

J.K. SHAH CLASSES

GST AMENDMENTS : IPCC NOV 2018 EXAM

Note: In this study material those amendments are given which are not included in study material distributed among students

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SUPPLY UNDER GST

1. Clarification on taxability of printing contracts

Issue: Whether supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or other contents supplied by the recipient of such supplies, would constitute supply of goods falling under Chapter 48 or 49 of the First Schedule to the Customs Tariff Act, 1975 or supply of services falling under heading 9989 of the scheme of classification of services annexed to *Notification No. 11/2017-CT(R)*?

Clarification: In the above context, it is clarified that supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc. printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies and the question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.

Principal supply has been defined in section 2(90) of the CGST Act as 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.

In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services.

In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. falling under Chapter 48 or 49, printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods falling under respective headings of Chapter 48

or 49 of the Customs Tariff.

[Circular No. 11/11/2017 GST dated 20.10.2017]

2. Clarification on Inter-State movement of various modes of conveyance, carrying goods or passengers or for repairs and maintenance

Issue: Whether inter-state movement of various modes of conveyance carrying goods or passengers or both, or for repairs and maintenance, between distinct persons as specified in section 25(4) of the CGST Act [except in cases where such movement is for further supply of the same conveyance], is leviable to IGST?

Clarification: In the above context, the legal provisions in GST laws are as under:

- a) As per section 24(1)(i) of the CGST Act, persons making any inter-State taxable supply shall be required to be registered under this Act. *[Persons making inter-State supplies of taxable services and having an aggregate turnover upto ` 20 lakh in a financial year have been exempted from obtaining compulsory registration under section 24(i) of the CGST Act – Refer amendment given in point 1 under Chapter 9: Registration].*
- b) As per section 25(4) of the said Act a person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.
- c) Schedule I to the said Act specifies situations where activities are to be treated as supply even if made without consideration which also includes supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business
- d) Section 7(2) of the CGST Act envisages that activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

Against the above background, the issue of inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the said Act, not involving further supply of such conveyance, including-

- i. Trains,
- ii. Buses,
- iii. Trucks,
- iv. Tankers,
- v. Trailers,
- vi. Vessels,

vii. Containers,

viii. Aircrafts,

(a) carrying goods or passengers or both; or (b) for repairs and maintenance, [except in cases where such movement is for further supply of the same conveyance] was discussed in GST Council's meeting held on 11th June, 2017 and the Council recommended that such inter-state movement shall be treated 'neither as a supply of goods or supply of service' and therefore not be leviable to IGST.

In view of above, it is hereby clarified that the inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the CGST Act including the ones specified at (i) to (viii) of para 3, may not be treated as supply and consequently IGST will not be payable on such supply. However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance.

[Circular No. 1/1/2017 IGST dated 07.07.2017]

3. Clarification on inter-State movement of rigs, tools and spares, and all goods on wheels (like cranes)

The issue of IGST exemption on inter-State movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the CGST Act, carrying goods or passengers or both; or for repairs and maintenance, (except in cases where such movement is for further supply of the same conveyance) was examined and a circular *1/1/2017 IGST dated 07.07.2017*, was issued clarifying that such inter-state movement shall be treated "neither as a supply of goods nor supply of service" and therefore would not be leviable to IGST.

The issue pertaining to inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes] was discussed in GST Council's meeting held on 10th November, 2017 and the Council recommended that the *Circular 1/1/2017 IGST* shall *mutatis mutandis* apply to inter-State movement of such goods, and except in cases where movement of such goods is for further supply of the same goods, such inter-state movement shall be treated 'neither as a supply of goods or supply of service,' and consequently no IGST would be applicable on such movements.

It may be noted that applicable CGST/SGST/IGST, as the case maybe, is leviable on repairs and maintenance done for such goods.

[Circular No. 21/21/2017 GST dated 22.11.2017]

4. Clarification on issues regarding treatment of supply by an artist in various States and supply of goods by artists from galleries

Issue: In case of supply of art works by artists in different States other than the State in which they are registered as a taxable person, if the art work is selected by the buyer, then the supplier issues a tax invoice only at the time of supply. Artists give their work of art to

galleries where it is exhibited for supply. Issue is whether this activity is taxable in the hands of the artist when the same is given to the art gallery or at the time of actual supply by the gallery.

Clarification: It is seen that rule 55(1)(c) of the CGST Rules (hereafter referred as “the said rules”) provides that the supplier shall issue a delivery challan for the initial transportation of goods where such transportation is for reasons other than by way of supply. Further, sub-rule (3) of the said rule provides that the said delivery challan shall be declared as specified in rule 138 of the said Rules. It is also seen that sub-rule (4) of rule 55 of the said rules provides that where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.

A combined reading of the above provisions indicates that the art work for supply on approval basis can be moved from the place of business of the registered person (artist) to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of actual supply of art work.

It is also clarified that the supplies of the art work from one State to another State will be inter-State supplies and attract IGST. It is further clarified that in case of supply by artists through galleries, there is no consideration flowing from the gallery to the artist when the art works are sent to the gallery for exhibition and therefore, the same is not a supply. It is only when the buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply.

[Circular No. 22/22/2017 GST dated 21.12.2017]

5. Clarification regarding GST on certain services

(1) Issue : Whether activity of bus body building, is a supply of goods or services?

Clarification: In the case of bus body building there is supply of goods and services. Thus, classification of this composite supply, as goods or service would depend on which supply is the principal supply which may be determined on the basis of facts and circumstances of each case.

(2) Issue: Whether retreading of tyres is a supply of goods or services?

Clarification: In retreading of tyres, which is a composite supply, the predominant element is the process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply. Which part of a composite supply is the principal supply, must be determined keeping in view the nature of the supply involved. Value may be one of the guiding factors in this determination, but not the sole factor. The primary question

CHARGE OF GST

All amendments incorporated in notes except following

1. Clarification on classification of cut pieces of fabrics under GST
(Unstitched Salwar Suits)

It has been represented that before becoming readymade articles or an apparel, the fabric is cut from bundles or thans and sold in that unstitched state. The consumers buy these sets or pieces and get it stitched to their shape and size.

Fabrics are classifiable under chapters 50 to 55 of the First Schedule to the Customs Tariff Act, 1975 on the basis of their constituent materials.

Mere cutting and packing of fabrics into pieces of different lengths from bundles or thans, will not change the nature of these goods and such pieces of fabrics would continue to be classifiable under the respective heading as the fabric.

[Circular No. 13/13/2017 GST dated 27.10.2017]

EXEMPTIONS FROM GST

Note: Most of the amendments pertaining to this chapter are covered in study material, however for sake of continuity all amendments are given below (inclusive of amendments given in study material)

1. New exemptions for supply of services from GST

Notification No. 12/2017 CT (R) dated 28.06.2017, which grants exemption to supply of intra-State services from CGST, has been amended as under:

- (1) Supply of services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 World Cup 2017 to be hosted in India, have been exempted from CGST.

The exemption will be available if the Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U17 World Cup 2017 CGST **[Notification No. 21/2017 CT (R) dated 22.08.2017]**.

- (2) Supply of service provided by Fair Price Shops to Central Government by way of sale of wheat, rice and coarse grains under Public Distribution System (PDS) against consideration in the form of commission or margin, have been exempted from CGST vide serial no. 11A of the notification **[Notification No. 21/2017 CT (R) dated 22.08.2017]**.
- (3) Supply of service provided by Fair Price Shops to State Governments or Union territories by way of sale of kerosene, sugar, edible oil, etc. under Public Distribution System (PDS) against consideration in the form of commission or margin, have been exempted from CGST vide serial no. 11B of the notification **[Notification No. 21/2017 CT (R) dated 22.08.2017]**.
- (4) With effect from 15.11.2017, the exemptions under serial nos.11A and 11B [as given in points (2) & (3)] have been merged under serial no. 11A which now exempts service provided by Fair Price Shops to Central Government, State Government or Union territory by way of sale of food grains, kerosene, sugar, edible oil, etc. under Public Distribution System against consideration in the form of commission or margin . Consequently, serial no. 11B has been omitted **[Notification No. 47/2017 CT (R) dated 14.11.2017]**.
- (5) Earlier supply of services of general insurance business provided under “Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme” and “National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana)”, were exempted from CGST.

The notification has been amended to substitute the words “Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme” and “National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana)” with the words “Restructured Weather Based Crop

Insurance Scheme (RWCIS)” and “Pradhan Mantri Fasal Bima Yojana (PMFBY)” respectively.

Therefore, under the amended position, supply of services of general insurance business provided under “Restructured Weather Based Crop Insurance Scheme (RWCIS)” and “Pradhan Mantri Fasal Bima Yojana (PMFBY)”, are exempted from CGST **[Notification No. 21/2017 CT (R) dated 22.08.2017]**.

- (6) It has been clarified by inserting clause (iii) in the Explanation to the notification that a “Limited Liability Partnership” formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a partnership firm or a firm **[Notification No. 21/2017 CT (R) dated 22.08.2017]**.
- (7) Supply of services by way of right to admission to the events organised under FIFA U-17 World Cup 2017 have been exempted from CGST **[Notification No. 25/2017 CT (R) dated 21.09.2017]**.
- (8) Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries) have been exempted from CGST **[Notification No. 30/2017 CT (R) dated 29.09.2017]**.
- (9) Supply of services by a Central Government, State Government, Union territory and local authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution, have also been exempted from CGST.

Earlier supply of such services by only a governmental authority were exempt. Thus, now supply of such services by Central Government, State Government, Union territory, local authority as well as governmental authority are exempt from CGST.

Further, definition of the “Governmental Authority” as given in the notification has also been substituted as under:

“Governmental Authority” means an authority or a board or any other body,

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- (i) set up by an Act of Parliament or a State Legislature; or
- (ii) established by any Government,

with 90% or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243W of the Constitution or to a Panchayat under article 243G of the Constitution **[Notification No. 32/2017 CT (R) dated 13.10.2017]**.

- (10) Supply of service by a Government Entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, in the form of grants, has been exempted from CGST.

Further, the term “Government Entity” has also been defined in the notification as under:

“Government Entity” means an authority or a board or any other body including a society, trust, corporation,

- (i) set up by an Act of Parliament or State Legislature; or
- (ii) established by any Government,

with 90% or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority. **[Notification No. 32/2017 CT (R) dated 13.10.2017].**

(11) Supply of services provided by a goods transport agency to an unregistered person, including an unregistered casual taxable person, other than the following recipients, namely: -

- (a) any factory registered under or governed by the Factories Act, 1948; or
- (b) any Society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or
- (c) any Co-operative Society established by or under any law for the time being in force; or
- (d) any body corporate established, by or under any law for the time being in force; or
- (e) any partnership firm whether registered or not under any law including association of persons;
- (f) any casual taxable person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act;

have been exempted from GST **[Notification No. 32/2017 CT (R) dated 13.10.2017].**

(12) Supply of service by way of access to a road or a bridge on payment of annuity, has been exempted from GST **[Notification No. 32/2017 CT (R) dated 13.10.2017].**

(13) Earlier one time upfront amount (called as premium, salami, cost, price, development charges or by any other name) leviable in respect of the service, by way of granting long term (30 years, or more) lease of industrial plots, provided by the State Government Industrial Development Corporations or Undertakings to industrial units , was exempt from CGST.

Under the amended position, the upfront amount payable in respect of service by way of granting of long term lease of 30 years, or more, of industrial plots **or plots for development of infrastructure for financial business**, provided by the State Government Industrial Development Corporations or Undertakings **or by any other entity having 50% or more ownership of Central Government, State Government, Union territory** to the industrial units **or the developers in any industrial or financial business area**, has been exempted from CGST **[Notification No. 32/2017 CT (R) dated 13.10.2017].**

(14) Earlier, pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority by way of any activity in relation

to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution, were exempted from CGST.

Under the amended position, such services provided to a Government Entity have also been exempted from CGST **[Notification No. 2/2018 CT (R) dated 25.01.2018]**. The term Government Entity has been defined under point (10) above.

(15)With effect from 15.11.2017, services by way of admission to a protected monument so declared under the Ancient Monuments and Archaeological Sites and Remains Act 1958 or any of the State Acts, for the time being in force, have been exempted from CGST **[Notification No. 47/2017 CT (R) dated 14.11.2017]**.

(16) Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution, has been exempted from CGST **[Notification No. 2/2018 CT (R) dated 25.01.2018]**.

(17) Services provided to the Central Government, by way of transport of passengers with or without accompanied belongings, by air, embarking from or terminating at a regional connectivity scheme airport, against consideration in the form of viability gap funding, are exempt from CGST. The exemption was not available on or after the expiry of a period of one year from the date of commencement of operations of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation .

Now the said exemption will not be available on or after the expiry of a period of three years from the date of commencement of operations of the regional connectivity scheme airport as notified by the Ministry of Civil Aviation **[Notification No. 2/2018 CT (R) dated 25.01.2018]**.

(18) Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India have been exempted till 30.09 .2018 **[Notification No. 2/2018 CT (R) dated 25.01.2018]**.

(19) Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India have been exempted till 30.09.2018 **[Notification No. 2/2018 CT (R) dated 25.01.2018]**. Amendment has also been made in CGST Rules to provide that value of such service may be excluded from the value of exempted services for the purpose of reversal of ITC - *Chapter 6: Input Tax Credit of this Update may be referred to for the amendment.*

(20) Earlier, services by way of giving on hire –

(a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or

(b) to a goods transport agency, a means of transportation

of goods , were exempt from CGST

Under the amended position, services by way of giving on hire motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent, have also been exempted from CGST **[Notification No. 2/2018 CT (R) dated 25.01.2018]**.

(21) Services of life insurance provided or agreed to be provided by the Naval Gro up Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government, have been exempted from CGST **[Notification No. 2/2018 CT (R) dated 25.01.2018]**.

(22) Earlier, services of life insurance business provided under, *inter alia*, life micro- insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of ` 50,000, were exempt from CGST.

Under the amended position, life insurance business provided under, *inter alia*, life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of ` 2,00,000, have been exempted from CGST **[Notification No. 2/2018 CT (R) dated 25.01.2018]**.

(23) Services by way of reinsurance of the insurance schemes specified in serial number 35 or 36 have been exempted from CGST. Under serial no 35, services of general insurance business provided under certain specified schemes have been exempted from CGST. Under serial no 36, services of life insurance business provided under certain specified schemes have been exempted from CGST **[Notification No. 2/2018 CT (R) dated 25.01.2018]**.

(24) Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR), have been exempted from CGST.

Here, the intermediary of financial services in IFSC is a person,-

- (i) who is permitted or recognised as such by the Government of India or any Regulator appointed for regulation of IFSC; or
- (ii) who is treated as a person resident outside India under the Foreign Exchange Management (International Financial Services Centre) Regulations 2015; or
- (iii) who is registered under the Insurance Regulatory and Development Authority of India (International Financial Service Centre) Guidelines, 2015 as IFSC Insurance Office; or
- (iv) who is permitted as such by Securities and Exchange Board of India (SEBI) under the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015 **[Notification No. 2/2018 CT (R) dated 25.01.2018]**.**

(25) Entry at serial no. 45 prescribing exemption for legal services has been amended. Under the amended position, the following services have also been exempted from CGST:

- (i) services provided by an arbitral tribunal to the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;
- (ii) services provided by a partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity;
- (iii)** services provided by a senior advocate by way of legal services to the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity
[Notification No. 2/2018 CT (R) dated 25.01.2018].

(26) Services by way of fumigation in a warehouse of agricultural produce have been exempted from CGST **[Notification No. 2/2018 CT (R) dated 25.01.2018].**

(27) Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of fumigation in a warehouse of agricultural produce, have been exempted from CGST **[Notification No. 2/2018 CT (R) dated 25.01.2018].**

(28) Earlier, services by a specified organisation in respect of a religious pilgrimage facilitated by Ministry of External Affairs the Government of India, under bilateral arrangement were exempted from CGST vide entry at serial no. 60.

The said entry has been amended to omit the words "Ministry of External Affairs" therefrom **[Notification No. 2/2018 CT (R) dated 25.01.2018].**

(29) Services by way of providing information under the Right to Information Act, 2005 have been exempted from CGST **[Notification No. 2/2018 CT (R) dated 25.01.2018].**

(30) Entry at serial no 66 providing for exemption to educational services has been amended. Earlier, the entry laid down that:-

Services provided –

- (a) by an educational institution to its students, faculty and staff;
- (b) to an educational institution, by way of,
 - (i) transportation of students, faculty and staff;
 - (ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;
 - (iii) security or cleaning or housekeeping services performed in such educational institution;
- (iv)** services relating to admission to, or conduct of examination by, such institution **upto higher secondary**

were exempt from CGST.

However, nothing contained in entry (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.

The amended entry lays down that-

Services provided –

- (a) by an educational institution to its students, faculty and staff;
- (b) (aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;
- (c) to an educational institution, by way of, -
 - (i) transportation of students, faculty and staff;
 - (ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;
 - (iii) security or cleaning or housekeeping services performed in such educational institution;
 - (iv) services relating to admission to, or conduct of examination by, such institution;
 - (v) supply of online educational journals or periodicals.

are exempt from CGST.

However, nothing contained in **sub-items (i), (ii) and (iii) of item (b)** shall apply to an educational institution other than an institution providing services by way of pre - school education and education up to higher secondary school or equivalent.

Further nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of,-

- (i) pre-school education and education up to higher secondary school or equivalent; or**
- (ii) education as a part of an approved vocational education course**

[Notification No. 2/2018 CT (R) dated 25.01.2018].

- (31)** Earlier, service by an unincorporated body or a non - profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution up to an amount of ` 5,000 per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex, was exempt from CGST.

Under the amended position, the share of contribution of a member of housing society/residential complex has been exempted up to ` 7,500 **[Notification No. 2/2018 CT (R) dated 25.01.2018].**

- (32)** Earlier, services by way of right to admission to-
- (a) circus, dance, or theatrical performance including drama or ballet;
 - (b) award function, concert, pageant, musical performance or any

sporting event other than a recognised sporting event;

- (c) recognised sporting event, where the consideration for admission is not more than Rs 250 per person as referred to in (a), (b) and (c) above

were exempt from CGST.

Under the amended position, services by way of right to admission to-

- (a) circus, dance, or theatrical performance including drama or ballet;
- (b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event;
- (c) recognised sporting event;
- (d) planetarium,

where the consideration for right to admission to the events or places as referred to in items (a), (b), (c) or (d) above is not more than Rs 500 per person [**Notification No. 2/2018 CT (R) dated 25.01.2018**].

Parallel exemptions from IGST have been extended to supply of inter-State services by amending Notification No. 9/2017 IT (R) dated 28.06.2017, which grants exemption to supply of inter-State services from IGST, vide **Notification No. 21/2017 IT (R) dated 22.08.2017, Notification No. 25/2017 IT (R) dated 21.09.2017, Notification No. 31/2017 IT (R) dated 29.09.2017, Notification No. 33/2017 IT (R) dated 13.10.2017, Notification No. 49/2017 IT (R) dated 14.11.2017 and Notification No. 2/2018 IT (R) dated 25.01.2018**.

Further, Notification No. 9/2017 IT (R) dated 28.06.2017 has also been amended as under

- (1) Inter-State supply of services having place of supply in Nepal or Bhutan, against payment in Indian Rupees have been exempted vide **Notification No. 42/2017 IT (R) dated 27.10.2017**.
- (2) Services received from a provider of service located in a non- taxable territory by way of supply of online educational journals or periodicals to an educational institution other than an institution providing services by way of-
 - (i) pre-school education and education up to higher secondary school or equivalent; or
 - (ii) education as a part of an approved vocational education course; have been exempted vide **Notification No. 2/2018 IT dated 25.01.2018**.

2. Central Government's share of profit petroleum exempted from CGST

The intra-State supply of services by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, has been exempted from so much of CGST as is leviable on the consideration paid to the Central Government in the form of Central Government's share of profit petroleum as defined in the contract entered into by the Central Government in this behalf.

[Notification No. 5/2018 CT (R) dated 25.01.2018]

Parallel exemption from IGST has been extended to inter-State supply of such services vide **Notification No. 5/2018 IT (R) dated 25.01.2018**.

3. Royalty and license fee exempted from IGST to the extent it is paid on the consideration attributable to royalty and license fee included in transaction value under Rule 10(1)(c) of Customs Valuation (Determination of value of imported Goods) Rules, 2007

IGST leviable on import of services in relation to temporary transfer or permitting the use or enjoyment of any intellectual property right has been exempted to the extent of the aggregate of the duties of customs leviable under section 3(7) of the Customs Tariff Act, 1975, on the consideration declared under section 14(1) of the Customs Act, 1962 towards royalties and license fees included in the transaction value as specified under rule 10(1)(c) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 on which the appropriate duties of customs have been paid.

[Notification No. 6/2018 IT (R) dated 25.01.2018]

4. Reverse charge on procurements made from unregistered persons deferred till June 30, 2018⁵

Notification No. 8/2017 CT (R) dated 28.06.2017 provided a general exemption from CGST for all intra-state procurements made by a registered person from an unregistered person. However, proviso to para 1 of the said notification laid down that exemption would not be available if the aggregate procurements in a day from unregistered persons exceeded ₹ 5000.

Notification No. 38/2017 CT (R) dated 13.10.2017 omitted the said proviso with effect from 13.10.2017 thereby exempting **all** intra-State procurements made by a registered person from unregistered person, without any upper limit for daily procurements. The exemption contained in *Notification No. 8/2017 CT (R)* shall, however, be available to all registered persons only till 31.03.2018.

Further, inter-State procurements made by a registered person from an unregistered person were also exempted from IGST till 31.03.2018 vide **Notification No. 32/2017 IT (R) dated 13.10.2017**.

The above exemptions have been extended till 30.06.2018 vide **Notifications No. 10/2018 CT (R) dated 23.03.2018** and **Notification No. 11/2018 IT (R) dated 23.03.2018**.

⁵ The said exemption has further been extended to 30.09.2018 vide *Notification No. 12/2018 CT (R) dated 29.06.2018* & *Notification No. 13/2018 IT (R) dated 29.06.2018*

5. Clarification on warehousing of agricultural produce

Issue: Is GST applicable on warehousing of agricultural produce such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (de-husked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts?

Clarification: As mentioned above, as per Entry 54 of Notification, GST rate on loading, unloading packing, storage or warehousing of agricultural produce is Nil. Agricultural produce in the notification has been defined to mean any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.

Processed Tea and coffee: Tea used for making the beverage, such as black tea, green tea, white tea is a processed product made in tea factories after carrying out several processes, such as drying, rolling, shaping, refining, oxidation, packing etc. on green leaf and is the processed output of the same.

Thus, green tea leaves and not tea is the “agricultural produce” eligible for exemption available for loading, unloading, packing, storage or warehousing of agricultural produce. Same is the case with coffee obtained after processing of coffee beans.

Jaggery: Similarly, processing of sugarcane into jaggery changes its essential characteristics. Thus, jaggery is also not an agricultural produce.

Pulses: Pulses commonly known as dal are obtained after dehusking or splitting or both. The process of dehusking or splitting is usually not carried out by farmers or at farm level but by the pulse millers. Therefore pulses (dehusked or split) are also not agricultural produce. However, whole pulse grains such as whole gram, rajma etc. are covered in the definition of agricultural produce.

In view of the above, it is hereby clarified that processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (dehusked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc. fall outside the definition of agricultural produce and therefore the exemption from GST is not available to their loading, packing, warehousing etc. and that any clarification issued in the past to the contrary in the context of service tax or VAT/ Sales Tax is no more relevant

[Circular No. 16/16/2017 GST dated 15.11.2017].

6. Clarification on general insurance policies provided by a State Government to employees of the State Government/ Police personnel, employees of Electricity Department or students of colleges/private schools etc.

Issue: Whether GST is leviable on general insurance policies provided by a State Government to employees of the State Government/ Police personnel, employees of Electricity Department or students of colleges/private schools etc.:

- (a) where premium is paid by State Government and
- (b) where premium is paid by employees, students etc.

Clarification: It is hereby clarified that services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory are exempt from GST under Entry 40 of Notification No. 12/2017 CT (R) dated 28.06.2017.

Further, services provided by State Government by way of general insurance (managed by Government) to employees of the State Government/Police personnel, employees of Electricity Department or students are exempt vide entry 6 of aforesaid notification which exempts services by Central Government, State Government, Union territory or local authority to individuals

[Circular No. 16/16/2017 GST dated 15.11.2017].

Note: Notification No. 12/2017 CT (R) dated 28.06.2017 contains various exemptions in respect of intra-State supplies of specified services. Entry 40 of the said notification exempts services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory. Further, Entry 6 of the Notification exempts services provided by the Central Government, State Government, Union territory or local authority excluding the following services —

- (a) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory;
- (b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
- (c) transport of goods or passengers; or
- (d) any service, other than services covered under entries (a) to (c) above, provided to business entities.

7. Clarification on custom milling of paddy

Issue: Whether custom milling of paddy by Rice millers for Civil Supplies Corporation is liable to GST or is exempted under Entry 55?

Clarification: Milling of paddy is not an intermediate production process in relation to cultivation of plants. It is a process carried out after the process of cultivation is over and paddy has been harvested. Further, processing of paddy into rice is not usually carried out by cultivators but by rice millers. Milling of paddy into rice also changes its essential characteristics. Therefore,

milling of paddy into rice cannot be considered as an intermediate production process in relation to cultivation of plants for food, fibre or other similar products or agricultural produce.

In view of the above, it is clarified that milling of paddy into rice is not eligible for exemption under Entry 55 of the Notification and corresponding notifications issued under IGST and UTGST Acts.

[Circular No. 19/19/2017 GST dated 20.11.2017].

8. Clarification on services provided by a College Hostel Mess

Issue: Whether services provided by a College Hostel Mess are exempt from GST?

Clarification: It has been clarified that the educational institutions have mess facility for providing food to their students and staff. Such facility is either run by the institution/ students themselves or is outsourced to a third person.

If the catering services is one of the services provided by an educational institution to its students, faculty and staff and the said educational institution is covered by the definition of 'educational institution' as given above, then the same is exempt [covered under item (a) of entry 66 of the Notification].

If the catering services, i.e., supply of food or drink in a mess or canteen, is provided by anyone other than the educational institution, then it is a supply of service to the concerned educational institution and attracts GST

[Circular No. 28/02/2018 GST dated 08.01.2018]

9. Clarification on hostel accommodation provided by Trusts to students

Issue: Is hostel accommodation provided by Trusts to students covered within the definition of charitable activities and thus, exempt under Sl. No. 1 of Notification No. 12/2017-CT (Rate)?

Clarification: Hostel accommodation services do not fall within the ambit of charitable activities as defined in para 2(r) of Notification No. 12/2017-CT(Rate). However, services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below ` 1,000 per day or equivalent are exempt. Thus, accommodation service in hostels including by Trusts having declared tariff below ` 1,000 day is exempt.

[Circular No. 32/06/2018 GST dated 12.02.2018].

10. Clarification on health care services

(1) Issue: Hospitals hire senior doctors/consultants/ technicians independently, without any contract of such persons with the patient; and pay them consultancy charges, without there being any employer-employee relationship. Will such consultancy charges be exempt from GST? Will revenue take a stand that they are providing services to hospitals and not to patients and hence must pay GST?

Clarification: Health care services provided by a clinical establishment, an authorised medical practitioner or para-medics are exempt. [Sl. No. 74 of Notification No. 12/2017-CT(Rate) dated 28.06.2017 as amended refers]. Services provided by senior doctors/consultants/ technicians hired by the

hospitals, whether employees or not, are healthcare services which are exempt.

(2) Issue: Hospitals charge the patients, say, ₹ 10000/- and pay to the consultants/ technicians only ₹ 7500/- and keep the balance for providing ancillary services which include nursing care, infrastructure facilities, paramedic care, emergency services, checking of temperature, weight, blood pressure etc. Will GST be applicable on such money retained by the hospitals?

Clarification: Healthcare services have been defined to mean any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India [para 2(zg) of *Notification No. 12/2017- CT(Rate)*]. Therefore, hospitals also provide healthcare services. The entire amount charged by them from the patients including the retention money and the fee/payments made to the doctors etc., is towards the healthcare services provided by the hospitals to the patients and is exempt.

(3) Issue: Health care services provided by the clinical establishments will include food supplied to the patients; but such food may be prepared by the canteens run by the hospitals or may be outsourced by the Hospitals from outdoor caterers. What will be the GST implication?

Clarification: When outsourced, there should be no ambiguity that the suppliers shall charge tax as applicable and hospital will get no ITC. If hospitals have their own canteens and prepare their own food; then no ITC will be available on inputs including capital goods and in turn if they supply food to the doctors and their staff; such supplies, even when not charged, may be subjected to GST.

Food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable.

[Circular No. 32/06/2018 GST dated 12.02.2018]

11. Clarification regarding GST on certain services

(1) Issue: Whether the activities carried by DISCOMS against recovery of charges from consumers under State Electricity Act are exempt from GST?

Clarification: Service by way of transmission or distribution of electricity by an electricity transmission or distribution utility is exempt from GST under *Notification No. 12/2017- CT (R), Sl. No. 25*. The other services such as, -

- i. Application fee for releasing connection of electricity;
- ii. Rental Charges against metering equipment;
- iii. Testing fee for meters/ transformers, capacitors etc.;
- iv. Labour charges from customers for shifting of meters or shifting of service lines;
- v. Charges for duplicate bill;

provided by DISCOMS to consumer are taxable.

(2) Issue: Whether the guarantee provided by State Government to state owned companies against guarantee commission, is taxable under GST?

Clarification: The service provided by Central Government/State Government to any business entity including PSUs by way of guaranteeing the loans taken by them from financial institutions against consideration in any form including Guarantee Commission is taxable.

[Circular No. 34/08/2018 GST dated 01.03.2018]

5

TIME AND VALUE OF SUPPLY

All amendments incorporated in notes

INPUT TAX CREDIT

1. Commissioner empowered to extend the time period for submission of declaration under rule 40(1)(b) of CGST Rules

As per rule 40(1)(b) of the CGST Rules, the registered person claiming input tax credit under section 18(1) of CGST Act is required to electronically make a declaration that he is eligible to avail such credit, within 30 days from the date of becoming eligible to avail the said credit.

Rule 40(1)(b) has been amended with effect from 01.07.2017 to empower CGST/IGST Commissioner to extend the time period for submission of such declaration. Further, any extension of the time limit notified by the SGST Commissioner or UTGST Commissioner shall be deemed to be notified by the CGST/IGST Commissioner.

[Notification No. 22/2017 CT dated 17.08.2017]

2. Value of exempt supplies to exclude (i) value of services specified in **Notification No. 42/2017 IT (R) dated 27.10.2017** (ii) value of services by way of accepting deposits/ extending loans or advances against interest/discount, except banks/financial institutions/NBFCs (iii) value of services by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India , for the purpose of apportionment of common credit under rule 42 and 43

An explanation has been inserted in rule 43(2) of CGST Rules to clarify that the aggregate value of exempt supplies shall exclude the value of supply of services specified in the *Notification No. 42/2017 IT (R) dated 27.10.2017*. The explanation is also applicable for rule 42 of CGST Rules.

Rules 42 and 43 prescribe the method to apportion input tax credit attributable to exempt supplies out of common input tax credit pertaining to inputs and input services and capital goods respectively. Inter-State supply of services having place of supply in Nepal or Bhutan, against payment in Indian Rupees are specified in *Notification No. 42/2017 IT (R) dated 27.10.2017*. The said services have been exempted from IGST.

[Notification No. 55/2017 CT dated 15.11.2017]

The above explanation has been substituted with a new explanation vide **Notification No. 3/2018 CT dated 23.01.2018**. The substituted explanation clarifies that for the purpose of rules 42 and 43, the aggregate value of exempt supplies shall exclude:

- (a) the value of supply of services specified in *Notification No. 42/2017 IT (R) dated 27.10.2017* reads as under
- (b) the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution

including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances; and

- (c) the value of supply of services by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India.

1. UIN under section 25(9) of the CGST Act can also be assigned after receiving a recommendation from the Ministry of External Affairs, Government of India

Any specialized agency of the United Nations Organization or any Multilateral Financial institution and organization notified under the United Nations (Privileges and Immunities) Act, 1947, consulate or embassy of foreign countries and any other person notified by the Commissioner, is required to obtain a Unique Identity Number (UIN) from the GSTN portal. Rule 17(2) of CGST Rules provides that the proper officer may, upon submission of an application in the prescribed form or after filling up the said form, assign a UIN to the said person and issue a certificate within a period of three working days from the date of the submission of the application.

Rule 17(2) has been amended to provide that the said UIN may be assigned by the proper officer upon submission of an application in the prescribed form or after filling up the said form **or after receiving a recommendation from the Ministry of External Affairs, Government of India**. This amendment has become effective retrospectively from 22.06.2017.

[Notification No. 22/2017 CT dated 17.08.2017]

2. **Persons making inter-State taxable supplies of handicraft goods and casual taxable person making taxable supplies of handicraft goods exempted from obtaining compulsory registration subject to fulfillment of specified conditions**

As per section 24 of CGST Act, a person making inter-State taxable supplies of goods is liable to be registered compulsorily under GST irrespective of the threshold limit . [A threshold exemption from registration has been extended to persons making inter-State taxable supply of services. The same is discussed under point 4.] However, persons making inter- State supplies of handicraft goods have been exempted from obtaining registration vide **Notification No. 8/2017 IT dated 14.09.2017**.

The exemption will be available if –

- (i) the aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of **₹ 20 lakh** [**₹ 10 lakh** in case of Special Category States, other than the State of Jammu and Kashmir] in a financial year.

- (ii) persons making inter-State taxable supplies of handicraft goods obtain a PAN and generate an e-way bill.

Further, section 24 of CGST Act also requires a casual taxable person making taxable supplies to register compulsorily under GST irrespective of the threshold limit. However, a casual taxable person making taxable supplies of handicraft goods has been exempted from obtaining registration vide **Notification No. 32/2017 CT dated 15.09.2017**.

The exemption will be available if –

- (i) the aggregate value of such supplies, to be computed on all India basis, does not exceed an amount of ₹ 20 lakh [₹ 10 lakh in case of Special Category States, other than the State of Jammu and Kashmir] in a financial year.
- (ii) the casual taxable persons making taxable supplies of handicraft **obtain a PAN and generate an e-way bill**.

The above exemption shall be available to such persons who are making inter -State taxable supplies of handicraft goods and are availing the benefit of Notification No. 8/2017 IT dated 14.09.2017.

Handicraft goods: Here, handicraft goods means the products specified in the respective notifications, when made by the craftsmen predominantly by hand even though some machinery may also be used in the process.

3. Job workers engaged in making inter-State supply of services to a registered person exempted from obtaining registration with certain exceptions

The job workers engaged in making inter-State supply of services to a registered person have been exempted from obtaining registration vide **Notification No. 7/2017 IT dated 14.09.2017**. However, nothing contained in this notification shall apply to a job-worker –

- (a) who is liable to be registered under section 22(1) or who opts to take registration voluntarily under section 25(3) of the CGST Act; or
- (b) who is involved in making supply of services in relation to jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71 of the Tariff).

4. Persons making inter-State supplies of taxable services up to **Rs. 20,00,000** exempted from obtaining registration

The persons making inter-State supplies of taxable services and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of ₹ 20 lakh in a financial year have been exempted from obtaining compulsory registration.

However, the aggregate value of such supplies, to be computed on all India basis, should not exceed an amount of ₹ 10 lakh in case of following “special category States”:

Arunachal Pradesh	Assam
Manipur	Meghalaya
Mizoram	Nagaland
Sikkim	Tripura
Himachal Pradesh	Uttarakhand

It may be noted that State of Jammu & Kashmir, a special category State', has opted for

` 20 lakh threshold limit for registration.

[Notification No. 10/2017 IT dated 13.10.2017]

5. Persons making supplies of services through an ECO (other than supplies specified under section 9(5) of the CGST Act) and having aggregate turnover up to ` 20,00,000 exempted from obtaining registration

Persons making supplies of services, other than supplies specified under section 9(5) of the CGST Act, through an electronic commerce operator who is required to collect tax at source under section 52 of the said Act, and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of ` 20 lakh in a financial year, have been exempted from obtaining compulsory registration under the said Act. However, the aggregate value of such supplies, to be computed on all India basis, should not exceed an amount of ` 10 lakh in case of "special category States" (as mentioned in point 1 above). It may be noted that State of Jammu & Kashmir, a special category State', has opted for ` 20 lakh threshold limit for registration.

[Notification No. 65/2017 CT dated 15.11.2017]

Therefore, as a result of such amendment and the amendment given at point 1, all service providers, whether supplying intra-State, inter-State or through e-commerce operator, will be exempt from obtaining registration, provided their aggregate turnover does not exceed

` 20 lakh (` 10 lakh in special category States except Jammu & Kashmir).

6. Foreign Diplomatic Mission / UN Organization to be granted centralized UIN

Rule 17 of the CGST Rules has been amended to provide that the Unique Identity Number granted to any specialised agency of the UN or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries shall be applicable to the territory of India. Such centralized UIN will lessen the compliance burden on Foreign Diplomatic Missions / UN Organizations.

[Notification No. 75/2017 CT dated 29.12.2017]

7. Effective date of amendment in registration details can be earlier than the date of submission of the application for amendment only when the Commissioner orders the same for reasons to be recorded in writing

Rule 19 of the CGST Rules,2017 prescribes the provisions for amendment of particulars furnished in application for registration. The said rule has been amended to provide that any particular of the application for registration shall not stand amended with effect from a date earlier than the date of submission of the application for amendment on the common portal except with the order of the Commissioner for reasons to be recorded in writing and subject to such conditions as the Commissioner may, in the said order, specify.

[Notification No. 75/2017 CT dated 29.12.2017]

8. Application for cancellation of voluntary registration can be considered before one year from the effective date of registration

Rule 20 of CGST Rules prescribes the provisions for making an application for cancellation of registration. The proviso to rule 20 laid down that an application for cancellation of registration by a person who has obtained voluntary registration cannot be considered before one year from the effective date of registration. The said proviso has been omitted to do away with such a condition.

[Notification No. 3/2018 CT dated 23.01.2018]

TAX INVOICE, CREDIT AND DEBIT NOTES

1. Single invoice-cum-bill of supply for taxable as well as exempted supplies made to an unregistered person

A new rule 46A has been inserted in CGST Rules to provide that where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single **“invoice-cum-bill of supply”** may be issued for all such supplies. This rule is notwithstanding anything contained in rule 46 or rule 49 or rule 54 of CGST Rules.

[Notification No. 45/2017 CT dated 13.10.2017]

2. Insurer/banking company/financial institution, including NBFC can issue a consolidated tax invoice at month end for the supply made during that month

Rule 54(2) of the CGST Rules provides that where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non -banking financial company, the said supplier shall issue a tax invoice/any other document in lieu thereof, by whatever name called, whether issued or made available, physically or electronically whether or not serially numbered, and whether or not containing the address of the recipient of taxable service, but containing other information as mentioned under rule 46 of the said rules.

The aforesaid rule has been amended to provide that in place of a tax invoice, a **‘consolidated tax invoice’ may be issued for the supply of services made during a month at the end of the month.**

[Notification No. 45/2017 CT dated 13.10.2017 & Notification No. 55/2017 CT dated 15.11.2017]

3. Person-in-charge of the conveyance to carry a copy of the tax invoice/bill of supply where such person is not required to carry an e-way bill

A new rule 55A - Tax invoice or bill of supply to accompany transport of goods, has been inserted in the CGST Rules. The new rule lays down that the person-in-charge of the conveyance shall carry a copy of the tax invoice or the bill of supply issued in accordance with the provisions of rules 46, 46A or 49 in a case where such person is not required to carry an e-way bill under these rules.

[Notification No. 3/2018 CT dated 23.01.2018]

4. Clarification on issues wherein the goods are moved within the State or from the State of registration to another State for supply on approval basis

Issue: Suppliers of jewellery etc. who are registered in one State may have to visit other States (other than their State of registration) and need to carry the goods (such as jewellery) along for approval. In such cases if jewellery etc. is approved by the buyer, then the supplier issues a tax invoice only at the time of supply. Since the suppliers are not able to ascertain their actual supplies beforehand and while ascertainment of tax liability in advance is a mandatory requirement for registration as a casual taxable person, the supplier is not able to register as a casual taxable person. Such goods are also carried within the same State for the purposes of supply.

Clarification: In exercise of the powers conferred under section 168(1) of the CGST Act for the purpose of uniformity in the implementation of the Act, it has been decided to clarify this matter as follows –

It is seen that clause (c) of sub-rule (1) of rule 55 of the CGST Rules provides that the supplier shall issue a delivery challan for the initial transportation of goods where such transportation is for reasons other than by way of supply. Further, sub-rule (3) of the said rule also provides that the said delivery challan shall be declared as specified in rule 138 of the said Rules. It is also seen that sub-rule (4) of rule 55 of the said Rules provides that “Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods”.

A combined reading of the above provisions indicates that the goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods. For this purpose, the person carrying the goods for such supply can carry the invoice book with him so that he can issue the invoice once the supply is fructified.

It is further clarified that all such supplies, where the supplier carries goods from one State to another and supplies them in a different State, will be inter -state supplies and attract integrated tax in terms of section 5 of the IGST Act.

It is also clarified that this clarification would be applicable to all goods supplied under similar situations.

[Circular No. 10/10/2017 GST dated 18.10.2017]

5. E-way Bill provisions made effective from 01.04.2018

Section 68 of the CGST Act stipulates that 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. Rule 138 of CGST Rules, 2017 prescribes e-way bill as the document to be carried for the consignment of goods in certain

prescribed cases.

What is e-way bill?

A **waybill** is a receipt or a document issued by a carrier giving details and instructions relating to the shipment of a consignment of goods and the details include name of consignor, consignee, the point of origin of the consignment, its destination, and route. Electronic Way Bill (E-Way Bill) is a compliance mechanism wherein by way of a digital interface the person causing the movement of goods uploads the relevant information prior to the commencement of movement of goods and generates e-way bill on the GST portal. In other words, E-way bill is an electronic document generated on the GST portal evidencing movement of goods.

What are the benefits of e-way bill?

Following benefits are expected from e-way bill mechanism:

- (i) Physical interface to pave way for digital interface resulting in elimination of state boundary check-posts
- (ii) It will facilitate faster movement of goods
- (iii) It will improve the turnaround time of trucks and help the logistics industry by increasing the average distances travelled, reducing the travel time as well as costs.

E-way Bill is generated **electronically** in **Form GST EWB 01** on the common portal. It is important to note here that the Common GST Electronic Portal for furnishing electronic way bill is www.ewaybillgst.gov.in [managed by the National Informatics Centre, Ministry of Electronics & Information Technology, Government of India] whereas the Common GST Electronic Portal for facilitating registration, payment of tax, furnishing of returns and computation and settlement of integrated tax is www.gst.gov.in [managed by the Goods and Services Tax Network, a company incorporated under the provisions of section 8 of the Companies Act, 2013] as notified vide **Notification No. 9/2018 CT dated 23.01.2018**. The facility of generation, cancellation, updation and assignment of e-way bill shall be made available through SMS to the supplier, recipient and the transporter, as the case may be.

E-way Bill can be generated through various modes like Web (Online), Android App, SMS, using Bulk Upload Tool and API based site to site integration etc.

E-way bill system has been introduced for inter-State movement of goods across the country from 01.04.2018. For intra-State movement of goods, e-way bill system has been introduced in a phased manner.

The provisions relating to E-way Bill, as contained in rules 138, 138A, 138B, 138C, and 138D [Chapter XVI] of the CGST Rules, 2017, have been substituted with new rules vide **Notification No. 12/2018 CT dated 07.03.2018** and have been made effective from 01.04.2018 [**except rule 138(7)**] vide **Notification No. 15/2018 CT dated 23.03.2018**. These provisions are elaborated as under:

(1) When is e-way bill required to be generated? [Rule 138(1)]

Whenever there is a movement of goods of consignment value exceeding ` 50,000:

- (i) in relation to a supply; or
- (ii) for reasons other than supply; or
- (iii) due to inward supply from an unregistered person,

the registered person who causes such movement of goods shall furnish the information relating to the said goods as specified in Part A of Form GST EWB - 01 before commencement of such movement.

It is important to note that “*information is to be furnished prior to the commencement of movement of goods*” and “*is to be issued whether the movement is in relation to a supply or for reasons other than supply*” .

Meaning of consignment value of goods

Consignment value of goods shall be the value:

- ✓ determined in accordance with the provisions of section 15,
- ✓ declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and
- ✓ also includes the Central tax, State or Union territory tax, integrated tax and cess charged, if any, in the document and
- ✓ shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of

Special situations where e-way bill needs to be issued even if the value of the consignment is less than ` 50,000:

(i) Inter-State transfer of goods by principal to job-worker

Where goods are sent by a principal located in one State or Union territory to a job worker located in any other State or Union territory, the e-way bill shall be generated either by the principal or the job worker, if registered, irrespective of the value of the consignment [Third proviso to rule 138(1)].

(ii) Inter-State transfer of handicraft goods by a person exempted from obtaining registration

Where handicraft goods* are transported from one State or Union territory to another State or Union territory by a person who has been exempted from the requirement of obtaining registration [under clauses (i) and (ii) of section 24], the e-way bill shall be generated by the said person irrespective of the value of the consignment [Fourth proviso to rule 138].

***Handicraft goods** are the goods specified in *Notification No. 32/2017-C.T. dated 15.09.2017* which exempts the casual taxable persons making inter-State taxable supplies of such handicraft goods from obtaining registration.

(2) Information to be furnished in e-way bill:

An e-way bill Form GST EWB-01 contains two parts:

- (I) Part A** to be furnished by the **registered person** who is causing movement of goods** of consignment value exceeding ` 50,000/- and
- (II) Part B** (transport details) is to be furnished by the **person who is transporting the goods.**

**However, information in Part-A may be furnished:

- ✓ by the transporter, on an authorization received from such registered person [First proviso to rule 138(1)] or
- ✓ by the e-commerce operator or courier agency, where the goods to be transported are supplied through an such e-commerce operator or a courier agency [Second proviso to rule 138(1)].

(3) Who is mandatorily required to generate e-way bill?

- ❑ **Where the goods are transported by a registered person - whether as consignor or recipient of supply as the consignee** (whether in his own conveyance or a hired one or a public conveyance, by road), the said person shall have to generate the e-way bill (by furnishing information in part B on the common portal) [Rule 138(2)].
- ❑ **Where the goods are transported by railways or by air or vessel**, the e-way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, information in part B on the common portal [Rule 138(2A)].
- ❑ **Where the e-way bill is not generated by the registered person and the goods are handed over to the transporter, for transportation of goods by road**, the registered person shall furnish the information relating to the transporter in Part B on the common portal and the e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A [Rule 138(3)].

Other important points:

Above provisions can be summarised as under:

E-way bill is to be generated by the consignor or consignee (if the transportation is being done in own/hired conveyance or by railways by air or by vessel) **or the transporter** (if the goods are handed over to a transporter for transportation by road). **Where neither the consignor nor consignee generates the e-way bill** and the value of goods is more than ` 50,000/- it shall be the **responsibility of the transporter** to generate it.

- ❖ **Where the goods are transported by railways**, the railways shall not deliver the goods unless the e-way bill required under these rules is produced at the time of delivery [Proviso to rule 138(2A)].
- ❖ The registered person or, the transporter may, at his option, generate and carry the e-way bill even if the value of the consignment is less than ` 50,000 [First proviso to rule 138(3)].
- ❖ **Where the movement is caused by an unregistered person either in his own conveyance or a hired one or through a transporter**, he or the transporter may, at their option, generate the e-way bill [Second proviso to rule 138(3)].
- ❖ **Where the goods are supplied by an unregistered supplier to a**

recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods [Explanation 1 to rule 138(3)].

(4) When is it not mandatory to furnish the details of conveyance in Part-B?

Explanation 2 to rule 138(3) stipulates that e-way bill is valid for movement of goods by road only when the information in Part-B is furnished. However, details of conveyance may not be furnished in Part-B of the e-way bill where the goods are transported **for a distance of upto 50 km** within the State/Union territory:

- ❖ from the place of business of the consignor to the place of business of the transporter for further transportation [Third proviso to rule 138(3)] or
- ❖ from the place of business of the transporter finally to the place of business of the consignee [Proviso to rule 138(5)].

(5) Unique e-way bill number (EBN)

Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) shall be made available to the supplier, the recipient and the transporter on the common portal [Rule 138(4)].

(6) Transfer of goods from one conveyance to another

Where the goods are transferred from one conveyance to another, the consignor or the recipient, who has provided information in **Part A**, or the transporter shall, before such transfer and further movement of goods, update the details of conveyance in **Part B** of the e-way bill on the common portal [Rule 138(5)].

The consignor/recipient, who has furnished the information in **Part A**, or the transporter, may assign the e-way bill number to another registered/enrolled transporter for updating the information in **Part B** for further movement of the consignment [Rule 138(5A)]. However, once the details of the conveyance have been updated by the transporter in **Part B**, the consignor or recipient, as the case may be, who has furnished the information in **Part A** shall not be allowed to assign the e-way bill number to another transporter [Proviso to rule 138(5A)].

(7) Consolidated E-way bill

Where the consignor/consignee has not generated the e-way bill in Form GST EWB- 01 and the aggregate of the consignment value of goods carried in the conveyance is more than ` 50,000, the transporter, except in case of transportation of goods by railways, air and vessel, shall, in respect of inter-State supply, generate the e-way bill in Form GST EWB-01 on the basis of invoice or bill of supply or delivery challan, as the case may be, and may also generate a consolidated e-way bill in **Form GST EWB- 02** on the common portal prior to the movement of goods [Rule 138(7)].

However, where the goods to be transported are supplied through an e-commerce operator or a courier agency, the information in Part A of Form GST EWB-01 may be furnished by such e-commerce operator or courier agency [Proviso to rule 138(7)].

Thus, a consolidated E-way bill is generated when the transporter is carrying multiple consignments in a single vehicle. Consolidated E-way bill allows the transporter to carry a single document, instead of a separate document for each consignment in a conveyance.

Consolidated EWB is like a trip sheet and it contains details of different e-way bills in respect of various consignments being transported in one vehicle and these e-way bills will have different validity periods. Hence, Consolidated EWB does not have any independent validity period. Further, individual consignment specified in the Consolidated EWB should reach the destination as per the validity period of the individual EWB.

(8) Information submitted for e-way bill can be used for filing GST Returns

The information furnished in **Part A** of the e-way bill shall be made available to the registered supplier on the common portal who may utilize the same for furnishing the details in **Form GSTR-1** [Rule 138(8)].

However, when the information has been furnished by an unregistered supplier/unregistered recipient, he shall be informed electronically, if the mobile number or the e-mail is available [Proviso to rule 138(8)].

(9) Cancellation of e-way bill

Where an e-way bill has been generated, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal within 24 hours of generation of the e-way bill [Rule 138(9)].

However, an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B [First proviso to rule 138(9)].

Further, unique number generated is valid for a period of 15 days for updation of Part B [Second proviso to rule 138(9)].

(10) Validity period of e-way bill/consolidated e-way bill [Rule 138(10)]

Sl. No.	Distance within country	Validity period from relevant date*
1.	Upto 100 km	One day in cases other than Over Dimensional Cargo**
2.	For every 100 km or part thereof thereafter	One additional day in cases other than Over Dimensional Cargo
3.	Upto 20 km	One day in case of Over Dimensional Cargo
4.	For every 20 km or part thereof thereafter	One additional day in case of Over Dimensional Cargo

***Relevant date** means the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill

has been generated and each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of e-way bill.

****Over dimensional cargo** means a cargo carried as a single indivisible unit and which exceeds the dimensional limits prescribed in rule 93 of the Central Motor Vehicle Rules, 1989, made under the Motor Vehicles Act, 1988

Extension of validity period

Commissioner may, on the recommendations of the Council, by notification, extend the validity period of an e-way bill for certain categories of goods as may be specified therein.

Where, under circumstances of an exceptional nature, including trans -shipment, the goods cannot be transported within the validity period of the e-way bill, the transporter may extend the validity period after updating the details in Part B, if required.

(11) Acceptance of e-way bill

The details of the e-way bill generated shall be made available to the -

- (a) supplier, if registered, where the information in Part A has been furnished by the recipient/transporter; or
- (b) recipient, if registered, where the information in Part A has been furnished by the supplier/transporter,

on the common portal, and the supplier/recipient, as the case may be, shall communicate his acceptance or rejection of the consignment covered by the e-way bill [Rule 138(11)].

In case, the person to whom the information in Part-A is made available, does not communicate his acceptance or rejection within the specified time, it shall be deemed that he has accepted the said details. The time-limit specified for this purpose is:

- (i) 72 hours of the details being made available to him on the common portal
or
- (ii) the time of delivery of goods,
whichever is earlier.

(12) E-way bill generated in one State is valid in another State

The e-way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State or Union territory shall be valid in every State and Union territory [Rule 138(13)].

(13) Situations where E-way Bill is not required to be generated

Notwithstanding anything explained above, no e-way bill is required to be generated in the following cases:

- (a) where the goods being transported are the ones given below:

S. No.	Description of Goods

1.	Liquefied petroleum gas for supply to household and non-domestic exempted category (NDEC) customers
2.	Kerosene oil sold under PDS
3.	Postal baggage transported by Department of Posts
4.	Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)
5.	Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71)
6.	Currency
7.	Used personal and household effects
8.	Coral, unworked (0508) and worked coral (9601)]

- (b) where the goods are being transported by a non-motorised conveyance
- (c) where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs
- (d) in respect of movement of goods within such areas as are notified under of rule 138(14)(d) of the State or Union territory GST Rules in that particular State or Union territory
- (e) where the goods [other than de-oiled cake], being transported, are exempt from tax vide *Notification No. 2/2017 CT(R) dated 28.06.2017*
- (f) where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel
- (g) where the supply of goods being transported is treated as no supply under Schedule III of the Act
- (h) where the goods are being transported -
 - (i) under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or
 - (ii) under customs supervision or under customs seal
- (i) where the goods being transported are transit cargo from or to Nepal or Bhutan
- (j) where the goods being transported are exempt from tax under *Notification No. 7/2017 CT (R) 28.06.2017* [Supply of goods by the CSD to the Unit Run Canteens or to the authorized customers and supply of goods by the Unit Run Canteens to the authorized customers] and *Notification No. 26/2017 CT (R) 21.09.2017* [Supply of heavy water and nuclear fuels by Department of Atomic Energy to Nuclear Power Corporation of India Ltd. (NPCIL)]
- (k) any movement of goods caused by defence formation under Ministry of defence as a consignor or consignee

- (l) where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail
- (m) where empty cargo containers are being transported
- (n) where the goods are being transported upto a distance of 20 km from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with rule 55

(14) Documents and devices to be carried by a person-in-charge of a conveyance

The person-in-charge of a conveyance shall carry -

- (a) the invoice or bill of supply or delivery challan, as the case may be; and
- (b) a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a RFID** embedded on to the conveyance [except in case of movement of goods by rail or by air or vessel] in such manner as may be notified by the Commissioner [Rule 138A(1)]. The Commissioner may, by notification, require a class of transporters to obtain a unique RFID and get the said device embedded on to the conveyance and map the e-way bill to the RFID prior to the movement of goods [Rule 138A(4)].

***RFIDs are Radio Frequency Identification Device used for identification.*

Invoice Reference Number in lieu of tax invoice

A registered person may obtain an Invoice Reference Number from the common portal by uploading, on the said portal, a tax invoice issued by him in the prescribed form and produce the same for verification by the proper officer in lieu of the tax invoice and such number shall be valid for a period of 30 days from the date of uploading [Rule 138A(2)].

In the said case, the registered person will not have to upload the information in Part A for generation of e-way bill and the same shall be auto-populated by the common portal on the basis of the information furnished in the prescribed form [Rule 138A(3)].

Documents in lieu of e-way bill

Where circumstances so warrant, the Commissioner may, by notification, require the person-in-charge of the conveyance to carry the following documents instead of the e-way bill:

- (a) tax invoice or bill of supply or bill of entry; or
- (b) a delivery challan, where the goods are transported for reasons other than by way of supply [Rule 138A(5)].

(15) Verification of documents and conveyances

The Commissioner or an officer empowered by him in this behalf may authorize the proper officer to intercept any conveyance to verify the e-way bill in physical

or electronic form for all inter-State and intra-State movement of goods [Rule 138B(1)].

The Commissioner shall get RFID readers installed at places where the verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device [Rule 138B(2)].

The physical verification of conveyances shall be carried out by the proper officer as authorised by the Commissioner or an officer empowered by him in this behalf [Rule 138B(3)].

However, on receipt of specific information on evasion of tax, physical verification of a specific conveyance can also be carried out by any other officer after obtaining necessary approval of the Commissioner or an officer authorised by him in this behalf [Proviso to rule 138B(3)].

(16) Inspection and verification of goods

A summary report of every inspection of goods in transit shall be recorded online by the proper officer in Part A of specified form within 24 hours of inspection and the final report in Part B of said form shall be recorded within 3 days of such inspection [Rule 138C(1)].

Where the physical verification of goods being transported on any conveyance has been done during transit at one place within the State/Union territory or in any other State/Union territory, no further physical verification of the said conveyance shall be carried out again in the State/Union territory, unless a specific information relating to evasion of tax is made available subsequently [Rule 138C(2)].

(17) Facility for uploading information regarding detention of vehicle [Rule 138D]

Where a vehicle has been intercepted and detained for a period exceeding 30 minutes, the transporter may upload the said information in **specified form** on the common portal.

(18) It may be noted that the expressions 'transported by railways', 'transportation of goods by railways', 'transport of goods by rail' and 'movement of goods by rail' used in the provisions discussed above does not include cases where leasing of parcel space by Railways takes place.

6. Clarification regarding e-way bills

CBIC vide Press Release No. 144/2018 dated 31.03.2018 has clarified following issues regarding the new e-way bill system:

(1) **Situation :-** Consider a situation where a consignor is required to move goods from City X to City Z. He appoints Transporter A for movement of his goods. Transporter A moves the goods from City X to City Y. For completing the movement of goods i.e., from City Y to City Z, Transporter A now hands over the goods to Transporter B. Thereafter, the goods are moved to the destination i.e. from City Y to City Z by Transporter B. How would the e-way bill be

generated in such situations?

Clarification :- It is clarified that in such a scenario, only one e-way bill would be required. Part A can be filled by the consignor and then the e-way bill will be assigned by the consignor to Transporter A. Transporter A will fill the vehicle details, etc. in Part B and will move the goods from City X to City Y.

On reaching City Y, Transporter A will assign the said e-way bill to the Transporter B. Thereafter, Transporter B will be able to update the details of Part B. Transporter B will fill the details of his vehicle and move the goods from City Y to City Z.

- (2) Situation :-** Consider a situation where a consignor hands over his goods for transportation on Friday to transporter. However, the assigned transporter starts the movement of goods on Monday. How would the validity of e-way bill be calculated in such situations?

Clarification :- It is clarified that the validity period of e-way bill starts only after the details in Part B are updated by the transporter for the first time.

In the given situation, Consignor can fill the details in Part A on Friday and handover his goods to the transporter. When the transporter is ready to move the goods, he can fill the Part B i.e. the assigned transporter can fill the details in Part B on Monday and the validity period of the e-way bill will start from Monday.

1. **Challan generated at the common portal under rule 87(2) of CGST**

Rules to be valid for a period of 15 days

Rule 87(2) of CGST Rules provides that any person, or a person on his behalf, shall generate a challan on the common portal and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount.

A proviso has been inserted in the rule to lay down that the challan generated at the common portal shall be valid for a period of 15 days.

Note: FAQs issued by CBEC had already clarified this point. Now the rule has also been amended to provide the same.

[Notification No. 22/2017 CT dated 17.08.2017]

1. Commissioner empowered to notify the manner as also the conditions subject to which the return shall be furnished in GSTR-3B

Rule 61(5) of CGST Rules provides that where the time limit for furnishing of details in GSTR-1 and GSTR-2 has been extended and the circumstances so warrant, the Commissioner may, by notification, specify that return shall be furnished in GSTR-3B.

Rule 61(5) has been amended to provide that where the time limit for furnishing of details in GSTR-1 and GSTR-2 has been extended and the circumstances so warrant, the Commissioner may, by notification, **specify the manner and conditions subject to which the return** shall be furnished in GSTR-3B. This amendment has become effective retrospectively from 01.07.2017.

[Notification No. 22/2017 CT dated 7.08.2017]

2. Taxpayers with annual aggregate turnover up to ` 1.5 crore to file GSTR-1 on quarterly basis and taxpayers with annual aggregate turnover greater than ` 1.5 crore to file GSTR-1 on monthly basis

There have been many issues in the functioning of GSTN since it became operational. Therefore, a simplified return in Form GSTR 3B was introduced in July, 2017 to help businesses to file returns easily in the initial months of GST roll out. This was to be followed with filing of returns -- GSTR - 1, 2 and 3.

Further, to ease the compliance requirements for small tax payers, the GST Council allowed taxpayers with annual aggregate turnover up to ` 1.5 Crore to file details of outward supplies in Form GSTR-1 on a quarterly basis and on monthly basis by taxpayers with annual aggregate turnover greater than ` 1.5 Crore. The GST Council also recommended to postpone the date of filing of Forms GSTR-2 (details of inward supplies) and GSTR-3 (monthly return) for all normal tax payers, irrespective of turnover, till further announcements are made in this regard.

The return process has still not been streamlined and the GST Council has extended GSTR-3B filing requirement till the end of June, 2018⁶.

[Notification Nos. 57 & 58/2018 CT dated 15.11.2017 as amended, Notification Nos. 17 & 18/ 2018 CT dated 28.03.2018 & Notification No. 16/2018 CT 23.03.2018]

⁶ *GSTR-3B filing requirement has been further extended till March 2019 vide Notification No. 34/2018 CT dated 10.08.2018.*

