current e-invoice schema is for the invoice to be issued by Govt or has to be maintained in the IT system by the taxpayer?
  - a. The invoice schema has to be maintained and invoices generated using this schema by the taxpayer himself.
  - b. The GST portal or Invoice Registration Portal (IRP) will NOT provide facility to generate invoices. IRP is only to report the invoice data.
  - c. The ERP or accounting billing software or any other software tool to generate e-invoice of the seller shall only generate invoices.
3. Will there be separate invoice formats required for Traders, Medical Shops, Professionals and Contractors?
  - a. No.
  - b. Same e-invoice schema will be used by all kinds of businesses. The schema has mandatory and non-mandatory fields. Mandatory field has to be filled by all taxpayers. Non-mandatory field is for the business to choose. It covers all most all business needs and specific sectors of business may choose to use those non-mandatory fields which are needed by them or their e-co-system.
4. How long will the e-invoice generated would be available at the Government portal?
  - a. It is again clarified that the e-invoice will not be generated at the GST portal.
  - b. It will be generated only at the seller's system – whether ERP or the accounting/billing system/ other software tools of the seller.
  - c. It will be uploaded into the IRP which will push it to the GST ANX-1, only once it has been validated and registered by the IRP.
  - d. After it has been validated and is available in the ANX-1, it will be visible to the counter party in his ANX2.
  - e. Thereafter it will be visible and available for the entire financial year and archived.
  - f. As far as data on IRP is concerned, it will be kept there only for 24 hours.
  - g. The e-invoice can be accessed by the authorized parties (seller/buyer/tax officer) on the GST System in their respective accounts/dashboards after login.
5. While all businesses generate invoice at the same time, how will the server react?
  - a. The businesses will generate the invoice at their system and hence that will not impact the servers of IRP.
  - b. The capacity of the system at IRP shall be built so as to handle the envisaged loads of simultaneous upload based on data reported in GSTR1 for last two years.
  - c. Subsequently, multiple invoice registrars (IRPs) will be made available that will be able to distribute the load for invoice registration.
6. Is it possible to auto populate fields of the e-invoice based on credentials entered? That way it can minimize data entry errors.
  - s. Since the invoice generation is to happen at the business end, this can be built into the ERP or invoicing system of the seller. Most of such software provide this facility in the name of item master, supplier master, buyer master etc.

7. Will it be possible to add transporter details as well?
  - a. Yes.
  - b. The transporter details parameter and vehicle details have also been made available as part of the e-invoice schema.

#### Contents of e-invoice

1. There are certain fields today which are optional and some mandatory. How are these to be used?
  - a. The mandatory fields are those that MUST be there for an invoice to be valid under e-Invoice Standard.
  - b. The optional ones are those that may be needed for the specific business needs of the seller/business. These have been incorporated in the schema based on current business practices in India.
  - c. The registration of an e-invoice will only be possible once it has ALL the mandatory fields uploaded into the Invoice registration Portal (IRP).
  - d. A mandatory field not having any value can be reported with NIL.
2. What is the maximum Number of line items supported by e-invoice?
  - a. As of now, during the trial period, there is no limit.
3. Does the e-invoice schema provide the maximum length of the various fields in the schema?
  - a. Yes.
  - b. Each field specification has been provided with the type of characters that are to be entered and its length as well.
4. What will be the threshold requirement for E-Invoicing applicability?
  - a. This has been notified by the Government as being > INR 100 Crores annual turnover on aggregate basis (based on PAN).
5. Will the e-invoice have columns to show invoice currency?
  - a. Yes, the seller can display the currency. Default will be INR.
6. Whether the IRN is to be captured in the Supplier's ERP?
  - a. The IRN (hash) will be generated by IRP (registrar) using GSTIN of supplier or document creator, financial year and the unique serial number of the document/invoice along with the document type.
7. Whether e-invoice generated is also required to be signed again by the taxpayer?
  - a. Signing of invoice is required by the rules notified by the Govt of India. A placeholder for digital signature has been added in the e-invoice schema and hence if a signed e-invoice is sent to IRP, the same will be accepted.
  - b. The e-invoice will be digitally signed by the IRP after it has been validated. The signed e-invoice along with QR code will be shared with creator of document as well as the recipient.
  - c. Once it is registered, it will not be required to be signed by anyone else.
8. Whether the facility of adding discount amount at line item-level would be mandatory in nature?
  - a. The e-invoice has a provision for capturing discount at line item level.
  - b. The discounting at line item level is to be mentioned only when and if it is applicable in the particular transaction.
9. Can the seller place their LOGO in the e-Invoice Template?
  - a. There will NOT be a place holder provided in the e-invoice schema for the company logo.
  - b. This is for the software company to provide in the billing/accounting software so that it can be printed on his invoice using his printer. However, the Logo will not be sent to IRP. In other words, it will not be part of JSON file to be uploaded on the IRP.
10. There should be a space provided for the QR code to be placed.
  - a. The QR code will be provided to the seller once he uploads the invoice into the Invoice

- Registration system and the same is registered there.
- b. Seller must print the QR code on the printed Invoice.
11. Will we be able to provide the address and bill-to party and PAN details in the invoice?
    - a. Yes.
    - b. It will be possible to provide all these details in the placeholders provided in the schema.
  12. Would the Supplier be allowed to issue his own invoice and if yes, will the Invoice number and IRN be required to be mentioned?
    - a. Yes, the supplier will issue his own system's invoice, in the standard e-invoice schema that has been published. IRN will be generated and returned by the IRP as per the process described in the concept and flow.
    - b. E-Invoice will be valid only if it has IRN.
  13. The current e-invoice template provides for total discount for all the products or services. Will this be possible in the invoice?
    - a. Yes.
    - b. There is a mechanism and placeholders to provide discounting on item level as well as total discounts on the invoice value.
  14. Will there be an option for linking multiple invoices in case of debit note/ credit note?
    - a. Yes, document type is one of the parameters in the e-invoice schema and is also used for the IRN (hash) generation.
  15. Will the e-invoice schema cater to reverse charge mechanism?
    - a. Yes.
    - b. E-invoice system has a reverse charge mechanism reporting as well.

#### Method of Reporting e-Invoice to GST System

1. In addition to the above, we understand that electronic invoice which will be uploaded on GST portal will be authenticated and IRN will be allocated for each e-invoice generated.
  - a. Yes, the e-invoice will be authenticated with the digital signature of the IRP (invoice registration portal).
  - b. IRN (Invoice Reference Number) will be the

- hash generated by the IRP.
- c. The registered invoice will be valid to be used by the business.
2. Will it be possible for bulk uploading of invoices for e-invoicing as well?
    - a. Invoices have to be uploaded on IRP one at a time.
    - b. The IRP will be able to handle a large number of invoices for registration and validate them. Essentially bulk upload will be required by large taxpayers who generate large number of invoices. Their ERP or accounting system will be designed in such a way that it handles the requests one by one. For the user, it may appear as bulk upload.
  3. Will the requirement for such invoices to be authenticated by the supplier using a digital signature/signature be done away with?
    - a. The seller will need to upload the e-invoice into the Invoice Registration Portal.
    - b. The signing of e-invoice by seller is governed by the Govt of India rules and notifications.
    - c. The e-invoice schema provides for placing the seller's digital signature.
  4. Will there be a time limit for e-invoice uploading for registration?
    - a. Once uploaded to the invoice registration portal (IRP), it will be registered immediately, on real-time basis.
    - b. Without the IRN, validation by IRP and hence its registration, e-invoice will not be valid.

#### Rollout Timeline

On trial basis for taxpayers having aggregate turnover above Rs 500 Crores in previous Fin Year.	from 1st Jan 2020
On trial basis for taxpayers having aggregate turnover above Rs 100 Crores in previous Fin Year.	from 1st Feb 2020
Mandatory rollout for taxpayers having aggregate turnover above Rs 100 Crores in previous Fin Year.	from 1st Apr 2020

*Note: Aggregate turnover is as defined under GST Law, which is at the PAN level and not at GSTIN level.*

5. Will it be possible to allow invoices that are



- registered on invoiceregistration system/portal to be downloaded and/or saved on handhelddevices?
- a. Yes.
  - b. IRP System after registering the invoice, will share back digitally signed- invoice for record ofsupplier.
6. Will it be possible to print thee-invoice?
- a. Yes.
  - b. It will be possible for both the seller as well as the buyer to print theinvoice, using the signed JSON payload returned by the Invoice Registration Portal (IRP).
  - c. The QR code will not be an image sent by the IRP but string, which the accounting/billing software or the ERP will read and convert into QRCode.
  - d. Seller must place the QR code on the print of the invoice. This will enableits validation.

Amendment/cancellation of e-invoice

1. Whether e-invoices generated through GST system can be partially/fullycancelled?
  - a. E-Invoice can't be partially cancelled. It has to be fully cancelled.Cancellation has to be done as per process defined under AccountingStandards.
  - b. The e-invoice mechanism enables invoices to be cancelled. This will have to be triggered through the IRP, if done within 24 hours. After 24 hours, the same will need to be done on the GST System.

2. How would amendments be allowed ine-invoice?
  - a. Amendments to the e-invoice will be allowed on GST portal as per provisions of GST law. All amendments to the e-invoice will be done on GST portalonly.

Relationship with e-way bill

1. With the introduction of e-invoices, what are the documents need to be carriedduring transit ofgoods?
  - a. For transportation of goods, the e-way bill will continue to be mandatory,basedon invoice value guidelines, as hitherto fore.
  - b. Any changes in this aspect will be notified by the Government.

Export/Import

1. Please clarify whether exports would require e-invoicecompliance.
  - a. Yes.
  - b. The e-invoice schema also caters to the export invoices as well. The e-invoice schema is based on most common standard, this will help buyer's system to read thee-invoice.
  - c. In this case, GSTIN of buyer located in another country will not bethere.
2. Does the e-invoice allow the declaration of export invoices/ zero ratedsupplies?
  - a. Yes.
  - b. It allows the declaration of export invoices / zero ratedsupplies.



## PROFILE



MR. TIMIR BARAN CHATTERJEE

Mr. Timir Baran Chatterjee is a B.Com (Hons) Graduate, M. Com and a Fellow Member of the Institute of Company Secretaries of India, New Delhi. He is also a qualified Cost Accountant and a member of the Institute of Cost Accountants of India. He has done his MBA on International Business from Indian Institute of Foreign Trade ( IIFT) He is a member of the Indian Council of Arbitration, New Delhi and Institute of Internal Auditor (USA). Mr.Chatterjee has also successfully completed 18 months course on VEDANTA ( With GITA, UPANISHAD and BRAHMA SUTRA) from Ramkrishna Mission Institute of Culture, Goal Park, Kolkata. Mr.Chatterjee is a Visiting Faculty of Calcutta University, ICFAI Business School, IISWBM, Indian Defence Academy, Institute of Chartered Accountants of India, Institute of Cost Accountants of India, Indian Institute of Foreign Trade and Institute of Company Secretaries of India, for the subjects "International Finance, Merger, Amalgamation, Company Reconstruction, "Indirect Taxation", "Corporate Laws" and Direct Taxation .A member of the CII's Economic Affairs and Financial Sector Sub Committee ( Eastern Region) , Chairman -Bengal Chamber of Commerce and Industry's Indirect Tax Committee, Mr Chatterjee's major exposures are mainly in the areas of Corporate Laws, Indirect and Direct Tax Management, Fund Management, Insurance and Risks Management.

He has authored several books on :

- COMMENTARY ON VIVAAD SE VISHWAS SCHEME – February 2020
- COMMENTARY ON UNION BUDGET 2020 – February 2020
- COMMENTARY ON UNION BUDGET 2019 – July 2019
- HOW TO HANDLE GST-TDS, GST-TCS, GST AUDIT & GST ANNUAL RETURN – NOVEMBER 2018
- SECTION-WISE COMMENTARY ON GST – SEPTEMBER 2018
- A COMPENDIUM ON GST W.E.F. 1ST JULY 2017
- COMMENTARY ON UNION BUDGET 2017
- WITHDRAWAL OF LEGAL TENDER 2016
- GST MODEL LAW (NOVEMBER 2016) & BUSINESS PROCESSES – A TECHNICAL COMMENTARY
- GST MODEL LAW (JUNE 2016) & BUSINESS PROCESSES – A TECHNICAL COMMENTARY
- "SERVICE TAX AND VAT IN WORKS CONTRACT: A COMPREHENSIVE TECHNICAL GUIDE".

He has given more than 250 lectures in different forums on Service Tax, Excise, Custom, VAT,GST, Transfer Pricing and Corporate Laws.

## PROFILE



CA VIKASH KUMAR BANKA

- n CA Vikash Kumar Banka is a practicing chartered accountant and has over 19 years of experience in the field of audit and taxation. He is into indirect tax and direct tax practice for the last 16 years.
- n He is All India 31st rank holder in CA intermediate Exam held in May 1998.
- n He is a special invitee to Kolkata Study group formed by indirect tax committee of ICAI and has contributed in the preparation of:
  - Revised technical guide on Annual Return which has is posted on the website of IDT committee.
  - Guidance Note on "Accounting Treatment on GST" which is posted on Web site of IDT committee for Public Comment"and
  - Vetting of recently published "Back ground material on GST".
- n He has spoken at different forums on GST Annual Return and audit like EIRC , CIRC and its branches & chapters, Study Circle etc.
- n He is also faculty member of ICAI for certificate course on GST.
- n He is also faculty member in west bengal state gst officers training classes organized by HR department of state gst in association with ICAI

**PROFILE**

**CA VIVEK JALAN**  
[FCA, L.L.B, B.Com(H)]

Vivek Jalan is a Chartered Accountant & a qualified LL.B. He is the Co Chairman of The Taxation Committee of The Bengal Chamber of Commerce and Industry. He is also the member of The CII- Economic Affairs & Taxation Committee. He is the Member of The Consultative Committee of The Commissioner of SGST. He is also The Member of The regional Advisory Committee of The Chief Commissioner of CGST. He is a regular Columnist and guest expert in The Matters of Taxation at The All India Radio, Economic Times, Times of India, Dalal Street Journal, Money Control, Live mint, CNBC, Hindustan Times, Zee Business, Financial Express and other dailies.

He is also a visiting faculty for Taxes in The Institute Of Chartered Accountants of India, Institute of Cost Accountants of India, Indian Institute of Foreign Trade, The Bengal Chamber of Commerce and Industry, The Indian Chamber of Commerce and other Business Forums. He has also delivered Lectures at various Government Taxation Forums including the CGST & SGST Departments across the country.

He has worked as a Finance Manager in ITC Ltd. and Chief Compliance Officer with IntraSoft Technologies Ltd. He has more than 15 years of experience in the field of Indirect & Direct Taxation. He was also an All India Rank holder in CA Final Examination conducted by the Institute of Chartered Accountants of India.

He is the Co-Editor of Weekly Bulletin TAX CONNECT, a publication on Indirect Taxes and Direct Taxes which reaches more than 70000 professionals.

His publications on taxation include the following –

- COMMENTARY ON VIVAAD SE VISHWAS SCHEME – February 2020
- COMMENTARY ON UNION BUDGET 2020 – February 2020
- COMMENTARY ON UNION BUDGET 2019 – July 2019
- HOW TO HANDLE GST-TDS, GST-TCS, GST AUDIT & GST ANNUAL RETURN – NOVEMBER 2018
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- GST MODEL LAW (JUNE 2016) & BUSINESS PROCESSES – A TECHNICAL COMMENTARY
- “SERVICE TAX AND VAT IN WORKS CONTRACT: A COMPREHENSIVE TECHNICAL GUIDE”.

He is a regular speaker at various professional forums on the various key areas in Direct & Indirect Taxes and has delivered more than 200 lectures on various topics under Income Tax, GST, Customs, Foreign Trade Policy of India, etc.

## Message

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Chartered Accountants play a pivotal role in the economy. They with their comprehensive education and rigorous training possess knowledge and skills to act as complete business solution provider. They contribute and excel equally in practice or in jobs. With their contribution, it would not be a misnomer to state that they act as major drivers for the growth of our economy. Moreover, Chartered Accountancy being a dynamic profession needs to continuously evolve to address the changing needs of its various stakeholders and the operating environment. With integration of the global economy, the volatility and vulnerability of our profession has also increased significantly. As a result, all the key participants of this profession need to remain vigilant of the developments taking place at the macro as well as micro level.



In order to have an effective & efficient monitoring over the expanding boundaries of the entities, Chartered Accountants need to have adequate knowledge and skills to meet the ever growing expectations of the various stakeholders like clients, regulators, government and society.

It gives me immense pleasure to welcome the participants to this Three Days Workshop on GST from 26th February to 28th February 2020 which is being organised by the Eastern India Regional Council of ICAI jointly with VIP Road CA Study Circle of EIRC at R Singhi Hall, EIRC Premises, Russell Street, Kolkata.

The prime objective of the workshop is to disseminate knowledge on important developments in the field of GST like - How to reply to notices under GST & How to Handle Litigation under GST Works Contract and Jewellery, E- Invoicing and New returns under GST. With the contemporary knowledge gained through this workshop the members will be able to take advantage of the emerging opportunities. I am very confident that all the participants of this programme will be benefited by sharing the experience with the speakers.

CA NITESH KUMAR MORE  
Chairman, EIRC

## PROFILE



ARUN KUMAR AGARWAL

1. A regular speaker on his subjects- GST, VAT, Service Tax, Central Excise.
  - § A member in the Indirect Taxes Standing Committee of ICAI Central Council, New Delhi.
  - § A faculty in the Board of Studies of ICAI, and an empanelled resource person in its Technical Directorate.
  - § Chairman of the Indirect Taxes Committee of Merchants Chamber of Commerce and Industry, Kolkata.
  - § President of Association of Corporate Advisers & Executives, Kolkata for 2017-18.
  - § An Executive Committee member in the Committee, Eastern Zone of AIFTP in 2016-17.
  - § A visiting faculty in various Institutes & Universities.
  - § Prepared the basic draft of the 'Technical Guide on West Bengal VAT' as also "Background Material on Seamless Credit" and also contributed in the "Handbook for Accounting for GST" published recently by ICAI.
  - § Regularly appearing in print and electronic media, including DD News, ABP Ananda, E-tv, Sahara Samay etc.
  - § Authored first book on WBVAT titled "Commentary on West Bengal VAT" and "Practical Guide to WBVAT Audit".
  - § Past President of Lions Club of Calcutta, and DC- CSR in Distt. 322B1 of LCI (2016-17).
2. Experience with Department of Commercial Taxes, Govt of WB
 

Had been engaged by the Directorate of Commercial Taxes, Govt of West Bengal for drafting the GST Law for the State, in 2010 along with a team of officers, and professionals, as a leader of the team. The project was however dropped subsequently because of deferment of GST.

## WORKS CONTRACT IN GST



CA ARUN KUMAR AGARWAL

CA BIKASH GUPTA

Meaning and scope of Works Contract: In a layman's language, "works contract" means a contract which involves supplies of both goods and services. The term 'works contract' has been defined in various indirect tax laws as follows –

Statute	Definition
Finance Act, 1994 [Sec. 65B(54)]	"works contract" means a contract wherein transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods and such contract is for the purpose of carrying out construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, alteration of any moveable or immovable property or for carrying out any other similar activity or a part thereof in relation to such property;
WB VATA ct, 2003 [Sec. 2(57)]	'works contract' means any agreement for carrying out for cash, deferred payment or other valuable consideration- (a) the construction, fitting out, improvement, repair of any building, road, bridge or other immovable property, (b) the installation or repair of any machinery affixed to a building or other immovable property, (c) the overhaul or repair of- (i) any motor vehicle, (ii) any sea going vessel, river-craft or steamer, (iii) any other vessel propelled by internal combustion engine or

by any other mechanical means, (iv) railway engine, (v) any aircraft, or (vi) any component or accessory part of any of the goods mentioned in item no.(1)to (v), or (d) the fitting of, assembling, altering, ornamenting, finishing, furnishing, improving, processing, photocopying, developing, treating, adapting or printing on any goods;

CGST and SGST Act  
[Sec 2(119)] "works contract means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

From the definition of 'works contract', as provided in the WB VAT Act, 2003 (for State VAT) and the Finance Act, 1994 (for Service tax), it is evident that any contract which involved transfer of property in goods during execution of the contract whether for any movable property or for any immovable property, qualified to be classified as a works contract.

From the definition of 'works contract' in GST regime as above, it is apparent that different supplies (supply of goods or services or both, as the case may be), when carried out in relation to construction etc. of an immovable property only, will qualify to be considered as a "works contract". On the other hand, when such a composite supply (supply of goods and services both in

conjunction with each other) is made in relation to construction, fabrication, erection etc. of a movable property, such supply cannot be termed as a “works contract”.

As the term ‘immovable property’ is not defined in the GST law, for a clarity, definition of ‘immovable property’ under other laws may be referred to. ‘Immovable property’ has been defined in clause (26) of Section 2 of the General Clauses Act, 1897 to *include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth*. Further Section 3 of the Transfer of Property Act, 1882 interpreted the term “attached to the earth” to mean -

- a) rooted in the earth, as in the case of trees and shrubs;
- b) imbedded in the earth, as in the case of walls and buildings;
- c) attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached.”

Under various laws in earlier regime, Hon’ble Supreme Court has decided various what to be decided as an immovable property and the decision were on the basis of facts of each case. Accordingly, in GST regime in some cases it may also be a challenge to decide whether any contract at all qualifies the term ‘works contract’ (for example construction and erection of sub-stations and associated line works). In case, where a contract does not qualify the definition of works contract then it would be a case of ‘*composite supply other than a works contract*’

The term ‘composite supply’ has been defined in Section 2(30) of the CGST and SGST Act to mean *a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply*.

In respect of tax liability on a composite or a mixed supply Section 8 of the CGST Act provides as follows –

*“The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:—*

- a. *composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and*

- b. *a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.”*

Thus, in case of a composite supply other than a works contract, the supplies of materials and services, instead of being taxed separately, may be taxed collectively as a composite supply, depending upon whether the principal supply is supply of service, or supply of the goods.

The term “principal supply” has been defined in sub-section (90) of section 2 of the CGST Act to mean *the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary*. Although the term ‘predominant element’ has not been defined in GST law, but under earlier laws, various Courts has held various parameters to decide the predominant element of a contract.

**Classification – goods or services:** In earlier regime, in case of works contract, in one hand State VAT was levied on the goods component and Service Tax was levied on the service component. However, in GST regime, GST is leviable on both components. Entry 6(a) of Schedule II of the CGST and SGST Act treats a works contract as supply of service. Accordingly, the goods component of the contract shall also be treated as service for GST purpose.

**Divisible and Indivisible Contract:** In case of a works contract, following two types of contracts are possible –  
Type 1: A composite (Single) contract for supply of goods and supply of services;

Type 2: Two separate contracts for supply of goods and supply of services.

In case of type 1, there is no dispute that such contracts are indivisible contracts and to qualify as works contract. However, there has always been a dispute in case of type 2 contracts. The matter has been time and again tested in courts of law and has been decided by Hon’ble Supreme Court.

In the case of M/s Sabarmati Reti Udyog Sahakari, reported in (1976) 3 SCC 592, the Hon’ble Apex Court laid down a principle as to how to find an answer to a question whether a particular transaction is a contract of sale or a works contract. The relevant paragraph is as under:

*“6. It is well settled that whether a particular transaction is a contract of sale or a works contract depends upon*



*the true construction of all the terms and conditions of the document, when there is one. The question will depend upon the intention of the parties executing the contract. As we have observed in our judgment in Civil Appeal Nos. 1492 and 1493 of 1971 which we have just delivered there is no standard formula by which one can distinguish a contract of sale from a contract for work and labour. The question is not always easy and has for all time vexed jurists all over. The distinction between a contract of sale of goods and a contract for work and labour is often a fine one. A contract of sale is a contract whose main object is the transfer of the property in, and the delivery of the possession of, a chattel as a chattel to the buyer. (Halsbury's Laws of England, 3rd edn., Vol. 34, p. 6) (Emphasis Added)"*

Again, in the case of M/s Kone Elevator India Pvt Ltd. reported in 2014 (5) TMI 265 – Supreme Court, the Hon'ble court has taken the following view –

*"If there are two contracts, namely, purchase of the components of the lift from a dealer, it would be a contract for sale and similarly, if separate contract is entered into for installation, that would be a contract for labour and service. But, a pregnant one, once there is a composite contract for supply and installation, it has to be treated as a works contract, for it is not a sale of goods/chattel simpliciter. It is not chattel sold as chattel or, for that matter, a chattel being attached to another chattel. Therefore, it would not be appropriate to term it as a contract for sale on the bedrock that the components are brought to the site, i.e., building, and prepared for delivery."*

In the aforesaid judgment the Hon'ble Supreme Court, for invocation of Article 366(29A)(b), held that

*"140. In light of the above discussions, it will have to be held that even after the 46th Amendment, if Article 366 (29A)(b) is to be invoked, as a necessary concomitant, it must be shown that the terms of the contract would lead to a conclusion that it is a 'Works Contract'. In other words, unless a contract is proved to be a 'Works Contract' by virtue of the terms agreed as between the parties, invocation of Article 366 (29A)(b) of the Constitution, cannot be made. Alternatively, if the terms of the contract disclose or lead to a definite conclusion that it is*

*not a 'Works Contract', but one of outright sale, the same will have to be declared as a 'Sale' attracting the provisions of the relevant sales tax enactments."*

From the above judicial pronouncements, it is clear that even segregating one contract into two separate works/contracts (i.e. separately for supply of goods and separate for supply of service) will not suffice to prove that supply contract is merely a contract for sale. The same has to be established by virtue of the terms and conditions of the agreement along with the intention of both the parties.

Benefit of Input tax Credit of works contract: Section 17(5) of the CGST and SGST Act, 2017, inter alia provides that input tax credit shall not be available in respect of the following, namely:-

*(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.*

Section 17(5)(c) makes it clear that where outward supply is other than works contract services, the benefit of input tax credit cannot be claimed. Further as per Section 17(5)(d) benefit of input tax credit is not eligible in respect of goods or services used for construction of an immovable property on his own account.

The term 'own account' has been defined in GST law which may lead to dispute. Whether in case where immovable properties are constructed for further supply (like construction of shopping mall for letting out for rent) shall qualify the term own account or not may be required to be tested in court of law. In the meantime, Hon'ble Orissa High Court on a similar issue, in the matter of M/s Safari Retreats Pvt Limited [2019 (5) TMI 1278] has already allowed the benefit of input credit.

Nevertheless, the one of the motto for introduction of GST was seamless flow of credit which in turn will result in reduction of cost of supply. Hence blocking of credit may not go in line with the essence and objective of GST law.



## NEW RETRUN FORMATS IN GST REGIME- AN ANALYSIS

CA ANKIT KANODIA

### OLD RETURN FORMAT

GST was introduced in India with proposed returns in Form GSTR-1, GSTR-2, GSTR-3, etc., which subsequently had to be settled for Form GSTR-1 & GSTR-3B only, due to technical challenges of implementation. While Form GSTR-1 is a statement that captures details of all outward supplies at invoice level in most cases, Form GSTR-3B is a summary return that would have summary details of outward and inward supplies.

### INTRODUCTION OF NEW RETURN FORMAT

The GST Council in its 31st meeting held on 22<sup>nd</sup> December, 2018 decided to introduce a New GST Return system as a prototype to facilitate taxpayers with effect from July 2019 and make it mandatory from April 2020.

In the new GST Return System, there will be three main components to the new return – one main return (FORM GST RET-1) and two annexures (FORM GST ANX-1 and FORM GST ANX-2).

Subsequently, on 11.06.2019 a press release was issued stating the transition plan for new GST returns which is as follows:

- ✚ From Jul 2019 to Sep 2019, users would be able to upload the invoices using the Form GST ANX-1 offline tool on trial basis for familiarization and users would be able to view and download inward supply invoices from FORM GST ANX-2 offline. Though, during this period Form GSTR-1 and 3B will have to be filed as usual but the trial with the new forms would have no impact on the actual FORM GSTR-1 and FORM GSTR-3B filed by the assessee.
- ✚ The assessee would also be able to import data from the purchase register in the offline tool to match with the downloaded inward supplies invoices from Aug 2019.
- ✚ From October 2019 the following would be the schedule for the returnfiling:

Return for the month of	Forms to be filed by:	
	Monthly return filers	Quarterly return filers
October & November 2019	FORM GST ANX-1 FORM GST ANX-2 (view option only) FORM GSTR-3B	FORM GST PMT-08
December 2019	FORM GST ANX-1 FORM GST ANX-2 FORM GST RET-1	Form GST ANX-1 FORM GST ANX-2 FORM GST RET-1

For the returns to be filed for the period from January 2020 onwards, Form GSTR- 3B would be completely phased out.

The forms/returns which would be phased out with new return form are only Form GSTR-1 and Form GSTR-3B.

However, the same was extended till March 2020 and the new returns will be in place from April 2020.

The following returns would continue to be filed by the relevant taxpayers:

Category of persons	Forms
Persons opting for composition scheme	GSTR 4
Non-Resident taxable person	GSTR 5
Input service distributor	GSTR 6
Person deducting tax (TDS)	GSTR 7
Person collecting tax (TCS)	GSTR 8
Casual taxable Person	GSTR 11

**GST ANX-1**

The taxpayer needs to upload details in Form GST ANX-1 relating to outward and inward supplies on which tax liability exists or is paid.

**Supplies made by taxpayers against which RCM needs to be paid by recipient need not be disclosed in this form. The person liable to pay RCM needs to report in their respective GST ANX – 1.**

The details to be uploaded in this form relate to:

- Ø Those transactions that create a tax liability for the person filing the return i.e. outward supplies of the Taxpayer that are liable to tax in his hands, inward supplies of the Taxpayer liable under RCM, etc. **However, advances received for supply of service that are liable at the time of receipt would not be reported in this form but would have to be reported directly in table 3C of Form GST RET-1;**
- Ø Those in respect of which the GST has already been paid by the taxpayer i.e. import of goods from outside India, supplies received by a DTA from SEZ.
- Ø Zero-rated supplies without payment of tax i.e. supply to SEZ or export of goods/services, without payment of tax.

**When can the details be uploaded?**

The facility to upload the details in this form would be available through-out the month except on the following dates:

- F **MonthlyTaxpayers** - 18<sup>th</sup> to 20<sup>th</sup> of themonth.
- F **QuarterlyTaxpayers** - 23<sup>rd</sup> to 25<sup>th</sup> of themonth.

Hence the details of the documents can be uploaded on real time basis in Form GST ANX-1. The details uploaded can pertain to:

- ü The month/quarter for which the form is filed,or
- ü Any prior period, though it is to be noted that the details pertaining to a financial year cannot be uploaded in the said form later than the due date for furnishing of return for the month of September or second quarter following the end of the financial year to which such details pertain or the actual date of furnishing of relevant annual return, whichever is earlier.

Table wise contents which need to be given in Form GST ANX-1:

**Table 3A: Supplies made to consumers and unregistered persons (net of debit/ credit notes)**

B2C supplies i.e. supplies made to persons not registered under GST (persons with no GSTIN) net off debit/ credit notes shall be declared here.

- Ø Supplies shall be reported tax rate wise and against each PoS. Invoice wise details are not required to be reported.
- Ø HSN details are not required to be reported.
- Ø Value after adjustment of debit/credit notes can also be negative.

The screenshot displays the GST ANX-1 Form interface for Table 3A. The top navigation bar includes buttons for 'IMPORT EXCEL/CSV FILES', 'REMOVE DATA IN SELECTED TABLE', 'MARK FOR DELETE IN SELECTED TABLE', 'SUMMARY', and 'EXPORT TO CSV'. Below this is a dropdown menu for 'Select Table to Add Details' set to '3A- Supplies to unregistered persons/consumers (B2C)'. The main section is titled '3A. Supplies made to consumers and un-registered persons (Net of debit/ credit notes)'. It includes a 'TABLE SUMMARY' dropdown, an 'ADD DOCUMENT' section with checkboxes for 'Differential % of tax rate' and 'Supply covered under sec 7 of IGST Act', and a 'Place of Supply (Name of State/UT) \*' dropdown with an 'Add' button. Below this is a 'DOCUMENTS ADDED' section with a table showing three entries for Karnataka and Maharashtra. The table has columns for Place of Supply, Supply type, Total taxable value, and Tax Amount (Integrated, Central, State/UT, and Cess). At the bottom right, there are buttons for 'BACK', 'MARK FOR DELETE', and 'REMOVE'.

	Place of Supply(Name of State/UT) * * * *	Supply type	Total taxable value (₹)	Tax Amount(₹)			
				Integrated tax	Central tax	State / UT tax	Cess (₹)
<input type="checkbox"/>	Karnataka	Inter-state	1,000.00	50.00	0.00	0.00	10.00
<input type="checkbox"/>	Karnataka	Inter-state	1,000.00	120.00	0.00	0.00	10.00
<input type="checkbox"/>	Maharashtra	Inter-state	10,000.00	1,800.00	0.00	0.00	0.00

Any amendment related to B2C Supply can be done via Table 3A of Form GST ANX-1A and GST RET – 1A needs to be filed for the same.

**Table 3B: Supplies made to registered persons (other than those attracting reverse charge) (including edit/ amendment)**

All supplies made to registered persons including those made to persons having TDS / TCS registration needs to be shown in this table. However, the following supplies need not be reported in this table:

- Ø Export of goods or services (to be reported in 3C or 3D, as applicable)
- Ø Supply of goods or services to SEZ units/Developers (to be reported in 3E or 3F, as applicable)
- Ø Supplies being deemed exports (to be reported in 3G)

Debit/Credit note relating to these supplies are to be disclosed in this table.

**3B. Supplies made to registered persons (other than those attracting reverse charge)**

**TABLE SUMMARY**

Document wise summary Recipient wise summary

Document type	No. of records	Total taxable value (₹)	Total tax amount (₹)				No. of records marked for delete
			Integrated tax	Central tax	State/UT tax	Cess	
1	2	3	4	5	6	7	8
Invoice	3	35,000.00	1,800.00	2,250.00	2,250.00	300.00	-
Debit Note	1	5,000.00	0.00	450.00	450.00	100.00	-
Credit Note	1	5,000.00	0.00	450.00	450.00	100.00	-
Rejected Documents	0	0.00	0.00	0.00	0.00	0.00	-
<b>Total</b>	<b>5</b>	<b>35,000.00</b>	<b>1,800.00</b>	<b>2,250.00</b>	<b>2,250.00</b>	<b>300.00</b>	<b>-</b>

ADD DOCUMENT Field marked with red asterisk (\*) are mandatory

Differential % of tax rate  Supply covered under sec 7 of IGST Act

Recipient GSTIN/UIN *	Trader/Legal name	Document type *	Document number *	Document date (DD/MM/YYYY) *	Document Value *	Place of Supply(Name of State/UT) *
Search by Recipient Name as <a href="#">+ Add to Master</a>	<input type="text"/>	Invoice ▼	<input type="text"/>	<input type="text"/>	<input type="text"/>	Select ▼

**DOCUMENTS ADDED** Records Per Page  Search

<input type="checkbox"/>	Recipient GSTIN/UIN * ▼	Trade/Legal name	Document type *	Document number *	Recipient type	Document date (DD/MM/YYYY) *
<input type="checkbox"/>	29AAAUP0028A1ZL	Kaveri	Invoice	123/1	Regular	01-Jun-19
<input type="checkbox"/>	07AAAUP0028A1ZL	XYZ	Invoice	123/2	Regular	10-Jun-19
<input type="checkbox"/>	07AAAUP0028A1ZL	XYZ	Credit note	123C/1	Regular	10-Jun-19
<input type="checkbox"/>	07AAAUP0028A1ZL	XYZ	Invoice	123C/2	Regular	10-Jun-19
<input type="checkbox"/>	07AAAUP0028A1ZL	XYZ	Debit note	123D/1	Regular	10-Jun-19

**BACK** **MARK FOR DELETE** **REMOVE**

Any amendment related to B2B Supply can be done in Table 3B of Form GST ANX-1 itself. Thereby any additional tax liability arising due to amendment in details for these supplies will have to be paid in the next month while filing the return, with the applicable interest.

Select Table to Add Details 3B. Amendment of regular-registered persons (B2BA)

**3BA. Supplies made to registered persons (other than those attracting reverse charge)(amendment)**

**TABLE SUMMARY**

Document type	No. of Records	Total Taxable Value (₹)	Total Tax Amount (₹)				No. of Records Reject
			Integrated Tax	Central Tax	State/UT Tax	Cess	
1	2	3	4	5	6	7	8
Invoice	0	0.00	0.00	0.00	0.00	0.00	-
Debit Note	0	0.00	0.00	0.00	0.00	0.00	-
Credit Note	0	0.00	0.00	0.00	0.00	0.00	-
<b>Total</b>	<b>0</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>-</b>

ADD DOCUMENT Field marked with red asterisk (\*) are mandatory

Differential % of tax rate  supply covered under sec 7 of IGST Act

Original Details					Revised Details			
Recipient GSTIN/UIN	Trade/Legal Name	Document type	Document number	Document Date (DD/MM/YYYY)	Recipient GSTIN/UIN *	Trade/Legal Name	Document type *	Document Number
<input type="text"/>	<input type="text"/>	Invoice	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Invoice	<input type="text"/>
+ Add to Master					+ Add to Master			

DOCUMENTS ADDED

Records Per Page:  Search:

Original Details					Revised Details				
<input type="checkbox"/>	Recipient GSTIN *T0	Trade/Legal name *	Document type *	Document number *	Document date (DD/MM/YYYY) *	Recipient GSTIN *	Trade/Legal name *	Document type *	Doc
<input type="checkbox"/>	37AAAAA1234AA1Z	Ganga	Invoice	1342/1	2-Jun-19	37AAAAA1234AA1Z	Ganga	invoice	
<input type="checkbox"/>	07AAAAA1234AA1Z	Yamuna	Invoice	1342/2	3-Jun-19	07AAAAA1234AA1Z	Yamuna	invoice	
<input type="checkbox"/>	07AAAAA1234AA1Z	Yamuna	Invoice	1342/3	5-Jun-19	07AAAAA1234AA1Z	Yamuna	invoice	
<input type="checkbox"/>	37AAAAA1234AA1Z	Ganga	Debit note	1341/10	10-Jun-19	37AAAAA1234AA1Z	Ganga	Debit note	
<input type="checkbox"/>	07AAAAA1234AA1Z	Yamuna	Credit note	1341/10	14-Jun-19	07AAAAA1234AA1Z	Yamuna	Credit note	

BACK REMOVE

Select Table to Add Details: 3B. Amendment (others)- registered persons (B2EAO) \*

B2EAO. Supplies made to registered persons (other than those attracting reverse charge)(amendment-others)

TABLE SUMMARY

Document Type	No. of Records	Total Taxable Value (₹)	Total Tax Amount (₹)				No. of Records Rejected
			Integrated Tax	Central tax	State / UT tax	Cess	
1	2	3	4	5	6	7	8
Invoice	0	0.00	0.00	0.00	0.00	0.00	-
Debit Note	0	0.00	0.00	0.00	0.00	0.00	-
Credit Note	0	0.00	0.00	0.00	0.00	0.00	-
<b>Total</b>	<b>0</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>-</b>

ADD DOCUMENT

Field marked with red asterisk ( \*) are mandatory

- Differential % of tax rate
- Supply covered under sec 7 of IGST Act

Original Details

Recipient GSTIN/UIN *	Trade/Legal Name	Document type	Document number	Document Date DD/MM/YYYY	Recipient GSTIN/UIN *	Trade/Legal Name
<input type="text"/>	<input type="text"/>	Invoice *	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<a href="#">+ Add to Master</a>				<a href="#">+ Add to Master</a>		

**DOCUMENTS ADDED** Records Per Page:  Search:

Original Details

	Recipient GSTIN *†	Trade/Legal name †	Document type †	Document number †	Document date (DD/MM/YYYY) †	Recipient GSTIN †	Trade/Legal name †	Document type †
<input type="checkbox"/>	37AAAA1234A1Z	Ganga	Invoice	13421	2-Jun-19	37AAAA1234A1Z	Ganga	Invoice
<input type="checkbox"/>	07AAAA1234A1Z	Yamuna	Invoice	13422	3-Jun-19	07AAAA1234A1Z	Yamuna	Invoice
<input type="checkbox"/>	07AAAA1234A1Z	Yamuna	Invoice	13423	5-Jun-19	07AAAA1234A1Z	Yamuna	Invoice
<input type="checkbox"/>	37AAAA1234A1Z	Ganga	Debit note	134110	10 Jun 19	37AAAA1234A1Z	Ganga	Debit note
<input type="checkbox"/>	07AAAA1234A1Z	Yamuna	Credit note	134110	14 Jun 19	07AAAA1234A1Z	Yamuna	Credit note

IMCR
REMOVE

**Table 3C & 3D: Exports with/without payment of tax**

Export of goods and/or services made with payment of tax shall be reported in Table 3C and without payment of tax in Table 3D.

- Ø Details of shipping bills to the extent available till the date of exports can be declared.
- Ø The details of other SBs can be disclosed after filing thereturns.
- Ø A separate functionality for updating the details of shipping bill will be made available on the portal which can be used to update the SB details after filing thereturns.
- Ø Debit/Credit note relating to these supplies are to be disclosed in thistable.

3C & 3D: Exports With/Without Payment of Tax

TABLE SUMMARY

ADD DOCUMENT Field marked with red asterisk (\*) are mandatory

Document type *	Document Number *	Document Date DD/MM/YYYY *	Document Value *	Export Type *	Port Code	Shipping Bill Number/Bill of Export No
Invoice *	<input type="text"/>	<input type="text"/>	<input type="text"/>	Export with payment *	<input type="text"/>	<input type="text"/>
<a href="#">+ Add to Master</a>						

DOCUMENTS ADDED							
Search <input type="text"/>							
Records Per Page <input type="text"/>							
<input type="checkbox"/>	Document type <sup>↑↓</sup>	Document Number <sup>↑↓</sup>	Document Date DD/MM/YYYY <sup>↑↓</sup>	Export Type <sup>↑↓</sup>	Port Code <sup>↑↓</sup>	Shipping Bill Number/ Bill of Export No <sup>↑↓</sup>	Shipping Bill <sup>↑↓</sup> Bill of Export Dat
<input type="checkbox"/>	Invoice	1342/1	2-Jun-19	EXPWP	123ASA	1342/1	2-Jun
<input type="checkbox"/>	Invoice	1342/2	3-Jun-19	EXPWOP	123456	1342/2	3-Jun
<input type="checkbox"/>	Invoice	1342/3	5-Jun-19	EXPWP	-	-	-
<input type="checkbox"/>	Debit note	1341/1D	10-Jun-19	EXPWP	-	-	-
<input type="checkbox"/>	Credit note	1341/1C	14-Jun-19	EXPWP	-	-	-

Amendment relating to export supplies can be done in Table 3C & 3D of Form GST ANX-1A which will be effective on filing of Form GST RET-1A.

#### Table 3E: Supplies to SEZ units/developers with payment of tax (including edit/amendment)

Supply of goods and/or services to SEZ unit / developer made with payment of tax shall be reported here.

- Ø Debit/credit note relating to these supplies to be disclosed in this table.
- Ø Where the debit/credit note is issued for the differences in tax rate, taxable value shall be recorded as 'Zero' so that the liability computation is not disturbed and only tax amount shall be reported in such cases.
- Ø **The supplier will have an option to select if the supplier or the SEZ units / developers will claim refund on such supplies. The SEZ units / developers being the recipient will be eligible to avail input tax credit and claim refund as per provisions of the law only if the supplier opts not to claim refund. Thereby, the credit can be claimed only once which will have to be mentioned at the time of filing the returns itself.**

Any amendment related to these supplies can be done in Table 3E of Form GST ANX-1 itself. Thereby any additional tax liability arising due to amendment in details for these supplies will have to be paid in the next month while filing the return, with the applicable interest.

#### Table 3F: Supplies to SEZ units/developers without payment of tax (including edit/amendment)

Supply of goods and/or services to SEZ unit / developer made without payment of tax i.e. under bond or LUT, shall be reported here.

- Ø Debit/Credit note relating to these supplies are to be disclosed in this table.

In case any details relating to these supplies were wrongly declared during any period, amendment to the same can be done in Table 3F of Form GST ANX-1 itself.



Select Table to Add Details 3E & 3F- Supplies to SEZ with/without payment of tax (SEZ)

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**3E & 3F- SEZ Supplies With/Without Payment of Tax**

**TABLE SUMMARY** ▼

ADD DOCUMENT Field marked with red asterisk ( \*) are mandatory

Differential % of tax rate

Recipient GSTIN *	Trade/Legal Name	Document type *	Document Number *	Document Date DD/MM/YYYY *	Document Value *	Place of Supply(Name of State/UT) *	GST Payment Type *	Wo
<input type="text"/>	<input type="text"/>	Invoice ▼	<input type="text"/>	<input type="text"/>	<input type="text"/>	Select ▼	SEZ Supplies with ▼	<input type="text"/>

[+ Add to Master](#)

DOCUMENTS ADDED Records Per Page: ▼ Search

<input type="checkbox"/>	Recipient GSTIN *†	Trade/Legal name †	Document type *†	Document number †	Document date (DDMMYYYY) *†	Document value (₹) †	Place of Supply(Name of State/UT) *†	GST Payment *†
<input type="checkbox"/>	37AAAAA1234AA1Z	Ganga	Invoice	1342/1	02-Jul-19	12,800.00	Andhra Pradesh	SEZWOP
<input type="checkbox"/>	07AAAAA1234AA1Z	Yamuna	Invoice	1342/2	03-Jul-19	20,000.00	Delhi	SEZWOP
<input type="checkbox"/>	07AAAAA1234AA1Z	Bangam	Invoice	1342/3	06-Jul-19	6,400.00	Delhi	SEZWOP
<input type="checkbox"/>	37AAAAA1234AA1Z	Bangam	Debit note	1341/10	10-Jul-19	3,360.00	Andhra Pradesh	SEZWOP
<input type="checkbox"/>	07AAAAA1234AA1Z	Bangam	Credit note	1341/10	14-Jul-19	1,180.00	Delhi	SEZWOP

**BACK** **MARK FOR DELETE** **REMOVE**

Select Table to Add Details 3E & 3F- Amendment- Supplies to SEZ with/without payment of tax (SEZA)

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**3E & 3F- Supplies to SEZ units/developers with/without payment of tax (amendment)**

**TABLE SUMMARY** ▼

ADD DOCUMENT Field marked with red asterisk ( \*) are mandatory

Differential % of tax rate  Supply covered under sec 7 of IGST Act

Original Details								
Recipient GSTIN	Trade/Legal Name	Document type	Document number	Document Date DD/MM/YYYY	Recipient GSTIN/UIIN *	Trade/Legal Name	Document type *	Document
<input type="text"/>	<input type="text"/>	Invoice ▼	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Invoice ▼	<input type="text"/>

[+ Add to Master](#) [+ Add to Master](#)

DOCUMENTS ADDED

Records Per Page: [dropdown] Search: [input] [Q]

Original Details								
Recipient GSTIN *	Trade/Legal name	Document type	Document number	Document date (DDMM/YYYY) *	Recipient GSTIN	Trade/Legal name	Document type	
<input type="checkbox"/> 37AAAAA1234AA1Z	Ganga	Invoice	1342/1	2-Jun-19	37AAAAA1234AA1Z	Ganga	Invoice	
<input type="checkbox"/> 07AAAAA1234AA1Z	Yamuna	Invoice	1342/2	3-Jun-19	07AAAAA1234AA1Z	Yamuna	Invoice	
<input type="checkbox"/> 07AAAAA1234AA1Z	Sangam	Invoice	1342/3	5-Jun-19	07AAAAA1234AA1Z	Sangam	Invoice	
<input type="checkbox"/> 37AAAAA1234AA1Z	Ganga	Debit note	1341/10	10-Jun-19	37AAAAA1234AA1Z	Ganga	Debit note	
<input type="checkbox"/> 07AAAAA1234AA1Z	Ganga	Credit note	1341/10	14-Jun-19	07AAAAA1234AA1Z	Ganga	Credit note	

[BACK] [REMOVE]

**Table 3G: Deemed exports (including edit/amendment)**

**Supplies to bedecared:**

- Ø Supply of goods by a registered person,
  - Against Advance Authorization.
  - To an Export Oriented Unit (EOU)
- Ø Supply of capital goods against EPCG Authorization
- Ø Supply of gold by a bank or PSU specified in the notification No. 50/2017 Customs, dated the 30th June, 2017 (as amended), against advance authorization.

**Special points:**

- Debit/credit note relating to these supplies to be disclosed in this table.
- Where the debit/credit note is issued for the differences in tax rate, taxable value shall be recorded as 'Zero' so that the liability computation is not disturbed, and only tax amount shall be reported in such cases
- The supplier will have an option to select if the supplier or the recipient will claim refund on such supplies. The recipient will be eligible to avail input tax credit and claim refund as per provisions of the law only if the supplier opts not to claim refund. Thereby, the credit can be claimed only once which will have to be mentioned at the time of filing the returns itself.

Select Table to Add Details: 3G- Deemed exports (DE)

**3G. Deemed exports**

TABLE SUMMARY

ADD DOCUMENT Field marked with red asterisk (\*) are mandatory

Differential % of tax rate  Supply covered under sec 7 of IGST Act

Recipient GSTIN *	Trade/Legal Name	Document type *	Document Number *	Document Date (DDMM/YYYY) *	Document Value *	Place Of Supply (Name of State/UT) *	Would You Claim Refund	As
<input type="text" value="Search by Recipient Name - Add to Invoice"/>	<input type="text"/>	INVOICE	<input type="text"/>	<input type="text"/>	<input type="text"/>	Select	Yes	

DOCUMENTS ADDED

Records Per Page: [dropdown] Search: [input] [Q]

Recipient GSTIN *	Trade/Legal name	Document type *	Document number *	Document date (DDMM/YYYY) *	Document value (₹) *	Place of Supply (Name of State/UT) *	Differential % of tax rate *
-------------------	------------------	-----------------	-------------------	-----------------------------	----------------------	--------------------------------------	------------------------------

<input type="checkbox"/>	07A9AA41291AA17	Carga	Invoice	13421	02-Jun-19	12800.00	Andhra pradesh	100%
<input type="checkbox"/>	07A9AA41291AA17	Yamuna	Invoice	13422	03-Jun-19	73900.00	Odisha	100%
<input type="checkbox"/>	07A9AA41291AA17	Yamuna	Invoice	13423	05-Jun-19	3400.00	Odisha	100%
<input type="checkbox"/>	07A9AA41291AA17	Carga	Invoice	13410	10-Jun-19	3100.00	Andhra pradesh	100%
<input type="checkbox"/>	07A9AA41291AA17	Carga	Credit note	13410C	14-Jun-19	1100.00	Odisha	100%

Any amendment related to these supplies were wrongly declared during any period, amendment to the same can be done in Table 3G of Form GST ANX-1 itself. Thereby any additional tax liability arising due to amendment in details for these supplies will have to be paid in the next month while filing the return, with the applicable interest.

Select Table to Add Details: 3G: Amendment- Deemed exports (DEA)

---

**3G: Deemed exports (amendment)**

**TABLE SUMMARY** Field marked with red asterisk ( \*) are mandatory

ADD DOCUMENT

Differential % of tax rate       Supply covered under sec 7 of IGST Act

Original Details							
Recipient GSTIN/UN *	Trade/Legal Name	Document type	Document number	Document Date DD/MM/YYYY	Recipient GSTIN/UN *	Trade/Legal Name	Document type *
<input type="text"/>	<input type="text"/>	Invoice *	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Invoice *
<input type="button" value="+ Add to Master"/>					<input type="button" value="+ Add to Master"/>		

DOCUMENTS ADDED Records Per Page:  Search:

<input type="checkbox"/>	Recipient GSTIN *†	Trade/Legal name †	Document type †	Document number †	Document date (DD/MM/YYYY) †	Recipient GSTIN †	Trade/Legal name †	Document
<input type="checkbox"/>	07A9AA41291AA1Z	Carga	Invoice	13421	2-Jun-19	07A9AA41291AA1Z	Carga	Invoice
<input type="checkbox"/>	07A9AA41291AA1Z	Yamuna	Invoice	13422	3-Jun-19	07A9AA41291AA1Z	Yamuna	Invoice
<input type="checkbox"/>	07A9AA41291AA17	Yamuna	Invoice	13423	5-Jun-19	07A9AA41291AA17	Yamuna	Invoice
<input type="checkbox"/>	07A9AA41291AA17	Carga	Invoice	13410	10-Jun-19	07A9AA41291AA17	Carga	Invoice
<input type="checkbox"/>	07A9AA41291AA17	Carga	Credit note	13410C	14-Jun-19	07A9AA41291AA17	Yamuna	Credit note

**Table 3H: Inward supplies attracting reverse charge**

Inward supply of goods and/or services on which the recipient is liable to pay tax under reverse charge mechanism shall be reported here.

- Ø The details are to be declared by the recipient GSTIN-wise and net of DN/CN and advances paid, if any. Invoice-wise details are not required to be disclosed.
- Ø In case the supplier is not registered then such details can be disclosed based on the PAN of such supplier.
- Ø Where the liability relating to RCM supplies is declared in this table, the credit auto-populates in

table 4(A)(5) of Form GST RET-1. In such case, GST paid on advances is also shown as eligible credit in such table. Since the credit can be availed only when the goods or services are received, the ITC relating to advances would be required to be reversed in table 4(B)(2) and can be availed once the supplies are received.

Select Table to Add Details 3H Inward supplies attracting reverse charge (RCM)

3H. Inward supplies attracting reverse charge

TABLE SUMMARY ^

No. of records	Total taxable value (₹)	Total tax amount (₹)				No. of records marked for delete
		Integrated tax	Central tax	State/UT tax	Cess	
1	2	3	4	5	6	7
5	52,000.00	2,400.00	3,920.00	3,920.00	1,200.00	--

ADD DOCUMENT
Field marked with red asterisk ( \*) are mandatory

ADD DOCUMENT
Field marked with red asterisk ( \*) are mandatory

Differential % of tax rate    Supply Covered Under Sec 7 of IGST Act

Supplier GSTIN/IPAN *	Trade/Legal Name	Place of Supply (Name of State/UT)	Action
Search by Recipient Name <a href="#">+ Add to Master</a>	<input type="text"/>	<input type="text" value="SELECT"/>	<input type="button" value=""/>

DOCUMENTS ADDED

Records Per Page 
Search

<input type="checkbox"/>	Supplier GSTIN/IPAN * *T9	Trade/Legal name *	Place of Supply (Name of State/UT) *T9	Differential % of tax rate *T9	Supply covered under Sec 7 of IGST Act *	Supply type *T9	Taxable value (₹) *T9	<input type="checkbox"/>
								Integrate
<input type="checkbox"/>	37AAAAA1234AA1Z	Ganga	Andhrapradesh	100%	No	Inter-state	10,000.00	
<input type="checkbox"/>	07AAAAA1234AA1Z	Yamuna	Delhi	100%	No	Intra-state	30,000.00	
<input type="checkbox"/>	AAAAA1234H	Sangam	Delhi	100%	No	Intra-state	5,000.00	
<input type="checkbox"/>	37AAAAA1234AA1Z	Ganga	Andhrapradesh	100%	No	Inter-state	3,000.00	
<input type="checkbox"/>	UAAAAA1234AA1Z	Ganga	Delhi	100%	No	Intra-state	1,000.00	

*In case any details relating to these inward supplies were wrongly declared during any period, amendment to the same can be done in Table 3H of Form GST ANX-1A which will be effective on filing of Form GST RET-1A.*

### Table 3I: Import of services

Inward supply of services which qualify as import of service shall be reported here. Supply of services by an SEZ units/developer to a DTA is not an import of service and need not be declared by the recipient in this table. It will be declared by the SEZ supplier in table 3B of his Form GSTANX-1.

The details are to be declared by the recipient POS-wise and net of DN/CN and advances paid, if any. Invoice-wise details are not required to be disclosed.

Select Table to Add Details
3I- Import of services (IIMPIS)

**3I. Import of Services**

TABLE SUMMARY ▲

No. of Records	Total Taxable Value (₹)	Integrated Tax (₹)	Cess (₹)	No. of Records Marked for Delete
1	2	3	4	5
0	39,002.00	4,242.00	1,050.00	

ADD DOCUMENT
Field marked with red asterisk (\*) are mandatory

Place of Supply (Name of State/UT)*	Action
<div style="border: 1px solid #ccc; padding: 2px;">Select</div>	<div style="background-color: #00a651; color: white; padding: 2px 10px; border-radius: 3px;">+</div>

DOCUMENTS ADDED

Records Per Page: 5
Search

☐	Place of Supply (Name of State/UT) **	Differential % of tax rate †	Supply type **†	Taxable value (₹) †	Tax amount (₹) †		Date of upload †	Status †	Action †
					Integrated tax (₹) †	Cess (₹) †			
☐	Delhi	100%	Inter-state	19,000.00	1,800.00	1,000.00	2-Jul-19	Uploaded	<a href="#">↶</a> <a href="#">↷</a>
☐	Delhi	100%	Inter-state	20,000.00	1,000.00	50.00	2-Jul-19	Uploaded	<a href="#">↶</a> <a href="#">↷</a>
☐	Delhi	100%	Inter-state	5,000.00	900.00	0.00	2-Jul-19	Uploaded	<a href="#">↶</a> <a href="#">↷</a>
☐	Delhi	100%	Inter-state	3,000.00	300.00	0.00	2-Jul-19	Uploaded	<a href="#">↶</a> <a href="#">↷</a>
☐	Delhi	100%	Inter-state	1,000.00	100.00	0.00	2-Jul-19	Uploaded	<a href="#">↶</a> <a href="#">↷</a>

BACK
MARK FOR DELETE
REMOVE

*In case any details relating to these inward supplies were wrongly declared during any period, amendment to the same can be done in Table 3I of Form GST ANX-1A which will be effective on filing of Form GST RET-1A.*

**Table 3J: Import of goods**

It includes details of goods imported from outside India by filing Bill of Entry(BOE). The exact amount of IGST and Cess paid at the port of import should be reported here to avail credit.

- ∅ These are supplies on which tax was already paid at the time of import. No additional liability will be created due to the declaration in this table.
- ∅ Disclosure of details in this table would be required until the integration of the ICEGATE and the GST portal.
- ∅ All import of goods from outside India to be declared here irrespective of whether credit is availed or not. The credit which is not availed will have to be reversed in table 4(B)(2) of Form GST RET-1.

Select Table to Add Details
3J- Import of goods (IIMPIS)

**3J. Import of Goods**

TABLE SUMMARY ▼

ADD DOCUMENT
Field marked with red asterisk (\*) are mandatory

Document type*	Port Code	Bill of Entry Number	Bill of Entry Date (MM/DD/YYYY)	Bill of Entry value (₹)	Place of Supply*	Action
<div style="border: 1px solid #ccc; padding: 2px;">                     INVOICE   <span style="font-size: 0.8em;">+ Add to Master</span> </div>	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	<div style="background-color: #00a651; color: white; padding: 2px 10px; border-radius: 3px;">+</div>	<input style="width: 100%;" type="text"/>	<div style="border: 1px solid #ccc; padding: 2px;">Select</div>	<div style="background-color: #00a651; color: white; padding: 2px 10px; border-radius: 3px;">+</div>

DOCUMENTS ADDED

Records Per Page:  Search

<input type="checkbox"/>	Document type *	Port code *	Bill of Entry number *	Bill of Entry date (DD/MM/YYYY) *	Bill of Entry value (₹) *	Place of Supply (Name of State/UT) *	Supply type *	Taxable value (₹) *	Integrat
<input type="checkbox"/>	Invoice	123ASA	1342/1	2-Jun-19	11,800.00	Andhra pradesh	Inter-state	10,000.00	
<input type="checkbox"/>	Invoice	123456	1342/2	3-Jun-19	23,650.00	Tamil	Inter-state	20,000.00	
<input type="checkbox"/>	Invoice	1342HF	1342/3	5-Jun-19	6,450.00	UPNI	Inter-state	5,000.00	

BACK MARK FOR DELETE REMOVE

In case any details relating to these inward supplies were wrongly declared during any period, amendment to the same can be done in Table 3J of Form GST ANX-1A which will be effective on filing of Form GST RET-1A.

**Table 3K: Import of goods from SEZ units/developers on a bill of entry**

The recipient is required to disclose the details of goods received from SEZ units/developers on bill of entry(BoE).

- Ø These are supplies on which tax was already paid at the time of import. No additional liability will be created due to the declaration in this table.
- Ø Disclosure of details in this table would be required until the integration of the ICEGATE and the GSTportal.
- Ø The SEZ unit is not required to disclose the details of these outward supplies in table 3B.

Select Table to Add Details: 3K- Import of goods from SEZ units/developers (IMPG 3EZ)

3K. Import of goods from SEZ units on a Bill of Entry

TABLE SUMMARY

ADD DOCUMENT Field marked with red asterisk (\*) are mandatory

Supplier GSTIN *	Trace/Legal Name *	Document type *	Port Code *	Bill of Entry Number *	Bill of Entry Date (MM/DD/YYYY) *	Bill of Entry value (₹) *	Place Of Supply(Name of State/UT) *	Action
<input type="text"/>	<input type="text"/>	Bill of Entry *	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Select: *	<input type="button" value="Add"/>

+ Add to Master

DOCUMENTS ADDED

Records Per Page:  Search

<input type="checkbox"/>	Supplier GST IN ID	Trade/Local Name	Document type	Port code	Bill of entry number	Bill of entry date (DDMMYYYY)	Bill of entry value (₹)	Place of supply (Name of State/UT)	Sup
<input type="checkbox"/>	07AASAA1234AA1Z	Ganga	Invoice	123456	19421	2 Jun 19	11,000.00	Andhra Pradesh	Ir
<input type="checkbox"/>	07AASAA1234AA1Z	Yamuna	Invoice	123456	19422	3 Jun 19	20,000.00	Delhi	Ir
<input type="checkbox"/>	07AASAA1234AA1Z	Yamuna	Invoice	123456	19423	5 Jun 19	6,000.00	Delhi	Ir

*In case any details relating to these inward supplies were wrongly declared during any period, amendment to the same can be done in Table 3K of Form GST ANX-1A which will be effective on filing of Form GST RET-1A.*

**Table 3L: Missing documents on which credit has been claimed**

Under the new returns, credit is available to a recipient on the basis of the invoices uploaded by the supplier. However, a recipient filing returns in Form GST RET-1 is provided with an additional facility of availing credit on those invoices also which are not uploaded by the supplier in his Form GST ANX- 1 during a particular tax period by mentioning the amount in table 4A(10) of Form GST RET-1. In such a scenario, if the supplier does not upload the invoices even after a lapse of 2 months (in case of monthly returns) or 1 quarter (in case of quarterly returns), the recipient is required to report the details of such invoices in this table.

The above exercise would provide a ready data to the department of the supplies and the suppliers in respect of which credit has been claimed but tax has not been paid by the supplier. This data in the present scheme of returns is available only as a number, on the basis of reconciliation of Form GSTR-2A and GSTR-3B, which again has to be further drilled down to identify the actual amount of credit availed in respect of which tax is not paid by the supplier. This should help in faster recovery of amounts by the department by way of issue of letters/notices and thereby increase compliance.

- Ø After the recipient declares the supplies in this table, if the supplier uploads the invoices in his Form GST ANX-1, the credit relating to such uploaded invoices will have to be reversed in table 4B(3) of Form GSTRET-1.
- Ø The above is required to be done because once the invoices are uploaded by the supplier in Form GST ANX-1, the same is available as credit to the recipient on which he has availed the provisional credit previously in table 4A(10) of Form GST RET-1. Non-reversal will lead to duplication of credit.

Select Table to Add Details: 3.- Missing documents (provisional credit availed)

3.- Missing invoices on which credit has been claimed in (T-2) / (T-1) tax period and supplier has not reported the same in filing of return for the current tax period

TABLE SUMMARY

ADD DOCUMENT Field marked with red asterisk (\*) are mandatory

Differential % of tax rate  Supply covered under sec. 7 of IGST Act

Supply Relates to Table *	Recipient GSTIN *	Trade/Legal Name *	Document type *	Document Number *	Document Date DD/MM/YYYY *	Document Value *	Place Of Supply (Name of State/UT) *
3B (B2B) <a href="#">Add to Master</a>							Select *

DOCUMENTS ADDED H80005 INF Page Search

<input type="checkbox"/>	Supply relates to table *T#	Recipient GSTIN #	Trade/Legal name #	Document type *T#	Document number #	Document date (DD/MM/YYYY) #	Document value (₹) #	Place of Sup (Name of State)
<input type="checkbox"/>	3B (B2B)	37AAAAA1234AA1Z	Ganga	Invoice	13421	2-Jun-19	11,800.00	Andhra Pradesh
<input type="checkbox"/>	3J (L1C)	07AAAAA1234AA1Z	Yamuna	Invoice	13422	3-Jun-19	23,000.00	Delhi
<input type="checkbox"/>	3J (L1C)	07AAAAA1234AA1Z	Yamuna	Invoice	13423	5-Jun-19	9,400.00	Delhi
<input type="checkbox"/>	3E (SEZ/EP)	37AAAAA1234AA1Z	Ganga	Debit note	13411D	10-Jun-19	3,000.00	Andhra Pradesh
<input type="checkbox"/>	3D (B2D)	07AAAAA1234AA1Z	Yamuna	Credit note	13411C	14-Jun-19	1,200.00	Delhi

**BACK** **MARK FOR DELETE** **REMOVE**

**Table 4: Details of the supplies made through e-commerce operators liable to collect tax under section 52 (out of any outward supplies declared in table 3)**

These are not additional supplies that need to be declared but is a consolidated summary of the supplies that are already declared in table 3 of Form GST ANX-1 where the same are supplied through an e-commerce operator who is required to collect tax at source u/s 52 of the CGST Act.

Select Table to Add Details: 4- Supplies made through e-commerce operators

4-Details of the supplies made through e-commerce operators liable to collect TCS under section 52 (out of the outward supplies declared in table 3)

TABLE SUMMARY

Number of E-Com GSTINs	Value Of Supplies Made	Value Of Supplies Returned	Net Value Of Supplies	Total Tax Amount (₹)			
				Integrated Tax	Central Tax	State/UT Tax	Cess
1	2	3	4	5	6	7	8
5	95,000.00	3,000.00	92,000.00	1,800.00	3,150.00	3,150.00	500.00

ADD DOCUMENT Field marked with red asterisk (\*) are mandatory



GSTIN of E-commerce Operator *	Trade/Legal Name	Value of Supplies Made (₹) *	Value Of Supplies Returned (₹) *	Net Value Of Supplies (₹) *	Integrated Tax (₹)	Central Tax (₹)	State/UT Tax (₹)	Ces (₹)
Search by Recipient Name as in 1 <a href="#">+ Add to Master</a>								
DOCUMENTS ADDED								
<div style="text-align: right;"> <span>HE0005 Per Page</span> <input type="text" value="Search"/> </div>								
GSTIN of E-commerce Operator *	Trade/Legal name *	Value of Supplies Made (₹)	Value Of Supplies Returned (₹)	Net Value Of Supplies (₹)	Integrated tax (₹) *	Central	State/UT	Ces
<input type="checkbox"/>	09BSALP0028A1ZL	Kavril	-0.000.00	2,000.00	8,000.00	1,500.00		
<input type="checkbox"/>	10BSALP0028A1ZL	XYZ	20,000.00	4,000.00	16,000.00	0.00		1
<input type="checkbox"/>	10BSALP0028A1ZL	XYZ	25,000.00	2,000.00	23,000.00	0.00		
<input type="checkbox"/>	10BSALP0028A1ZL	XYZ	5,000.00	3,000.00	12,000.00	0.00		
<input type="checkbox"/>	10BSALP0028A1ZL	XYZ	25,000.00	2,000.00	23,000.00	0.00		
<input type="button" value="BACK"/> <input type="button" value="MARK FOR DELETE"/> <input type="button" value="REMOVE"/>								

**Other Key Points**

- ✚ All suppliers with annual aggregate turnover of more than Rs.5crore and that in relation to exports, imports and SEZ supplies will upload HSN level data. HSN code shall be reported at least at six digit level. Other taxpayers (turnover up to Rs. 5 crore) shall have an optional facility to report HSN code.
- ✚ Facility for continuous uploading of invoices by the supplier at any time of the month to be introduced, and such uploaded invoice shall continuously be visible to the recipient.
- ✚ Tax amount would be auto calculated based on taxable value and tax rate. The same cannot be edited except by way of issue of credit/debit note. However, the cess liability needs to be reported manually.
- ✚ Negative figures can also be reported in a table in case value of the credit notes issued during the tax period exceed the taxable value of the supplies reported in the form during such period.

**Transitional arrangement**

For the period ended December 2019 onwards the Forms GSTR-3B and GSTR-1 will not be available and the registered person will have to file returns in Form GST RET-1 along with the Forms GST ANX-1 and GST ANX-2. In such a scenario, if such person has missed disclosing any supplies in Form GSTR-1 or GSTR-3B then the same shall be disclosed in the new returns as per the below table.

**Adjustments to be made in the new returns w.r.t. supplies in Form GSTR-1 and GSTR-3B which do not match**

S. No.	Supply declared in		Details to be declared in			
	Form GSTR-1	Form GSTR-3B	Form GST ANX-1	Table reference	Form GST RET-1	Table reference
1.	Yes	Yes	No	NA	No	NA
2.	Yes	No	No	NA	Yes	3A(8)

3.	No	Yes	Yes	Respective table for the supply involved	Yes	3C(5). Reduction in output tax liability
4.	No	No	Yes	Respective table for the supply involved	No manual entry	Liability will be automatically populated as per entry in GST ANX-1

**Table B: Adjustments to be made in the new returns w.r.t. credit notes declared in Form GSTR-1 and GSTR-3B which do not match**

S. No.	Credit note declared in		Details to be declared in			
	Form GSTR-1	Form GSTR-3B	Form GST ANX-1	Table reference	Form GST RET-1	Table reference
1.	Yes	Yes	No	NA	No	NA
2.	Yes	No	No	NA	Yes	3C(5)
3.	No	Yes	Yes	Respective table for the supply in respect of which C N issued	Yes	3A(8)
4.	No	No	Yes	Respective table for the supply in respect of which C N issued	No manual entry	No manual entry required. Liability will be automatically populated as per entry in GST ANX-1

From the above it can be seen that if the details furnished in Form GSTR-1 and GSTR-3B do not match before transiting into the new returns, adjustment entries will have to be made in the new returns.

v **Editing / amending the documents uploaded in GSTANX-1**

- The details of the documents uploaded in Form GST ANX-1 can be edited or amended only by the supplier. The recipient will be able to only reset / unlock / reject the document that requires edit or amendment.
- The supplier also will be able to edit or amend only those documents that are not accepted by the recipient.
- In case the recipient has 'accepted' a particular supply in respect of which the supplier wishes to amend or edit the details, then the recipient should 'reset / unlock' such supply in his Form GST ANX-2. The documents rejected by the recipient will be communicated to the supplier only after the recipient files his returns. After this the supplier will be able to amend or edit the supply in the next tax period. Until then the supplier also will not be able to edit or amend the details of the supplies.

**GST ANX- 2**

Form GST ANX-2 contains details of inward supplies:

- Received from a registered person, other than those that are liable to be paid by the**

**taxpayer under reverse charge** - These will be auto-populated as disclosed by the supplier in his Form GST ANX-1. These details will auto-populate on a near real time basis irrespective of the fact whether the supplier files his return on a monthly or quarterly basis.

- **Supplies received under bill of entry i.e. on import of goods from outside India and supplies received by a DTA unit from an SEZ supplier / developer** - These will be auto-populated as per the details uploaded by the taxpayer in table 3J and 3K of Form GST ANX-1.

**Details that are visible in Form GST ANX-2**

With respect to the invoices that auto-populate in the form the following details will be visible:

- i. **GSTIN and trade name of the supplier** – These details will be available if the supplier is registered.
- ii. **Table reference of Form GST ANX-1** – This will enable the taxpayer to identify the nature of the supply disclosed by the supplier and in case there is any error, the said invoice will have to be rejected to enable the supplier to make the necessary changes. For example, if the supply is a B2B supply but the supplier has uploaded the same as a B2C supply, then the invoice can be rejected by the recipient to enable the supplier to shift the table of disclosure in his Form GSTANX-1.
- iii. **PoS** – The nature of tax for any supply would depend on the PoS reported by the supplier. It is a mandatory column and GST ANX – 1 and the same will accordingly be appearing here.
- iv. **Document and other details** - In addition to the details of the document i.e. invoice date, invoice number, value and type i.e. invoice or DN or CN, etc. the recipient will also be able to know the date when the said document was uploaded by the supplier including the return filing status of the supplier i.e. whether filed or not filed. However, this detail will be made known after the due date of the return filing i.e. after 25th of the month following the tax period. However, the eligibility or otherwise of the credit will not be affected by the status of the suppliers’ returns which will be based on the provisions of the law in this regard.

GSTIN of Supplier, if applicable	Trade Name	Table of FORM GST ANX-1 (3B, 3E, 3F and 3G)	Place of supply (Name of State/UT)	Document details							HS N code	Tax rate (%)	Taxable value	Amount of tax				Action** (A/R/P)
				Type	No.	Date	Value	Date of uploading	Return status* (F/NF)	Integrat ed tax				Centr al tax	State/ UT tax	Cess		
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	
3A. Supplies received from registered persons including services received from SEZ units (other than those attracting reverse charge)																		
3B. Import of goods from SEZ units / developers on Bill of Entry																		
3C. Import of goods from overseas on Bill of Entry																		

**Actions that need to be taken by the return filer**

- ∅ **Accept:** A document shall be accepted by a recipient if the supplies has been received by the him

and the details reported by the supplier are correct. **It would be shown in Table 4 (3) of GST ANX – 2.**

- Ø **Reject:** The invoices having any error which cannot be rectified by a credit note including those invoices that do not pertain to the recipient can be rejected in Form GST ANX-2. Examples of these could be invoices where the HSN code or GSTIN is incorrect. These invoices shall be rejected by the recipient, which will be made available to the supplier for rectification in his Form GST ANX-1 after the recipient files his return. **It would be shown in Table 4 (1) of GST ANX – 2.**
- Ø **Pending:** This action is carried out on the invoices in respect of which the recipient has deferred the decision of accepting or rejecting the invoice details, which could be for various reasons like the recipient has not received the supplies or decides not to avail the credit presently, etc. These will not be treated as rejected invoices but will be available to the recipient in his Form GST ANX-2 in the next month for carrying out the action of either accept or reject. The supplier will not be able to make any amendment in these invoices that are kept pending by the recipient. Further, the ITC in respect of these invoices will be available only in the month in which they are accepted. **It would be shown in Table 4 (2) of GST ANX – 2.**
- Ø **DefaultAction:** Where no action is taken on any invoices and the Form GST RET-2 is filed, such invoices would be deemed to have been accepted by the recipient. Hence, with respect to the invoices that are being auto-populated in Form GST ANX-2, the recipient only need to perform reject and pending actions and then can proceed to file Form GST RET-2.
- Ø **Unlock/reset:** Option to reset the action taken by the recipient would be provided in Form GST ANX-2 that too only to the recipient. For example, a recipient who had accepted credit against an invoice which had an error and the same cannot be rectified by a credit note, then he shall reset the earlier action and reject the invoice. Also, the facility to unlock the draft action taken by the recipient shall be available, prior to filing of Form GST RET-2.

Select Table for Taking Actions: 3A - (3B) - Supplies from registered persons (RDR) Field marked with red asterisk (\*) are mandatory

3A - (3B) - Supplies from registered persons (B2B) - (From table 3B of ANX-1)

TABLE SUMMARY ▲

GSTIN	Trade/Legal Name	Accepted		Rejected		Pending	
		No. of documents	Total tax amount (₹)	No. of documents	Total tax amount (₹)	No. of documents	Total tax amount (₹)
1	2	3	4	5	6	7	8
07AAAP1254K1A7 <a href="#">+ Add to Master</a>	Medicine Point	6	15,750.00	1	3,000.00	0	0.00
03BBBP3456PB3D <a href="#">+ Add to Master</a>	Drug centre	3	25,450.00	0	0.00	1	3,750.00

Supplies view: Document wise Search  Records Per Page  Select columns to display/hide

Select	GSTIN of supplier <input type="checkbox"/>	Trade/Legal name <input type="checkbox"/>	Taxable value (₹) <input type="checkbox"/>	Integrated tax (₹) <input type="checkbox"/>	Central tax (₹) <input type="checkbox"/>	State/UT tax (₹) <input type="checkbox"/>	Cess (₹) <input type="checkbox"/>	Supplier's tax period <input type="checkbox"/>	Supplier's return status <input type="checkbox"/>	Action (Select All)	Action taken <input type="checkbox"/>	
										Accept <input type="radio"/>	Reject <input type="radio"/>	Pending <input type="radio"/>
<input type="checkbox"/>	+ 07AAAP1254K1A7	Medicine Point	3,75,000.00	0.00	9,375.00	9,375.00	0.00	Jun'19	NF	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
<input type="checkbox"/>	+ 03BBBP3456PB3D	Drug centre	5,04,000.00	29,200.00	0.00	0.00	0.00	Jun'19	NF	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Select	GSTIN of supplier	Trade/Legal name	Document type	Document number	Document date	Document value (₹)	Place of supply (Name of State/UT)	Taxable value (₹)	Integrated tax (₹)	Central tax (₹)	State/UT tax (₹)	Cess (₹)	ITC entitlement
<input type="checkbox"/>	07AAAPR1234K1AZ	Medicine Point	Invoice	Inv-110	04/06/2019	₹2,000.00	Delhi	₹0,000.00	0.00	1,000.00	1,000.00	0.00	
<input type="checkbox"/>	07AAAPR1234K1AZ	Medicine Point	Invoice	Inv-115	05/06/2019	₹3,000.00	Delhi	₹0,000.00	0.00	1,500.00	1,500.00	0.00	
<input type="checkbox"/>	07AAAPR1234K1AZ	Medicine Point	Invoice	Inv-145	09/06/2019	₹2,000.00	Delhi	₹0,000.00	0.00	1,250.00	1,250.00	0.00	

ITC entitlement	Supplier's tax period	Date of uploading	Supplier's return status	Status as per portal	Matching result	Action (Select All)	Action taken	Applicable % of tax rate	Supply covered under sec 7 of IGST Act
	Jun19	15/06/2019	NF	Accepted	Exact Match	<input checked="" type="radio"/> Accept <input type="radio"/> Reject <input type="radio"/> Pending	Accepted	100	No
	Jun19	15/06/2019	NF	Rejected	Match with Approximation Reason	<input type="radio"/> Accept <input checked="" type="radio"/> Reject <input type="radio"/> Pending	Rejected	100	No
	Jun19	25/06/2019	NF	Accepted	Probable Match Reason	<input checked="" type="radio"/> Accept <input type="radio"/> Reject <input type="radio"/> Pending	Accepted	100	No

**Important Note :** Upto 10<sup>th</sup> of the month, the recipient can ONLY accept or reset/unlock the invoices that are visible in his FORM GST ANX – 2. Actions of pending and reject shall be available only from 11<sup>th</sup> of the month.

**Availment of ITC where Supplier has not filed the Return**

Status of return filing of the supplier shall be available to the recipient after the due date of return filing is over. Status of return filing does not effect the eligibility of ITC, however it will effect the availment of ITC. If the supplier has not filed his return for 2 consecutive tax periods, then the recipient will not be able to take ITC in respect of the invoices showed by the supplier. The invoices would continue to appear in GST ANX – 2, but the recipient will not be able to take the ITC. For eg. If the supplier has not filed his return for the period April and May, then the recipient will not be able to take ITC in respect of the invoices uploaded by him for the month of June, unless the supplier files the earlier returns. In case of quarterly filing, the same would be for 1 quarter.

**Rejection of Invoice Earlier Accepted**

If a taxpayer wishes to reject an invoice which had been earlier accepted by him, a separate functionality on the same would be provided. The recipient can search and reject an invoice against which ITC had been earlier availed. Reversal for the same alongwith adjustment needs to be made in GST RET – 1. Interest on the same shall arise.

**Treatment of Invoices Uploaded after 10<sup>th</sup> of the Month**

Supplier can upload the invoice even after 10<sup>th</sup> of the month following the month for which return is to be filed. The same would be available for viewing to the recipient as well. However, no action can be taken by

the recipient and ITC on the same shall not be available. Invoices uploaded after 10<sup>th</sup> will however be added to the liability of the supplier.

### GST RET -1

It is to be filed on a monthly basis by taxpayers having a turnover of more than Rs. 5 Cr in previous Financial Year. It may also be filed by taxpayers having a turnover of less than Rs. 5 Crore on Quarterly as well as monthly basis. RET- 1 requires exhaustive disclosure of all the transactions of the taxpayer. Person making Zero – rated supplies, supplies to SEZ units/developers and deemed exports must mandatorily file GST RET – 1.

Form GST RET-1 is a summary of the details of tax liability reported in Form GST ANX-1 and the summary of action taken in inward supply details appearing in Form GST ANX-2. The information from these two forms would be auto-populated in the main return, Form GST RET-1. It is the only return to be submitted by the taxpayer.

Following are an overview of the contents of said form:

Table	Contents
1 & 2	Basic Information
3	Summary of Outward Supplies 1. Auto – populated from GST ANX – 1, and 2. Adjustment to tax liability by way of manual entry by taxpayer
4	Summary of inward supplies 1. Auto – populated from Form GST ANX – 1. 2. Auto – populated from Form GST ANX – 2. 3. Adjustment of ITC by way of manual entry by taxpayer
5	TDS/TCS Credit to ledger
6	Interest and Late Fee 1. Auto – populated 2. Manual Entry
7 & 8	1. Payment of tax 2. Refund Claim from E – Cash ledger

Thus, GST RET – 1 can be bifurcated in 2 parts. First, which is auto – populated from GST ANX – 1 & GST ANX – 2. Secondly, the details which are required to be manually entered in the Form. The same has been explained below in detail.

#### Entries Auto – Populated from GST ANX - 1

**Table 3A:** Details of outward supplies shall be auto – populated from GST ANX – 1. All types of supplies i.e. B2C, B2B, Exports with and without payment of tax, supplies to SEZ with and without payment and deemed exports shall be auto populated from Table No 3A to 3G of GST ANX – 1.

**Table 3B:** Details of Inward supplies attracting RCM shall be auto – populated from GST ANX – 1. Inward supplies attracting reverse charge and import of supplies shall be auto – populated from Table 3H & 3I of GST ANX – 1.

**Table 3C:** Details of Debit/Credit notes, other than RCM needs to be shown here. It shall be auto – populated from Table 3B to 3G of GST ANX – 1.

**Table 4A:** Details of ITC which are auto – populated from GST ANX – 1 shall be shown here. It would include Inward supplies attracting RCM, Import of goods and services and import of goods from SEZ Units/ Developers. Table 3H to 3K would be auto – populated here.

**Entries Auto – Populated from GST ANX – 2**

**Table 4A:** Details of ITC based on action taken by the recipient would be in GST ANX -2 shall be auto – populated here. It includes details of documents rejected, documents kept pending, documents accepted and ISD Credit reported in FORM GST – 6 filed by ISD. It would be auto – populated from Table 4(1), 4(2), 4(3) and Table 5 of GST ANX – 2. It would be net of debit/ credit notes.

**Table 4B (1):** Credit on documents which had earlier been accepted in previous period but rejected in current tax period shall be auto – populated here. It shall also be net of debit/ credit notes. It depends upon on the action taken by the recipient on already accepted data.

**Entries Auto – Populated from GST PMT – 08**

**Table 4D:** ITC declared during the first 2 months of the quarters in case of quarterly return filers shall be auto – populated here. It shall be auto – populated from Table 3(3) of GST PMT – 08 as declared by the taxpayer during monthly payment of taxes.

**Entries Auto – Populated from GST PMT – 08**

Entries need to be made in various parts of table 3,4,5 & 6 manually. These are explained below:

**Table 3A (8):** Liabilities relating to prior period to the introduction of new return filing system needs to be reported in this table. It would include cases where supplies had been shown in GSTR – 1 but payment was not made in GSTR3B and RCM Liability not paid for the past periods for which credit had been availed before the introduction of new return filing mechanism.

**Table 3C (3):** It would include details of advances received in the current period. It shall be shown net of refunds made. Any adjustments required to be made in advances for prior period also needs to be adjusted here itself. Focus should be given that advances net of refunds are to be given here and not net of adjustments.

**Table 3C (4):** It would include details of advances adjusted by issue of invoices in respect of which taxes had been paid earlier.

**Table 3C (5):** Details of reduction in tax liability on any account needs to be disclosed here. It is a residuary entry where any reduction can be reported. It is important to understand that it is only for reduction in liability. Any invoice which was missed in GSTR – 1 but liability was paid in GSTR3B would be disclosed in GST ANX – 1 and would be auto – populated in GST RET – 1. Since, payment had already been made hence liability needs to be reduced. It needs to be done from this table. Next example would be if any credit note was disclosed in GSTR – 1 but liability was not reduced the same can be done here.

**Table 3D (1):** Supplies falling under the category of Exempted and Nil – Rated needs to be reported here, manually.

**Table 3D (2):** Supplies falling under the category of NON – GST supplies needs to be reported here, manually. It would also include No GST supplies and Schedule – III Supplies.

**Table 3D (3):** Supplies on which tax needs to be paid by recipient under RCM needs to be reported here, manually. It would be reported net of debit/ credit notes.

**Table 3D (4):** Supplies of goods made by SEZ Unit/developers to DTA on which DTA Unit is liable to pay GST on filing of BoE needs to be reported here, manually.

**Table 4A (4):** Eligible ITC not availed in GSTR3B for the period upto the introduction of New Returns formats needs to be availed here. It pertains to the eligible ITC which had not been availed due to any reason.

**Table 4A (10):** Provisional ITC where no documents are uploaded by the supplier needs to be disclosed here. This facility is available only to taxpayers filing GST RET – 1. It should be reported net of ineligible

credits. It would mean that invoices not shown by suppliers and ineligible under Section 17(5) i.e. blocked credits need not be reported here.

**Table 4A (11):** Any upward adjustment in ITC needs to be made from this part of Table. For eg, excess ITC was reversed in earlier tax period, then the same can be availed by reporting in this part of Table. If any ITC was reversed on account of non – payment within 180 days and now the payment being made ITC can be reclaimed by reporting it in this part. Any other cases which required upward adjustment in ITC needs to be reported here.

**Table 4B (2):** Out of the credit in respect of invoices which had been earlier accepted, if ITC needs to be reduced on account of ineligibility, the same needs to be done here. Ineligible ISD credit also needs to be reported here. Any reversal on account of Rule 37, 39, 42 and 43 need NOT be disclosed here as a separate part has been allotted for the same. Also, ineligible credit out of missing invoices also need not be disclosed.

**Table 4B (3):** Reversal of credit in respect of supplies on which provisional ITC had been availed needs to be reported here. If ITC had been availed on a provisional basis, then the same needs to be reversed when the invoices are shown by the supplier as the invoices needs to be accepted once they appear on the portal. This would be net of ineligible credit as earlier in Table 4A(10), it had been disclosed in the same manner.

**Table 4B (4):** Reversal of ITC on account of Rule 37, 39, 42 and 43 needs to be reported here.

**Table 4B (5):** Reversal on any account other than those discussed above needs to be done in this part of Table. Any other downward adjustment of ITC also needs to be done in this part. For eg. Reversal of ineligible credit on import of services needs to be reported here. Tax paid under RCM on advances needs to be reported here as ITC can be availed only once services have been performed and not on advances.

**Table 4E:** Bifurcation pertaining to Input Services and Capital Goods for ITC that has been availed during the tax period net of reversals needs to be disclosed here.

**Table 5:** Amount of TDS & TCS Credit received in Electronic Cash Ledger needs to be reported in this Table. Entries would be auto – populated based on the returns filed by the persons who have deducted or collected tax at source i.e GSTR – 7 and GSTR – 8.

**Table 6:** Interest and late fee liability needs to be shown here. Interest and late fee due to late filing of return including late reporting of invoices and rejection of accepted documents by recipient needs to be disclosed on Part 1 of Table 6. It is auto computed by the system. Interest on account of reversal of ITC needs to be shown in Part 2 of Table 6. Interest on account of late reporting to supplies attracting RCM needs to be disclosed in Part 3 of Table 6. Any other interest liability needs to be reported in Part 4. Interest in Part 2, 3 and 4 needs to be self – calculated by taxpayer.

**Table 7:** This is for payment of tax. It has 5 parts, namely, tax payable, tax already paid, adjustment of negative liability of previous period, paid through ITC and paid in Cash.

Tax payable would be auto – populated from Table 3E of GST RET – 1. Tax already paid would pertain to taxes paid in case of quarterly filing during the first 2 months. Adjustment of negative liability would account for any amendment in form GST ANX – 1 or from GST RET – 1A where decrease in tax liability arises. Paid through ITC would provide the suggested ITC Utilization. Refund from the electronic cash ledger can be filed while filing form GST RET – 1.

**GST RET – 2:** It is also known as Sahaj. Only those taxpayers whose turnover in a financial year does not exceed Rs. 5 Cr. and are making supplies to only B2CS customers are eligible for filing this return.

**GST RET – 3:** It is also known as Sugam. Only those taxpayers whose turnover in a financial year does not exceed Rs. 5 Cr. and are making supplies to B2B as well as B2CS customers are eligible for filing this return.



**Important Points to be noted**

1. If any taxpayer has aggregate turnover less than Rs. 5 Cr. but is engaged in supply of zero rated goods, then it can not opt for Sahaj or Sugam return and has to compulsorily file normal return i.e. GST RET – 1. However, if it is making supply of Nil rated, exempted and NON – GST supply, then it can opt for Sahaj or Sugam as applicable.
2. Any taxpayer engaged in making supply to SEZ units or SEZ Developers or deemed exports also shall not be eligible for Sahaj and Sugam returns.
3. Any taxpayer making supply to E- Commerce Operator has to file normal return i.e. GST RET – 1, only.
4. With respect to ITC, if a taxpayer has made import of services or import of goods from outside India or from SEZ, then they shall not be eligible to file Sahaj and Sugam return.

Likewise, a very important aspect is that if any taxpayer wishes to avail ITC of missing invoices, then such taxpayer must file normal return i.e. GST RET – 1, mandatorily and cannot opt to file Sahaj or Sugam Return.

**PMT – 08**

It is the payment return. Any payment including setoff of taxes needs to be made from this form.

**Switching by taxpayer with respect to periodicity or nature of Form**

1. The option to select periodicity of return filing can be selected only once at the beginning of the financial year and cannot be switched in between the financial year.
2. Wherein, a taxpayer wishes to change the type of form from GST RET – 1 to Sahaj or Sugam or from Sugam to Sahaj, then it will be allowed once during a financial year at the beginning of the any quarter.
3. If a taxpayer wishes to switch from Sahaj to Sugam or Sugam/Sahaj to GST RET – 1, then the same shall be allowed multiple times during the year but only at the beginning of any quarter.

**SKKA Comments : If a taxpayer opts to switch to a more simpler return, then the same can be switched only once, but if a taxpayer opts to switch from a simple return to a more detailed return, the such switching has been allowed multiple times during a financial year.**

**Interest and Late Fee Self Calculation by Portal**

In 3 cases, interest and late fee would be self-calculated by the portal. In all other cases, interest shall be calculated on self – assessment basis by the taxpayers. The 3 cases are:

1. Late filing of Return
2. Making Late Payment of taxes, and
3. Upload the preceding Tax Period Invoices.

If ITC is reversed due to any reasons, then interest on the same needs to be self – calculated and accordingly adjustment shall be made in GST RET – 1. Payment shall be made accordingly.

**Filing of NIL Return**

NIL return can only be filed if following 3 conditions are satisfied:

1. No document must have been uploaded in GST ANX – 1.
2. No inward supplies must have been auto – populated in GST ANX – 2.
3. No other information is required to be reported in the main return i.e. GST RET – 1/2/3.