

Time of Supply and Payment of Tax Including Reverse Charge

9. Introduction

Every fiscal statute invariably provides for the taxable event. However, taxable event can be different than the liability to pay tax and thus in charging section generally, it is provided that tax shall be collected in such manner as may be prescribed. In the present indirect tax system, the same practice is followed. To quote excise becomes payable when goods are removed from the place of removal and paid on monthly basis, similarly in VAT for all sales made during a tax period, sales tax has to be paid on monthly or quarterly basis and service tax becomes payable either on provision of service by the service provider or advance payment received by such provider and shall be paid on monthly or quarterly basis depending on the organizational structure of service provider. In contrast, the taxable event under GST shall be supply of goods or services or both, but tax must be paid on the basis of time of supply of goods or services or both as enshrined in Section 12 and 13 of CGST/SGST Act.

9.1. Time of supply of goods - Section 12

12(1)	<p><u>The liability to pay tax on goods shall arise at the time of supply</u> The liability to pay tax on the supply of goods shall arise at the time of supply as determined in accordance with provisions of this section.</p>			
12(2)	<p><u>Time of supply of goods in case of supplies in respect of which tax is paid or liable to be paid on forward charge basis</u> The earlier of the following dates , namely, -</p>			
		<p>The date of issue of invoice by the supplier or the last date on which he is required to issue the invoice with respect to the supply of goods in terms of Section 31 :</p>		
		S.No.	Situation	Time for issue of a tax invoice
	(a)	(i)	Where the supply involves movement of goods	Before or at the time of removal of goods for supply to the recipient.
		(ii)	In any other case	Before or at the time of delivery of goods or making available thereof to the recipient.
	(b)	The date on which the supplier receives the payment with respect to the supply.		
	<p>In terms of Notification 66/2017-CT dt. 15/11/2017, suppliers not opting to pay tax under composition scheme have been mandated to pay tax on outward supply of goods at the time of supply as determined under clause (a). Resultantly, suppliers are not liable to pay tax on receipt of advance towards supply of goods and clause (b) is redundant for the time being.</p>			
Proviso	<p><u>Time of supply of goods in respect of receipt of an amount up to Rs. 1,000/- in excess of the amount indicated in the tax invoice</u> The time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice.</p>			
Explanati on 1	<p><u>Deemed extent of supply</u> For the purposes of sections 12(2) (a) and 12(2) (b), the supply shall be deemed to have been made to the extent it is covered by the invoice or the payment.</p>			

Explanation 2	<u>Date on which the supplier receives the payment</u> For the purposes of Section 12(2) (b), “the date on which the supplier receives the payment” shall be the earlier of the following dates :
	(i) Date on which the payment is entered in his books of accounts [Refer Note below]; or
	(ii) The date on which payment is credited to his bank account
Note: ‘Books of accounts’ shall include, cash book, bank book, cash receipt, pay-in-slips etc.	
12(3)	<u>Time of supplies in respect of which tax is paid or liable to be paid on reverse charge basis</u> Earliest of the following dates, namely-
	(a) The date of the receipt of goods; or
	(b) The date of payment as entered into the books of the account of the recipient or the date on which payment is debited in his account, whichever is earlier; or
	(c) The date immediately following 30 days from the date of issue of invoice or any other document, by whatever name called, in lieu of the invoice by the supplier.
Proviso To 12(3)	<u>When date of entry in the books of account of the recipient of supply shall be the time of supply</u> Where it is not possible to determine the time of supply under Sections 12(3)(a), 12(3) (b), or 12(3)(c), the time of supply shall be the date of entry in the books of accounts of the recipient of supply.
12(4)	<u>Time of supply of goods in case of supply of vouchers</u>
	(a) The date of issue of voucher, if the supply is identifiable at that point; or
	(b) The date of redemption of voucher, in all other cases
12(5)	<u>Determination of time of supply in residuary cases</u> Where it is not possible to determine the time of supply under the provisions of Section 12(2), Section 12(3) or Section 12(4), the time of supply shall be:
	(a) In a case, where a periodical return has to be filed, the (due) date by which such return is to be filed, or
	(b) In any other case, where periodical return is not to be filed, the date on which the CGST/SGST is paid
12(6)	<u>Determination of time of supply in r/o receipt of interest, late fee or penalty</u>
	The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration, shall be the date on which the supplier receives the aforesaid addition in value.

9.2 Time of supply of services - Section 13

13(1)	<u>The liability to pay tax on services shall arise at the time of supply</u>
	The liability to pay tax on the supply of services shall arise at the time of supply as determined in accordance with provisions of this section.
	<u>Time of supply of services in case of supplies in respect of which tax is paid or liable to be paid on forward charge basis</u>
	<u>if the invoice is issued within the prescribed time</u> Earlier of the following dates:
	(a) The date of issue of invoice by the supplier of services; or
	(b) The date of receipt of payment by the supplier of services.

	Section 31 of the CGST Act read with Rule 47 of the CGST Rules prescribes time of supply of Services shall be the earlier of the following dates, namely-		
	S.No.	Type of supplier	Time-Limit
	(a)	Where the supplier of services is any person other than those specified at serial no. (b) and (c) below	Within 30 days from the date of supply of service
	(b)	Where the supplier of services is an insurer or a	Within 45 days from the date
13(2)	(a)	(b) banking company or a financial institution, including a non-banking financial company	of supply of service
		(c) For an insurer or a banking company or a financial institution, including a non-banking financial company or a telecom operator or any other class of supplier of Services as may be notified by the Government, making taxable supply of services between distinct persons in terms of Section 25(4) i.e. supply between head office and branch or supply between different branches, whether in one State or Union territory or more than one State or Union territory	Earlier of the following:
			(a) Before or at the time the supplier records the invoice in his books of account; or
			(b) Before the expiry of the quarter during which the supply was made
	(b)	If the invoice is not issued within the prescribed time Earlier of the following two dates:	
	(a)	The date of provision of service by the supplier of service; or	
	(b)	The date of receipt of payment by the supplier of service.	
	(c)	Where the provisions of clause (a) or clause (b) do not apply At times, invoice is not issued by the supplier either within the prescribed time or after the prescribed time and payment is also not received by the supplier. However, the receipt of services is recorded in the books of account of the recipient. In this situation, the time of supply shall be the date on which the recipient shows the receipt of services in his books of account.	
Proviso to 13(2)	<u>Time of supply of services in respect of receipt of an amount up to Rs. 1,000/- in excess of the amount indicated in the tax invoice</u> The time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice. Alternatively, the supplier can consider the date of receipt of payment as the time of supply to the extent of the excess amount indicated in the invoice.		
Explanation (i) to 13(2)	<u>Deemed extent of supply</u> For the purposes of clauses (a) and (b) of section 13(2) the supply shall be deemed to have been made to the extent it is covered by the invoice or the payment.		
	<u>The date of receipt of payment</u> For the purposes of clauses (a) and (b) of Section 13(2), “the date on which the supplier receives the payment” shall be the earlier of the following dates :		

Explanation (ii) to 13(2)	(a)	Date on which the payment is entered in his books of accounts [Refer Note below] ; or	
	(b)	The date on which payment is credited to his bank account.	
Note: The term 'books of accounts' shall include, amongst other things, cash book, bank book, cash receipt, pay-in-slips etc.			
13(3)	<u>Time of supplies in respect of which tax is paid or liable to be paid on reverse charge basis</u>		
	Earlier of the following dates, namely-		
	(a)	The date of payment shall be the date on which payment is entered in the books of account of recipient or the date on which payment is debited in his bank account, whichever is earlier.	
(b)	If the recipient of supply does not make payment to the supplier within 60 days from the date of issue of invoice or any other document, by whatever name called, the date immediately following the 60th day, shall be considered as the date of time of supply. Looking from another perspective, if the recipient makes the payment within 60 days from the date of issue of invoice or any other document, then Section 13(3)(b) shall become redundant. Sometimes, instead of an invoice, the supplier issues any other document such as bill of supply or debit note etc. In such cases also, if the recipient does not make payment within 60 days from the date of issue of the document, the date immediately following the 60th day shall be considered as date of time of supply.		
First proviso to 13(3)	<u>Determination of time of supply under reverse charge where it cannot be determined under clause (a) or clause (b) of Section 13(2)</u> The time of supply shall be the date of entry in the books of accounts of the recipient of supply.		
Second Proviso to 13(3)	<u>Determination of time of supply in case of supply of services by associated enterprises and where the supplier of service is located outside India</u> Earlier of the following two dates:		
	(a)	The date of entry in the books of account of the recipient of supply; or	
	(b)	The date of payment	
Section 13(4)	<u>Determination of time of supply in case of supply through voucher</u>		
	S.No.	Situation	Time of Supply
	(a)	The voucher is identifiable with a particular supply	The date of issue of voucher
(b)	The voucher is not identifiable with a particular supply	The date of redemption of voucher	
Section 13(5)	<u>Determination of time of supply in residuary cases</u>		
	Case	Time of Supply	
	Where a periodical return has to be filed	Due date by which such return is to be filed	
In any other case, where periodical return is not to be filed	The date on which the CGST/SGST is paid		
13(6)	<u>Determination of time of supply in r/o receipt of interest, late fee or penalty</u> The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration, shall be the date on which the supplier receives the aforesaid addition in value.		

9.2.1 Time of supply in case of a registered person engaged in supply of construction services against transfer of development rights and vice-versa

With effect from 25.01.2018 -N.No.04/2018-CT(R), dated 25.01.2018			
S.No.	Specified Registered Persons	Consideration	Time of Supply
(a)	Registered persons who supply Development rights to a developer, builder, construction company or any other registered person against consideration, wholly or partly, in the form of construction service of complex, building or civil structure; and	In the form of construction service	When the said developer, builder, construction company or any other registered person, as the case may be, transfers possession or the right in the constructed complex, building or civil structure, to the person supplying the development rights by entering into a conveyance deed or similar instrument,
(b)	Registered Persons who supply construction service of complex, building or civil structure to supplier of development rights against consideration, wholly or partly in the form of transfer of development rights	In the form of development Rights	

9.2.2 Time of supply in case of specified registered persons engaged in supply of construction services

With effect from 01.04.2019-N.No.06/2019-CT(R) dated 29.03.2019/ N.No. 06/2019-IT(R), dated 29.03.2019	
S.No	Registered Persons
(i)	A promoter who receives development rights or Floor Space Index (FSI) (including additional FSI) on or after 01.04.2019 for construction of a project against consideration payable or paid by him, wholly or partly, in the form of construction service of commercial or residential apartments in the project or in any other form including in cash;
(ii)	A promoter, who receives long term lease of land on or after 01.04.2019 for construction of residential apartments in a project against consideration payable or paid by him, in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name),
In case of persons specified in the above table, liability to pay Central Tax and State Tax or Integrated Tax in respect of construction services shall arise on earlier of the following two dates:	
(a)	Date of issuance of completion certificate for the project, where required, by the competent authority; or
(b)	Date of first occupation of a Residential Real Estate Project.
S.No	Nature and Value of Services in respect of which tax is required to be paid by above-mentioned registered persons
(a)	The consideration paid by him in the form of construction service of commercial or residential apartments in the project, for supply of development rights or FSI (including additional FSI);

(b)	The monetary consideration paid by him, for supply of development rights or FSI (including additional FSI) relating to construction of residential apartments in project;
(c)	The upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid by him for long term lease of land relating to construction of residential apartments in the project; and
(d)	The supply of construction service by him against consideration in the form of development rights or FSI (including additional FSI)

9.3 Changes in rate of tax in respect of supply of goods or services - Section 14

14	<u>Determination of time of supply in case of change in rate of tax</u>				
	Starts with non-obstante clause .A non-obstante clause is a legislative device to give overriding effect to certain provisions over some contrary provisions that may be found either in the same enactment or some other enactment, that is to say, to avoid the operation and effect of all contrary provisions, to which such non-obstante provision has been given over-riding effect. To say it differently if there is a conflict with the provisions of sections 12 or section 13 and this section, provisions of this section shall prevail.				
Proviso	The date of receipt of payment shall be the date of credit in the bank account when such credit in the bank account is after four working days from the date of change in the rate of tax.				
	The time of supply, in cases where there is a change in the rate of tax in respect of goods or services or both, shall be determined in the following manner:				
	S. No.	Time of issue of invoice	Time of receipt of payment	Time of supply	
	When supply made before the change in rate of tax				
	(i)	After the change in rate of tax	After the change in rate of tax	Earlier of following two dates:	
				(a)	Date of issue of invoice; or
	(b)	Date of receipt of payment			
	(ii)	Prior to change in rate of tax	After the change in rate of tax	Date of issue of invoice	
	(iii)	After the change in rate of tax	Before the change in rate of tax	Date of receipt of payment	
	When supply made after the change in rate of tax				
	(i)	Prior to change in rate of tax	After the change in rate of tax	Date of receipt of payment	
	(ii)	Before the change in rate of tax	Before the change in rate of tax	Earlier of the following two dates:	
				(a)	Date of receipt of payment; or
(b)	Date of issue of invoice				
(iii)	After the change in rate of tax	Before change in rate of tax	Date of issue of invoice		

9.3.1 Golden rule for determining the rate of tax

Rate of tax for the purpose of calculating the GST liability shall be the rate as applicable on the date of supply of goods or services or both”. However, where both the events i.e. issuance of invoice and receipt of payment takes place prior to the change in effective rate of GST old rate of tax shall be applicable even if provision of service takes place after the change in effective rate of service tax. Similarly, where the supply is before the change in rate of GST but both the events i.e. issuance of invoice and receipt of payment takes place after the change in rate of GST, new rate of GST shall be applicable. This exception is being carved out probably to avoid the dispute regarding rate of tax between the supplier and recipient where both the events i.e. issuance of invoice and payment of such invoice has already taken place before the change in rate of GST. Thus, it can be inferred that rate of tax shall be determined by a majority rule i.e. if out of three events; namely (i) Time of supply of goods or services or both, (ii) Issue of invoice for the said supply and (iii) Receipt of payment in respect of said supply; any two events that take place before the change in rate of tax, the old rate of tax shall apply. On the other hand, if out of three events namely time of supply of goods or services or both, Issue of invoice for the said supply and Receipt of payment in respect of said supply, any two events take place after the change in rate of tax, the new rate of tax shall apply.

9.4 Payment of tax, interest, penalty and other payments - Section 49

Every deposit towards tax, interest, penalty, fee or any other amount to be credited to electronic cash ledgerSuch deposit of tax etc. shall be made by any of the following methods:	
(a)	By internet banking; or
(b)	By using credit or debit cards; or
(c)	National electronic fund transfer; or
(d)	Real time gross settlement (RTGS);or
(e)	By such other mode.
Such electronic cash ledger shall be maintained in such manner and shall be subject to such conditions and restrictions as prescribed in Rule 87.	
Rule 87(1)	The aforesaid ECL shall be maintained in FORM GST PMT-05 for each person, liable to pay tax, interest, penalty, late fee or any other amount. Further, the aforesaid ECL shall be maintained on the Common Portal for crediting the amount deposited and debiting the payment there from towards tax, interest, penalty, fee or any other Amount.
Rule 87(2)	Any person or a person on his behalf shall generate a Challan in FORM GST PMT-06 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.
First Proviso to Rule87(2)	<u>Validity of Challan for deposit of GST</u> The Challan in FORM GST PMT-06 generated at the common portal shall be valid for aperiod of 15 days.
Second proviso to Rule 87(2)	For the period 17.08.2017 to 27.06.2019 A person supplying online information and database access or retrieval services [OIDAR Services] from a place outside India to a non-taxable online recipient referred to in Section 14 of the IGST Act, 2017 may also do so through the Board’s payment system namely, Electronic Accounting System in Excise and Service Tax [EASIEST].
	With effect from 28.06.2019 Omitted

	Modes of depositing in electronic cash ledger
Rule 87(3)	(a) Internet Banking through authorized banks; or
	(b) Credit card or Debit card through the authorised bank; or
	(c) National Electronic Fund Transfer (NEFT) or Real Time Gross Settlement (RTGS) from any bank; or
	(d) Over the Counter (OTC) payment through authorized banks for deposits up to Rs. 10,000 per Challan per tax period, by cash, cheque or demand draft
First proviso to Rule 87(3)	Deposits made by specified persons shall not be subject to restriction upto Rs. 10,000 per Challan per tax period in case of OTC Payment
	(a) Government Departments or any other deposit to be made by persons as may be notified by the Commissioner in this behalf; or
	Proper officer or any other officer authorised to recover outstanding dues from any
	(b) person, whether registered or not, including recovery made through attachment or sale of movable or immovable properties; or
(c) Proper officer or any other officer authorized for the amounts collected by way of cash, cheque or demand draft during any investigation or enforcement activity or any ad hoc deposit.	
Second proviso to Rule 87(3)	<u>With effect from 17.08.2017</u> -N.No. 22/2017-CT, dated 17.08.2017 A person supplying online information and database access or retrieval services [OIDAR Services] from a place outside India to a non-taxable online recipient referred to in Section 14 of the IGST Act, 2017 may also make the deposit under Rule 87(2) through international money transfer through Society for Worldwide Interbank Financial Telecommunication payment network.
	<u>For the period 01.07.2017 to 16.08.2017</u> The Challan in FORM GST PMT-06 generated at the common portal shall be valid for a period of 15 days.
49(1) Explanation to Rule 87(3)	<u>Bearing the incidence of commission payable</u> For making payment of any amount indicated in the challan, the commission, if any, payable in respect of such payment shall be borne by the person making such payment.
	<u>Payment on the basis of a Temporary Identification Number (TIN)</u> Any payment required to be made by a person who is not registered under the Act, shall be made on the basis of a temporary identification number generated through the Common Portal.
Rule 87(5)	<u>Generation of mandate form and its validity period</u> Where the payment is made by way of NEFT or RTGS mode from any bank, the mandate form shall be generated along with the challan on the common portal and the same shall be submitted to the bank from where the payment is to be made. Further, the mandate form shall be valid for a period of fifteen days from the date of generation of challan.
Rule 87(6)	<u>Generation of Challan Identification Number (CIN)</u> On successful credit of the amount to the concerned government account maintained in the authorised bank, a Challan Identification Number (CIN) will be generated by the collecting Bank and the same shall be indicated in the challan.

Rule 87(7)	<u>Credit of the deposited amount to the ECL</u> On receipt of CIN from the collecting Bank, the said amount shall be credited to the electronic cash ledger of the person on whose behalf the deposit has been made and the Common Portal shall make available a receipt to this effect.					
Rule 87(8)	<u>Representation to the bank electronically</u> Where the bank account of the person concerned, or the person making the deposit on his behalf, is debited but no Challan Identification Number (CIN) is generated or generated but not communicated to the Common Portal, the said person may represent electronically in FORM GST PMT-07 through the Common Portal to the Bank or electronic gateway through which the deposit was initiated.					
Rule 87(9)	<u>For the period 01.07.2017 to 27.06.2019</u> <u>TDS or TCS deducted and claimed by registered taxable person shall be credited in his electronic cash ledger</u> Any amount of tax deducted at source [TDS] or tax collected at source [TCS] and claimed in FORM GSTR-02 by the registered taxable person from whom the said amount was deducted or, as the case may be, collected shall be credited to his Electronic Cash Ledger in accordance with the provisions of Rule 87.					
	<u>With effect from 28.06.2019 -N.No.31/2019-CT, dated 28.06.2019</u> Any amount of tax deducted at source [TDS] or tax collected at source [TCS] and claimed by the registered taxable person from whom they said amount was deducted or, as the case may be, collected shall be credited to his Electronic Cash Ledger.					
Rule 87(10)	<u>Refund claimed to be debited to the ECL</u> Where a person has claimed refund of any amount from the Electronic Cash Ledger, the said amount shall be debited to his Electronic Cash Ledger.					
Rule 87(11)	<u>Refund rejected to be credited</u> If the refund so filed is rejected, either fully or partly, the amount debited under sub-rule (10), to the extent of rejection, shall be credited to the Electronic Cash Ledger by the proper officer by an order made in FORM GST PMT-03.					
Rule 87(12)	<u>Communication of discrepancy in electronic cash ledger</u> If a registered person notices any discrepancy in his electronic cash ledger, he shall communicate the same to the officer who exercises jurisdiction in the matter, through the Common Portal in FORM GST PMT-04 .					
Rule 87(13)	<u>With effect from a date to be notified later -N.No.31/2019-CT, dated 28.06.2019-with effect from a date to be notified later</u>					
	<u>Transfer of amount from one account head to another in electronic cash ledger</u> A registered person may transfer, on the common portal, any amount of tax, interest, penalty, fee or any other amount available in the Electronic Cash Ledger under the Act to the Electronic Cash Ledger for integrated tax, central tax, State tax or Union territory tax or cess in FORM GST PMT-09. Following is the scope of 'major head' and 'minor head' in Electronic Cash Ledger:					
	S. No.	Major Head	Minor Head	S. No.	Major Head	Minor Head
	1.	Central tax	Tax	4.	Cess	Fee
2.	State tax	Interest	5.		Others	

	3.	Integrated tax	Penalty			
	In terms of the instructions to FORM GST PMT-09:					
	1.	The form may be filled up if amount from one major / minor head is intended to be transferred to another major/minor head. Minor head for transfer of amount may be same or different.				
	2.	The amount from one minor head can also be transferred to another minor head under the same major head.				
	3.	Amount can be transferred from the head only if balance under that head is available at the time of transfer.				
49(2)	<p><u>ITC, as self-assessed to be credited to electronic credit ledger</u> The ITC as self-assessed in the return of a registered person shall be credited to his Electronic Credit Ledger [ECL] in accordance with Section 41 and with effect from a date to be notified in accordance with Section 41 as well as Section 43A. It is pertinent to add here that provisions of Section 49(2) have not been amended with effect from 01.02.2019 while N.No. 02/2019-CT dated 29.01.2019 has fixed 01.02.2019 as the date on which provisions of CGST (Amendment) Act, 2018 shall come into force. The aforesaid Notification has specifically stated that provisions relating to amendment in Section 49(2) shall not come into force with effect from 01.02.2019.</p>					
	Rule 86(1)	<p><u>Electronic credit ledger to be maintained for every registered person eligible for ITC</u> The Electronic Credit Ledger shall be maintained in FORM GST PMT-02 for each registered person eligible for ITC under the Act on the Common Portal. Further, every claim of ITC, under the Act, shall be credited to the said Ledger.</p>				
	Rule 86(2)	<p><u>Discharge of any liability to be debited in the electronic credit ledger</u> The Electronic Credit Ledger shall be debited to the extent of discharge of any liability in accordance with the provisions of Section 49.</p> <p><u>Applicable for the period 01.07.2019 to 31.01.2019</u> The Electronic Credit Ledger shall be debited to the extent of discharge of any liability in accordance with Section 49.</p> <p><u>Applicable with effect from 01.02.2019 -N.No.03/2019-CT, dated 29.01.2019</u> The Electronic Credit Ledger shall be debited to the extent of discharge of any liability in accordance with Section 49 or Section 49A or Section 49B.</p>				
	Rule 86(3)	<p><u>Refund claimed to be debited in electronic credit ledger</u> Where a registered person has claimed refund of any unutilized amount from the ECrL in terms of section 54, the amount to the extent of the claim shall be debited in the said ledger.</p>				
	Rule 86(4)	<p><u>Refund rejected to be re-credited</u> If the refund so filed is rejected, either fully or partly, the amount debited under sub-rule (3) to the extent of rejection, shall be re-credited to the ECrL by the proper officer by an order made in FORM GST PMT-03.</p>				
	Explanation to Rule 86	<p>A refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking to the proper officer that he shall not file an appeal.</p>				
	Rule 86(5)	<p><u>No direct entry in the electronic credit ledger</u> Save as provided in the provisions of this chapter, no entry shall be made directly in the ECrL under any circumstance.</p>				

Rule 86(6)	<u>Communication of the discrepancy in the ECrL</u> When a registered person notices any discrepancy in his electronic credit ledger, he shall communicate the same to the jurisdictional officer, through the common Portal in FORM GST PMT-04.			
Rule 86A	<u>Applicable with effect from 26.12.2019</u> <u>Conditions of use of amount available in electronic credit ledger</u>			
Rule 86A(1)	<u>Situations under which credit may be blocked</u> The Commissioner/any officer not below the rank of an Assistant Commissioner, may block the ITC for discharge of any liability under section 49 or for claim of any refund of any unutilised amount. However, he can exercise such power only under any of the following situations:			
	(a)	The credit of input tax has been availed on the strength of the tax invoices/debit notes/any other document prescribed under rule 36-		
		(i)	Issued by registered person (supplier) who has been found to be non-existent or not to be conducting any business from its registered place; or	
		(ii)	Recipient has availed credit without receipt of goods or services or both; or	
	(b)	The supplier has not paid to the Government the tax charged in respect of tax invoices/debit notes/any other prescribed document on the basis of which recipient has availed credit; or		
	(c)	The recipient has been found non-existent or not to be conducting any business from its registered place; or		
	(d)	Recipient is not in possession of a tax invoice/debit note/any other prescribed document.		
Rule 86A(2)	<u>Blocked ITC may be allowed to be used if conditions for blocking credit no longer exist</u> That the Commissioner/any officer authorised by him may allow the blocked ITC if he is satisfied that conditions for blocking the ITC no longer exist, consequent upon submission of necessary evidences by the recipient			
Rule 86A(3)	<u>Restriction on utilisation of ITC applicable for one year only</u> Restriction on utilisation of ITC shall be applicable only for one year from the date of imposing such restriction			
49(3)	<u>Use of amount available in the electronic cash ledger</u> 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.			
49(4)	<u>Use of amount available in the electronic credit ledger</u> The amount available in the electronic credit ledger may be used for making any payment towards output tax under the CGST Act/under the IGST Act; However, electronic credit ledger cannot be used for the purpose of interest, penalty, fee or any other amount. Thus, it can be used only for the payment of output tax.			
	<u>Order of utilization of input tax credit available in the electronic credit ledger</u>			
	(a)	<u>Order of utilization of ITC of IGST available in the electronic credit ledger</u>		
		(i)	Payment of IGST	(iii)
		(ii)	Payment of CGST [out of the balanced amount, if any]	
<u>Order of utilization of ITC of CGST available in the electronic credit ledger</u>				

49(5)	(b)	(i)	Payment of CGST	(ii)	Payment of IGST [out of the balanced amount, if any]	
	<u>Order of utilization of ITC of SGST available in the electronic credit ledger</u>					
	(c)	(i)	Payment of SGST	(ii)	Payment of IGST [out of the balanced amount, if any]	
	<u>Order of utilization of ITC of UTGST available in the electronic credit ledger</u>					
	(d)	(i)	Payment of UTGST	(ii)	Payment of IGST [out of the balanced amount, if any]	
(e) & (f)	<u>Prohibition on utilizing ITC on account of CGST for payment of SGST/UTGST and vice versa – read with Section 49A and Section 49B</u> The amount of input tax credit available in the electronic credit ledger of the registered person on account of the central tax shall not be utilised towards payment of State tax or Union territory tax; and the State tax or Union territory tax shall not be utilised towards payment of central tax. CGST credit cannot be utilised for discharge of SGST/UTGST and SGST/UTGST credit cannot be utilised for the discharge of CGST liability.					
49A	<u>Applicable with effect from 01.02.2019</u> <u>Utilisation of ITC subject to certain conditions</u> ITC available on account of Integrated Tax is required to be fully utilized for payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, and only thereafter ITC available on account of Central Tax, State tax or Union territory tax shall be utilized for such payment. Certain situations arose wherein the supplier was required to discharge GST liability through cash ledger whereas the credit balance was available within under another head which resulted in liquidity issues to the suppliers.					
49B	<u>Applicable with effect from 01.02.2019</u> <u>Order of utilization of input tax credit</u> Irrespective of anything contained in payment of tax provisions given view Section 49 to Section 53, but subject to provisions of Sections 49(5) (e) and 49(5) (f), the Government may prescribe the order and manner of utilization of the ITC on account of integrated tax, central tax, State tax or Union territory tax for payment of any such tax. Thus, this section overrules the entire chapter of Input Tax Credit including Section 49 and Section 49A. In exercise of the powers conferred by this Section 49B, the Government has introduced Rule 88A.					
	<u>Rule 88A</u>	<u>Applicable with effect from 29.03.2019 - N.No.16/2019-Central Tax, dated 29.03.2019</u> The order of utilization of input tax credit ITC on account of integrated tax shall first be utilised towards payment of Integrated tax and the amount remaining, if any, may be utilised in any order for payment of :				
		Central Tax and		State Tax and Union Territory Tax		
	<u>Proviso to Rule 88A</u>	ITC of IGST is to be fully utilised before utilisation of ITC of central tax, State tax/UT Tax ITC on account of central tax, State tax/Union territory tax shall be utilised only after the ITC available on account of integrated tax has first been utilised fully.				

49(6)	<u>Refund of the amount available in ECL or ECrL</u> After payment of tax, interest, penalty, fee or any other amount payable under the Act or the rules made thereunder, the balance amount available in ECL or ECrL may be refunded in accordance with the provisions of Section 54 .		
	Rule 88(1)	<u>Generation of a Unique Identification Number (UIN)</u> A UIN shall be generated at the Common Portal for each debit or credit to the electronic cash or credit ledger.	
	Rule 88(2)	<u>Indication of UIN relating to discharge of any liability</u> The UIN relating to discharge of any liability shall be indicated in the corresponding entry in the electronic liability register.	
	<u>Recording and maintenance of all liabilities electronically</u> All liabilities of a taxable person under the CGST Act shall be recorded and maintained in an electronic liability register.		
	Rule 85(1)	<u>Electronic liability registered to be maintained for each person liable to pay tax, interest, penalty, late fee or any other amount</u> The electronic liability register shall be maintained in FORM GST PMT-01 for each person liable to pay tax, interest, penalty, late fee or any other amount. Further, the said register shall be maintained on the Common Portal and all amounts payable by a taxable person shall be debited to the said register.	
	Rule 85 (2)	<u>When electronic tax liability register shall be debited</u> The electronic liability register of the person shall be debited by:	
		(a)	The amount payable towards tax, interest, late fee or any other amount payable as per the return filed by the said person;
		(b)	The amount of tax, interest, penalty or any other amount payable as determined by a proper officer in pursuance of any proceeding under the Act or as ascertained by the Said Person
		(c)	The amount of tax and interest payable as a result of mismatch under Section 42 [Matching, Reversal and Reclaim of Input Tax Credit] or Section 43 [Matching, Reversal and Reclaim of Reduction in Output Tax Liability] or Section 50 [Interest on delayed payment of tax]; and
		(d)	Any amount of interest that may accrue from time to time.
	Rule 85(3)	<u>Electronic liability register to be credited consequent upon payment of every liability</u> Payment of every liability by a registered person as per his return shall be made by debiting the electronic credit ledger maintained as per Rule 86 or the electronic cash ledger maintained as per Rule 87 and the electronic liability register shall be credited accordingly. However, aforesaid Rule 85(3) is subject to the provisions of following section(s).	
		<u>Section</u>	<u>Heading</u>
		49	Payment of tax, interest, penalty and other amounts
			<u>Date of applicability</u> 01.07.2017

	49A	Utilisation of input tax credit subject to certain conditions	<u>01.02.2019</u>
	49B	Order of utilisation of input tax credit	<u>01.02.2019</u>
Rule 85(4)	<u>Electronic liabilities register to be credited consequent upon payment of amount of TDS/TCS/amount payable under RCM or composition levy/amount payable towards interest, penalty, fee etc.</u> The amount deducted under section 51, or the amount collected under section 52, or the amount payable on reverse charge basis, or the amount payable under Composition Levy Scheme under section 10 of the CGST Act or any amount payable towards interest, penalty, fee or any other amount under the Act shall be paid by debiting the Electronic Cash Ledger maintained as per Rule 87 and the electronic liability register shall be credited accordingly. These amounts cannot be paid through electronic credit ledger and has to be paid through electronic cash ledger only.		
Rule 85(5)	<u>Electronic liability registers to be credited consequent upon relief given by the appellate authorities/court</u> Any amount of demand debited in the Electronic Liability register shall stand reduced to the extent of relief given by the Appellate Authority or Appellate Tribunal or court and the Electronic Tax Liability register shall be credited accordingly.		
Rule 85(6)	<u>Electronic liability register to be credited consequent upon payment of tax, interest and penalty specified in the Show Cause Notice or demand order</u> The amount of penalty imposed or liable to be imposed shall stand reduced partly or fully, as the case may be, if the taxable person makes the payment of tax, interest and penalty specified in the Show Cause Notice or demand order, and the Electronic Liability Register shall be credited accordingly.		
Rule 85(7)	<u>Communication of discrepancy in electronic liability ledger to the jurisdictional officer in FORM GST PMT-04</u> Where a registered person notices any discrepancy in his electronic liability ledger, he shall communicate the same to the officer who exercises jurisdiction in this matter, through the Common Portal in FORM GST PMT-04.		
49(8)	<u>Order of discharge of tax and other dues</u> Every taxable person shall be required to discharge his tax and other dues under this Act or the Rules made thereunder in the following order, namely: -		
	(a)	Self-assessed tax, and other dues related to returns of previous tax periods;	
	(b)	Self-assessed tax, and other dues related to return of current tax period;	
	(c)	Any other amount payable under the Act or the rules made thereunder including the demand determined under Section 73 or Section 74.	
49(9)	<u>Passing on the full incidence of CGST/SGST/IGST</u> Every person who has paid the tax on supply of goods or services or both under the Act, it shall be presumed that such person (who has made payment of tax) has passed on the full incidence of such tax to the recipient of such goods or services or both, unless the contrary is proved by him.		
	<u>Applicable with effect from 01.01.2020- N. No. 01/2020-CT, dated 01.01.2020</u> <u>Transfer of any amount available in the electronic cash ledger under CGST Act to the electronic cash ledger</u>		

49(10)	<p><u>for integrated tax, central tax, State tax, Union territory tax or cess</u> A registered person shall be given the option to transfer on the common portal any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the CGST Act to the electronic cash ledger for other taxes like integrated tax, State tax, and Union territory tax. Similar proposition shall be applicable to cess also. However, such transfer shall be in the form and manner prescribed in the Rules made in this regard. Further, Rules made also prescribe the conditions and restrictions for aforesaid transfer of amount. Furthermore, said transfer shall be deemed to be a refund from the electronic cash ledger under the CGST Act.</p>
49(11)	<p><u>Applicable with effect from 01.01.2020 - N. No. 01/2020-CT, dated 01.01.2020</u> <u>Any amount transferred to the electronic cash ledger under the CGST Act shall be deemed to deposited in the said ledger</u> Where any amount has been transferred to the electronic cash ledger under the CGST Act from other cash ledgers, the same shall be deemed to be deposited in the said ledger.</p>

9.5 Interest on delayed payment of tax - Section 50

50(1)	<p><u>Payment of interest on delayed payment of tax</u> Every person who is liable to pay tax in accordance with the provisions of CGST Act or Rules made thereunder and fails to pay the tax, either wholly or partially, to the account of the Government within the period prescribed, shall be liable to pay interest at notified rate. The rate of interest shall be notified by the Government on the recommendation of the GST Council. Rate of interest shall not exceed 18%. The ROI @ 18% on delayed payment of tax has been notified vide N.No. 13/2017-CT & 06/2017-IT, dated 28.06.2017 with effect from 01.07.2017.</p>
Proviso to 50(1)	<p><u>Applicable with effect from a date to be notified later</u> Interest on delayed payment of tax shall be required to be paid only on that portion of the tax which is paid in cash by every person and not on the gross amount i.e. amount due before giving effect of input tax credit. In other words, he shall be allowed to avail the benefit of available input tax credit. However, the benefit of payment of interest, only on cash payment (after netting off with ITC) shall not be available in those cases where the return is furnished after commencement of any proceedings under section 73 or section 74.</p>
50(2)	<p><u>Period from which interest is to be paid</u> This is a clarificatory provision to avoid unnecessary litigation in this regard. It is specifically provided that the interest shall be calculated from the day succeeding the day such tax was due to be paid. However, it is necessary to add here that interest is to be paid till the date of actual payment.</p>
50(3)	<p><u>Payment of interest on undue or excess claim of ITC or undue or excess reduction in OTL</u> A taxable person who makes an undue or excess claim of Input Tax Credit (ITC) under Section 42(10) or undue or excess reduction in OTL under Section 43(10), shall be liable to pay interest on aforesaid undue or excess claim of ITC or on aforesaid undue or excess reduction of OTL. The foregoing interest shall be paid at the notified rate. However, rate of interest shall not exceed 24%. The rate of interest @ 24% on undue or excess claim of ITC or undue or excess reduction in output tax liability has been notified vide N.No. 13/2017-CT & 06/2017-IT, dated 28.06.2017 with effect from 01.07.2017.</p>

9.6 Tax deduction at source-Section 51- Applicable with effect from 01.10.2018

51(1)	<u>Tax deduction at source by specified persons</u>				
	Notwithstanding anything to the contrary contained in this Act[which means that provision of this sub-section shall prevail even if they are contrary to any other provision of the CGST Act],the Government may mandate to the following persons [the deductor"] to deduct CGST and SGST at the rate of 1% (one per cent) each or IGST at the rate of 2% (two per cent) from the payment made or credited to the supplier ["the deductee"] of taxable goods or services or both:				
	(a)	A department or establishment of the Central Government or State Government, or			
	(b)	Local authority, or			
	(c)	Governmental Agencies, or			
	Such persons or category of persons, as may be notified , by the Government on the recommendations of the Council. Following persons have been specified to deduct the tax at source:				
	(a)	An authority or a board or any other body, -			
		(i)	Set up by an Act of Parliament or a State Legislature; or		
		(ii)	Established by any Government,		
		With 51% or more participation by way of equity or control, to carry out any function;			
	(b)	Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860;			
	(c)	Public sector undertakings			
	(d)	Persons not required to deduct tax at source			
		Specified Persons	Effective date	CT N.No.	Date
		Post Audit Authorities under the Ministry of Defence	01.10.2018	57/2018	23.10.2018
	Public Sector Undertaking [PSU] while making supply of goods or services or both to another PSU, whether or not a distinct person.	01.10.2018	61/2018	05.11.2018	
	Persons specified under clauses (a), (b), (c) and (d) of Section 51(1) [hereinafter referred as Specified Persons] while making supply of goods or services or both to another specified person.	31.12.2018	73/2018	31.12.2018	
<u>Total value of taxable supply under a contract must exceed Rs. 2,50,000</u>					
TDS provisions shall be attracted only when total value of taxable goods or services or both, under a contract exceeds Rs. 2, 50,000/- .					
Proviso	<u>Non-applicability of TDS provision</u> No deduction of tax at source shall be made if the location of the supplier and the place of supply are in a State or Union territory which is different from the State or Union territory of registration of the recipient. No tax to be deducted at source if recipient is registered in a state or UT different from the location of supplier and place of supply.				

Explanation	<u>Value of supply shall exclude taxes and cess under GST</u> For the purpose of TDS, the value of supply shall be taken as the amount excluding the Central tax, Statetax, Union territory tax, Integrated tax and Cess indicated in the invoice.		
51(2)	<u>Payment of TDS to the Government within 10 days after end of month</u> The deductor shall be required to deposit the amount deducted as tax under this section to the credit of appropriate Government within 10 days after the end of the month in which such deduction is made in the manner given under Rule 85(4).		
	Rule 85(4)	<u>Manner of payment of TDS to the Government</u> The amount of TDS shall be paid by debiting the electronic cash ledger maintained as per Rule 87 and the electronic liability register shall be credited accordingly.	
51(3)	<u>Contents of certificate of TDS</u>		
	(a)	The contract value	(d) Government; and
	(b)	Rate of deduction	(e) Amount paid to the appropriate
(c)	Amount deducted,	(f) Such other particulars as may be prescribed in this behalf	
51(4)	<u>Late fee for delay in furnishing TDS certificate to the deductee</u> The deductor shall furnish a certificate to the deductee within five days of crediting the amount so deducted to the appropriate government. In case the deductor fails to furnish the certificate within the said time period of five days, then such deductor shall be liable to pay a late fee of Rs. 100/- per day from the day after the expiry of the five-day period until the failure is rectified . However, maximum amount of fee payable shall not exceed Rs. 5,000 under the CGST Act . Maximum amount of late fee payable shall not exceed Rs. 5,000/- under concerned SGST Act . Thus, effectively, maximum amount of late fee shall not exceed Rs. 10,000.		
51(5)	<u>Credit of tax deducted at source</u> The deductee shall claim credit in his electronic cash ledger of the tax which has been deducted and reflected in the return of the deductor furnished under Section 39(3).		
	Rule 87(9)	<u>Amount of TDS shall be credited to electronic cash ledger of the deductee</u> Any amount deducted under Section 51 and claimed by the registered taxable person from whom said amount was deducted, shall be credited to his electronic cash ledger	
51(6)	<u>Interest to be paid by deductor for failure to pay TDS amount within stipulated time</u> The deductor who fails to pay to the credit of the appropriate Government the amount deducted as tax shall be liable to pay interest at the rate of 18% in terms of Section 50(1) in addition to the amount of tax deducted.		
51(7)	<u>Determination of the amount in default</u> Non-deduction or short-deduction or non-payment or short payment of TDS shall be dealt in accordance with provisions of Section 73 or Section 74. It implies that for determining the amount of default, deductor shall be served show cause notice following the principle of natural justice under section 73 or under section 74 as the case may be depending on the facts of each case.		

51(8)	<u>Refund of excess or erroneous deduction of tax</u> Excess TDS may be deducted by the deductor. The refund of excess or erroneous deduction of tax shall be dealt in accordance with provisions of Section 54 which have dealt in Chapter 11.	
Proviso	<u>No refund to deductor if the amount deducted has been credited to the electronic cash ledger of deductee</u> No refund of excess or erroneous deduction of tax shall be made to the deductor, if the amount deducted has been credited to the electronic cash ledger of the deductee.	
1. Circular No. 76/50/2018-GST, dated 31.12.2018 [Relevant Extract]		
S.No.	Issue	Clarification
4.	Applicability of the provisions of section 51 of the CGST Act (TDS) in the context of N.No.50/2018-Central Tax dated 13.09.2018.	1. A doubt has arisen about the applicability of long line mentioned in clause (a) of N.No.50/2018-CT dated 13.09.2018.
		2. It is clarified that the long line written in clause (a) in N.No.50/2018- Central Tax dated 13.09.2018 is applicable to both the items (i) and (ii) of clause (a) of the said notification. Thus, an authority or a board or any other body whether set up by an Act of Parliament or a State Legislature or established by any Government with fifty-one per cent. or more participation by way of equity or control, to carry out any function would only be liable to deduct tax at source.
		3. In other words, the provisions of section 51 of the CGST Act are applicable only to such authority or a board or any other body set up by an Act of parliament or a State legislature or established by any Government in which fifty-one percent or more participation by way of equity or control is with the Government.
2. Circular No.65/39/2018-GST, dated 14.09.2018 [As amended vide Circular No. 67/41/2018-DOR, dated 28.09.2018]		
Guidelines for Deductions and Deposits of TDS by the DDO under GST- Circular No. 65/39/2018-GST, dated 14.09.2018 as amended vide Circular No. 67/41/2018-DOR, dated 28.09.2018		
Section 51 of the CGST Act 2017 provides for deduction of tax by the Government Agencies (Deductor) or any other person to be notified in this regard, from the payment made or credited to the supplier (Deductee) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees. The amount deducted as tax under this section shall be paid to the Government by deductor within ten days after the end of the month in which such deduction is made along with a return in FORM GSTR-7 giving the details of deductions and deductee. Further, the deductor has to issue a certificate to the deductee mentioning therein the contract value, rate of deduction, amount deducted etc.		
2.	As per the Act, every deductor shall deduct the tax amount from the payment made to the supplier of goods or services or both and deposit the tax amount so deducted with the Government account through NEFT to RBI or a cheque to be deposited in one of the authorized banks, using challan on the common portal. In addition, the deductor are entrusted the responsibility of filing return in FORM GSTR-7 on the common portal for every month in which deduction has been made based on which the benefit of deduction shall be made available to the deductee. All the DDOs in the Government, who are performing the role as deductor have to	

	register with the common portal and get the GST Identification Number (GSTIN).		
3.	The subject section which provides for tax deduction at source was not notified to come into force with effect from 1st July, 2017, the date from which GST was introduced. Government has notified that these provisions shall come into force with effect from 1st October, 2018 vide Notification No.50/2018 - Central Tax dated 13th September, 2018.		
4.	For payment process of Tax Deduction at Source under GST two options can be followed, which are as under: <table border="1" data-bbox="235 357 1299 472"> <tr> <td>Option I : Generation of challan for every payment made during the month</td> </tr> <tr> <td>Option II : Bunching of TDS deducted from the bills on weekly, monthly or any periodic manner.</td> </tr> </table>	Option I : Generation of challan for every payment made during the month	Option II : Bunching of TDS deducted from the bills on weekly, monthly or any periodic manner.
Option I : Generation of challan for every payment made during the month			
Option II : Bunching of TDS deducted from the bills on weekly, monthly or any periodic manner.			
5.	In order to give effect to the above options from 01.10.2018, a process flow of deduction and deposit of TDS by the DDOs has been finalized in consultation with CGA for guidance and implementation by Central and State Government Authorities. The process flow for Option I and Option II are described as under:		
Option I - Individual Bill-wise Deduction and its Deposit by the DDO			
6.	In this option, the DDO will have to deduct as well as deposit the GST TDS for each bill individually by generating a CPIN (Challan) and mentioning it in the Bill itself.		
7.	Following process shall be followed by the DDO in this regard:		
	(i) The DDO shall prepare the Bill based on the Expenditure Sanction. The Expenditure Sanction shall contain the (a) Total amount, (b) net amount payable to the Contractor/Supplier/Vendor and (c) the 2% TDS amount of GST.		
	(ii) The DDO shall login into the GSTN Portal (using his GSTIN) and generate the CPIN (Challan). In the CPIN he shall have to fill in the desired amount of payment against one/many Major Head(s) (CGST/SGST/UTGST/IGST) and the relevant component (e.g. Tax) under each of the Major Head.		
	(iii) While generating the CPIN, the DDO will have to select mode of payment as either (a) NEFT/RTGS or (b) OTC. In the OTC mode, the DDO will have to select the Bank where the payment will be deposited through OTC mode.		
	(iv) The DDO shall prepare the bill on PFMS (in case of Central Civil Ministries of GoI), similar payment portals of other Ministries/Departments of GoI or of State Governments for submission to the respective payment authorities.		
	(v) In the Bill, (a) the net amount payable to the Contractor; and (b) 2% as TDS will be specified		
	(vi) In case of NEFT/RTGS mode, the DDO will have to mention the CPIN Number (as beneficiary's account number), RBI (as beneficiary) and the IFSC Code of RBI with the request to payment authority to make payment in favour of RBI with these credentials.		
	(vii) In case of the OTC mode, the DDO will have to request the payment authority to issue 'A' Category Government Cheque in favour of one of the 25 authorized Banks. The Cheque may then be deposited along with the CPIN with any of branch of the authorized Bank so selected by the DDO.		
	(viii) Upon successful payment, a CIN will be generated by the RBI/Authorized Bank and will be shared electronically with the GSTN Portal. This will get credited in the electronic Cash Ledger of the concerned DDO in the GSTN Portal. This can be viewed and the details of CIN can be noted by the DDO anytime on GSTN portal using his Login credentials.		

(ix)	The DDO should maintain a Register as per proforma given in Annexure 'A' to keep record of all TDS deductions made by him during the month. This Record will be helpful at the time of filing Monthly Return (FORM GSTR-7) by the DDO. The DDO may also make use of the offline utility available on the GSTN Portal for this purpose.					
(x)	The DDO shall generate TDS Certificate through the GST Portal in FORM GSTR-7A after filing of Monthly Return.					
Option II - Bunching of deductions and its deposit by the DDO						
8.	Option-I may not be suitable for DDOs who make large number of payments in a month as it would require them to make large number of challan during the month. Such DDOs may exercise this option wherein the DDO will have to deduct the TDS from each bill, for keeping it under the Suspense Head. However, deposit of this bunched amount from the Suspense Head can be made on a weekly, monthly or any other periodic basis.					
9.	Following process shall be followed by the DDO in this regard:					
	(i)	The DDO shall prepare the Bill based on the Expenditure Sanction. The Expenditure Sanction shall contain the (a) Total amount, (b) net amount payable to the Contractor/Supplier/Vendor and (c) the 2% TDS amount of GST.				
	(ii)	The DDO shall prepare the bill on PFMS (in case of Central Civil Ministries of GoI), similar payment portals of other Ministries/Departments of GoI or of State Governments for submission to the respective payment authorities.				
	(iii)	In the Bill, it will be specified (a) the net amount payable to the Contractor; and (b) 2% as TDS				
	(iv)	To enable the DDOs to account for the TDS bunched together (in terms of Option II), following sub-head related to the GST-TDS below the Head 8658.00.101-PAO Suspense has been opened:				
		S.No.	Major Head	Sub Head	Major Head Serial Code	SCCD Code
		1.	8658-00-101	08-GST TDS	86580344(8 digit code)	367
	(v)	The DDO will require maintaining the Record of the TDS so being booked under the Suspense Head so that at the time of preparing the CPIN for making payment on weekly/monthly or any other periodic basis, the total amount could be easily worked out.				
	(vi)	At any periodic interval, when DDO needs to deposit the TDS amount, he will prepare the CPIN on the GSTN Portal for the amount (already booked under the Suspense Head).				
	(vii)	While generating the CPIN, the DDO will have to select mode of payment as either (a) NEFT/RTGS or (b) OTC. In the OTC mode, the DDO will have to select the Bank where the payment will be deposited through OTC mode.				
(viii)	The DDO shall prepare the bill for the bunched TDS amount for payment through the concerned payment authority. In the Bill, the DDO will give reference of all the earlier paid bills from which 2% TDS was deducted and kept in the suspense head. The DDO may also attach a certified copy of the record maintained by him in this regard.					
(ix)	The payment authority will pass the bill by clearing the Suspense Head operated against that particular DDO after exercising necessary checks.					

(x)	In case of NEFT/RTGS mode, the DDO will have to mention the CPIN Number (as beneficiary's account number), RBI (as beneficiary) and the IFSC Code of RBI with the request to payment authority to make payment in favour of RBI with these credentials.
(xi)	In case of the OTC mode, the DDO will have to request the payment authority to issue 'A' Category Government Cheque in favour of one of the 25 authorized Banks. The Cheque may then be deposited along with the CPIN with any of branch of the authorized Bank so selected by the DDO.
(xii)	Upon successful payment, a CIN will be generated by the RBI/Authorized Bank and will be shared electronically with the GSTN Portal. This will get credited in the electronic Cash Ledger of the concerned DDO in the GSTN Portal. This can be viewed and the details of CIN can be noted by the DDO anytime on GSTN portal using his Login credentials.
(xiii)	The DDO should maintain a Register as per proforma given in Annexure 'A' to keep record of all TDS deductions made by him during the month. This Record will be helpful at the time of filing Monthly Return (FORM GSTR-7) by the DDO. The DDO may also make use of the offline utility available on the GSTN Portal for this purpose.
(xiv)	The DDO shall file the Return in FORM GSTR-7 by 10th of the following month
(xv)	The DDO shall generate TDS Certificate through the GSTN Portal in FORM GSTR-7A
10.	Departments in Central Government should instruct all its DDOs under them to follow the above procedure for payment of GST TDS amount deducted from payments to be made to suppliers.

9.7 Special provision for payment of tax by the supplier of OIDAR services - Section 14 of the IGST Act, 2017

Section	Details
14	<p><u>Scope of Section 14</u> Provisions of this section shall apply when services of online information and data base access or retrieval service are provided by any person located in a non-taxable territory and received by a non-taxable online recipient. In all other cases provisions of section 13(12) shall apply. It is also important to mention that as it will be a case of import of service therefore IGST i.e. integrated tax shall apply. The supplier of services located in a non-taxable territory shall be the person liable for paying integrated tax on such supply of services.</p> <p>As per Section 2(16) of IGST "non-taxable online recipient" means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.</p>
14(1)	<p><u>Supplier of OIDAR Services, located in a non-taxable territory supplying to a non-taxable online recipient, made liable for payment of Integrated Tax</u> On supply of online information and database access or retrieval services by any person located in a non-taxable territory and received by a non-taxable online recipient, the supplier of services located in a non-taxable territory shall be the person liable for paying integrated tax on such supply of services.</p>

	<p><u>When an Intermediary located in non-taxable territory shall be deemed to be the supplier of OIDAR Services to non-taxable online recipient</u></p> <p>When supplier of OIDAR services are received by an intermediary located in non-taxable territory and thereafter he arranges or facilitates the supply of such services to the non-taxable service recipient. In the case of supply of OIDAR by any person located in a non-taxable territory and received by a non-taxable online recipient, from an intermediary located in the non-taxable territory, (who arranges or facilitates the supply of such services), intermediary shall be deemed to be the recipient of such services from the supplier of services in non-taxable territory. It shall be presumed that such intermediary is supplying such services to the non-taxable online recipient.</p>								
First Proviso	<p>However, such intermediary shall not be treated as supplier of services of OIDAR if such intermediary satisfies the following conditions cumulatively: -</p>								
	<table border="1"> <tr> <td>(a)</td> <td>The invoice or customer's bill or receipt issued or made available by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory;</td> </tr> <tr> <td>(b)</td> <td>The intermediary involved in the supply does not authorise the charge to the customer or take part in its charge which is that the intermediary neither collects or processes payment in any manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services;</td> </tr> <tr> <td>(c)</td> <td>The intermediary involved in the supply does not authorise delivery; and</td> </tr> <tr> <td>(d)</td> <td>The general terms and conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.</td> </tr> </table>	(a)	The invoice or customer's bill or receipt issued or made available by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory;	(b)	The intermediary involved in the supply does not authorise the charge to the customer or take part in its charge which is that the intermediary neither collects or processes payment in any manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services;	(c)	The intermediary involved in the supply does not authorise delivery; and	(d)	The general terms and conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.
(a)	The invoice or customer's bill or receipt issued or made available by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory;								
(b)	The intermediary involved in the supply does not authorise the charge to the customer or take part in its charge which is that the intermediary neither collects or processes payment in any manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services;								
(c)	The intermediary involved in the supply does not authorise delivery; and								
(d)	The general terms and conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.								
14(2)	<p><u>Supplier of OIDAR Services to Take a Single Registration</u></p> <p>The supplier of online information and database access or retrieval services referred to in Section 14(1) shall, for payment of integrated tax, take a single registration under the Simplified Registration Scheme to be notified by the Government.</p>								
First Proviso	<p><u>Representative of supplier of OIDAR services to get registered for payment of tax</u></p> <p>Any person located in the taxable territory representing such supplier for any purpose in the taxable territory shall get registered and pay integrated tax on behalf of the supplier.</p>								
Second Proviso	<p><u>Appointment of a Person in the Taxable Territory for Payment of Tax</u></p> <p>If such supplier does not have a physical presence or does not have a representative for any purpose in the taxable territory, he may appoint a person in the taxable territory for the purpose of paying integrated tax and such person shall be liable for payment of such tax.</p>								
	<table border="1"> <tr> <td>Rule 64</td> <td> <p><u>Form and manner of submission of return by persons providing OIDAR Services</u></p> <p>Every registered person providing OIDAR services from a place outside India to a person in India other than a registered person shall file return in FORM GSTR-5A on or before the 20th day of the month succeeding the calendar month or part thereof</p> </td> </tr> </table>	Rule 64	<p><u>Form and manner of submission of return by persons providing OIDAR Services</u></p> <p>Every registered person providing OIDAR services from a place outside India to a person in India other than a registered person shall file return in FORM GSTR-5A on or before the 20th day of the month succeeding the calendar month or part thereof</p>						
Rule 64	<p><u>Form and manner of submission of return by persons providing OIDAR Services</u></p> <p>Every registered person providing OIDAR services from a place outside India to a person in India other than a registered person shall file return in FORM GSTR-5A on or before the 20th day of the month succeeding the calendar month or part thereof</p>								

9.8 Transfer of input tax credit - Section 53

53	<p>In terms of clause (b), (c) and (d) of section 49(5), SGST/CGST/UTGST credits shall be first used by a registered person for payment of tax dues under respective SGST/CGST/UTGST Act. Thereafter, the balance of CGST can be used for payment of tax dues under IGST. Therefore, Section 53 provides that consequent upon utilization of the ITC availed under the CGST Act for payment of tax dues under the IGST ACT as reflected in the valid return, there shall be reduction in central tax caused by Central Government and equal credit shall be given in IGST</p>
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in the prescribed time and manner. Provisions parallel to Section 53 of the CGST Act have been incorporated vide Section 18 of the IGST Act, 2017.

9.9 Meaning of Reverse Charge Principle (Mechanism]

A supplier of taxable goods or services or both shall be generally liable for making the payment of GST to the credit of appropriate Government. However, in exceptional situations, any person other than the supplier of goods or services or both shall be statutorily liable for payment of GST to the credit of appropriate Government. The principle of payment of GST to the credit of appropriate Government by any person other than the supplier of goods or services or both is known as ' Reverse Charge Principle (Mechanism)].

9.10 Analysis of Statutory Provisions Relating to Reverse Charge - Sections 9(3) and section 9(4) of the CGST Act/Section 5(3) & Section 5(4) of the IGST Act

Specified categories of supply of goods or services or both subject to reverse charge-Section 9(3) of the CGST Act/Section 5(3) of the IGST Act, 2017

The Government has the power to specify certain categories of supply of goods or services in respect of which tax shall be paid by the recipient of such goods or services or both. In exercise of the foregoing power, the Government has notified following specified categories of supply of goods or services in respect of which tax shall be paid by the recipient of such goods or services or both.

Specified categories of supply of goods subject to reverse charge-Section 9(3) of the CGST Act/Section 5(3) of the IGST Act, 2017

S. No.	Tariff item, sub-heading, heading or Chapter	Description of Goods	Supplier of Goods	Recipient of Goods	Effective Date
(1)	(2)	(3)	(4)	(5)	(6)
1.	0801	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person	01.07.2017
2.	1404 90 10	Bidi wrapper leaves (Tendu)	Agriculturist	Any registered person	01.07.2017
3.	2401	Tobacco Leaves	Agriculturist	Any registered person	01.07.2017
4.	5004 to 5006	Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person	01.07.2017
4A	5201	Raw Cotton	Agriculturist	Any registered person	15.11.2017
5.	-	Supply of lottery	State Government, Union Territory or any local authority	Lottery Distributor or Selling Agent	01.07.2017

6.	Any Chapter	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government, State Government, Union Territory or a local authority	Any registered person	13.10.2017
7.	Any Chapter	Priority Sector Lending Certificate [PSLC] * [Note-1]	Any registered person	Any registered person	28.05.2018

Note-1

Term	Meaning and Source
Distributor or selling agent	Lottery distributor or selling agent has the same meaning as assigned to it in clause (c) of Rule 2 of the Lotteries (Regulation) Rules,2010, made under the provisions of sub section 1 of section 11 of the Lotteries (Regulations) Act, 1998- Source -Explanation to Entry 5 of N. No. 04/2017-CT(R), dated 28.06.2017 “Distributor or selling agent” means an individual or a firm or a body corporate or other legal entity under law so appointed by the Organising State through an agreement to market and sell lotteries on behalf of the Organising State- Source-Rule 2(c) of the Lotteries (Regulation) Rules,2010
Priority Sector Lending Certificate[PSLC]	PSLCs are negotiable certificates issued against priority sector loans of banks. These certificates are issued to enable the banks to earn a premium for surpassing targets of priority sector lending and to enhance lending under priority sector.

Circular No. 62/36/2018-GST, dated 12.09.2018 - Levy of GST on Priority Sector Lending Certificates

Representations have been received requesting to clarify the following:

(i)	Mechanism for discharge of tax liability on trading of Priority Sector Lending Certificate (PSLC) for the period 1.7.2017 to 27.5.2018.
(ii)	GST rate applicable on trading of PSLCs.
2.	The representations have been examined. With the approval of the GST Implementation Committee of the GST Council, it is clarified that GST on PSLCs for the period 1.7.2017 to 27.05.2018 will be paid by the seller bank on forward charge basis and GST rate of 12% will be applicable on the supply. Whether the supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by Government departments are taxable under GST? -Reg. - Circular No. 76/50/2018-GST, dated 31.12.2018 [Relevant Extract]
	<u>Clarification :</u>
(i)	It may be noted that intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by the Central Government, State Government, Union territory or a local authority is a taxable supply under GST.
(ii)	Vide N No. 36/2017-Central Tax (Rate) and N.No.37/2017- Integrated Tax (Rate) both dated 13.10.2017, it has been notified that intra-State and inter-State supply respectively of used vehicles, seized and confiscated goods, old and used goods, waste and scrap by the Central Government, State Government, Union territory or a local authority to any registered person , would be subject to GST on reverse charge basis as per which tax is payable by the recipient of such supplies.
(iii)	A doubt has arisen about taxability of intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by the Central Government, State Government, Union territory or a local authority to an unregistered person .

(iv)	It was noted that such supply to an unregistered person is also a taxable supply under GST but is not covered under N.No.36/2017-Central Tax (Rate) and N.No.37/2017- Integrated Tax (Rate) both dated 13.10.2017.
(v)	In this regard, it is clarified that the respective Government departments (i.e. Central Government, State Government, Union territory or a local authority) shall be liable to get registered and pay GST on intra-State and inter-State supply of used vehicles, seized and confiscated goods, old and used goods, waste and scrap made by them to an unregistered person subject to the provisions of sections 22 and 24 of the CGST Act.

Specified categories of supply of services subject to reverse charge -Section 9(3) of the CGST Act/Section 5(3) of the IGST Act, 2017

Category of supply of services on which tax payable by recipient under IGST Act, 2017 [only at a glance]

Category of supply of services on which tax payable by recipient under IGST Act, 2017 only	Supplier of Service	Recipient of Service
<u>With effect from 01.07.2017</u> <u>Any service supplied by any person located in a non-taxable territory</u> Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient	Any person located in a non-taxable territory	Any person located in the taxable territory other than non-taxable online recipient.
<u>With effect from 01.07.2017</u> <u>Services by a person located in non-taxable territory by way of transportation of goods by a vessel</u> Services supplied by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India	A person located in non-taxable territory	Importer, as defined in Section 2(26) of the Customs Act, 1962, located in the taxable territory

SPECIFIED SERVICES SUBJECT TO REVERSE CHARGE BOTH UNDER CGST ACT AND IGST ACT

GTA Services

Note: Specified at S.No.1 of N.No.13/2017-CT(R)/S.No.2 of N.No.10/2017-IT (R), both dated 28.06.2017

With effect from 01.01.2019

Supply of Services by a goods transport agency (GTA) who has not paid central tax at the rate of 6% in respect of transportation of goods by road

Provided that nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to, -

(a)	A Department or Establishment of the Central Government or State Government or Union territory; or
(b)	Local authority; or
(c)	Governmental agencies,

which has taken registration under the CGST Act only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services

For the period 22.08.2017 to 31.12.2018

Supply of services by a goods transport agency (GTA) who has not paid central tax at the rate of 6% in respect of transportation of goods by road;

For the Period 01.07.2017 to 21.08.2017

Supply of services by a goods transport agency (GTA) in respect of transportation of goods by road.

In order to attract the reverse charge mechanism, the following conditions needs to be satisfied cumulatively;

(A)	<p><u>Supplier of services</u> Reverse charge mechanism shall be applicable only if supply of service is made by a Goods Transport Agency (GTA). However, with effect from 22.08.2017 , services supplied by those Goods Transport Agencies shall fall within the purview of Reverse Charge Mechanism who have not paid CGST and SGST at the rate of 6% each/ who have not paid IGST at the rate of 12% in respect of transportation of goods by road. Thus, if the GTA charges 6% CGST and 6% SGST or as the case may be, 12% IGST in its tax invoice from the recipient of its services, in such case goods transport agency shall be liable to pay tax under forward charge and the RCM provisions shall not apply. It is to recall the readers that GTA has been given an option to pay tax either at 12 percent and claim the benefit of tax credit or pay tax at concessional rate of 5 percent without taking benefit of tax credit. RCM shall be applicable only in a situation where GTA discharge its tax liability at concessional rate of tax at 5 percent only .</p>																						
(B)	<p><u>Scope of services</u> Services of transportation of goods by road are supplied by a goods transport agency.</p>																						
(C)	<p><u>Recipient of services</u> Any one of the following :</p> <table border="1" data-bbox="228 768 1492 1226"> <tr> <td data-bbox="228 768 331 810">(a)</td> <td data-bbox="331 768 1492 810">Any factory registered under or governed by the Factories Act, 1948; or</td> </tr> <tr> <td data-bbox="228 810 331 884">(b)</td> <td data-bbox="331 810 1492 884">Any society registered under the Societies Registration Act, 1860 or under any other law for the timebeing in force in any part of India; or</td> </tr> <tr> <td data-bbox="228 884 331 926">(c)</td> <td data-bbox="331 884 1492 926">Any co-operative society established by or under any law; or</td> </tr> <tr> <td data-bbox="228 926 331 968">(d)</td> <td data-bbox="331 926 1492 968">Any person registered under CGST/IGST/SGST/UTGST Act; or</td> </tr> <tr> <td data-bbox="228 968 331 1010">(e)</td> <td data-bbox="331 968 1492 1010">Any body corporate established, by or under any law; or</td> </tr> <tr> <td data-bbox="228 1010 331 1083">(f)</td> <td data-bbox="331 1010 1492 1083">Any partnership firm whether registered or not under any law including association of persons</td> </tr> <tr> <td data-bbox="228 1083 331 1188"></td> <td data-bbox="331 1083 1492 1188">Note: 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</td> </tr> <tr> <td data-bbox="228 1188 331 1230">(g)</td> <td data-bbox="331 1188 1492 1230">Any casual taxable person located in the taxable territory</td> </tr> </table> <p>If GTA Services are supplied to any other person, then provisions of Reverse Charge shall not apply. Accordingly, GTA shall be required to charge applicable GST from the recipient of service. Further, with effect from 01.01.2019, a proviso has been inserted to provide that nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to, -</p> <table border="1" data-bbox="228 1377 1492 1535"> <tr> <td data-bbox="228 1377 331 1451">(a)</td> <td data-bbox="331 1377 1492 1451">A Department or Establishment of the Central Government or State Government or Union territory; or</td> </tr> <tr> <td data-bbox="228 1451 331 1493">(b)</td> <td data-bbox="331 1451 1492 1493">Local authority; or</td> </tr> <tr> <td data-bbox="228 1493 331 1535">(c)</td> <td data-bbox="331 1493 1492 1535">Governmental agencies,</td> </tr> </table> <p>Which has taken registration under the CGST Act only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services Thus, GTA shall charge applicable GST under forward charge from above persons. However, input tax credit is available to the recipient of service, when the GST paid by him is at a concessional rate of 5% under RCM .</p>	(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 timebeing in force in any part of India; or	(c)	Any co-operative society established by or under any law; or	(d)	Any person registered under CGST/IGST/SGST/UTGST Act; or	(e)	Any body corporate established, by or under any law; or	(f)	Any partnership firm whether registered or not under any law including association of persons		Note: 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	(g)	Any casual taxable person located in the taxable territory	(a)	A Department or Establishment of the Central Government or State Government or Union territory; or	(b)	Local authority; or	(c)	Governmental agencies,
(a)	Any factory registered under or governed by the Factories Act, 1948; or																						
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(g)	Any casual taxable person located in the taxable territory																						
(a)	A Department or Establishment of the Central Government or State Government or Union territory; or																						
(b)	Local authority; or																						
(c)	Governmental agencies,																						
1. Circular No. 186/5/2015-ST, dated 05.10.2015 [Relevant extract]																							

3.	<p>Goods Transport Agency (GTA) has been defined to mean any person who provides service to a person in relation to transport of goods by road and issues consignment note, by whatever name called. The service provided is a composite service which may include various ancillary services such as loading/ unloading, packing/unpacking, trans-shipment, temporary storage etc., which are provided in the course of transportation of goods by road. These ancillary services may be provided by GTA himself or may be sub-contracted by the GTA. In either case, for the service provided, GTA issues a consignment note and the invoice issued by the GTA for providing the said service includes the value of ancillary services provided in the course of transportation of goods by road. These services are not provided as independent activities but are the means for successful provision of the principal service, namely, the transportation of goods by road.</p>
4.	<p>A single composite service need not be broken into its components and considered as constituting separate services, if it is provided as such in the ordinary course of business. Thus, a composite service, even if it consists of more than one service, should be treated as a single service based on the main or principal service. While taking a view, both the form and substance of the transaction are to be considered. The guiding principle is to identify the essential features of the transaction. The interpretation of specified descriptions of services in such cases shall be based on the principle of interpretation enumerated in section 66 F of the Finance Act, 1994. Thus, if ancillary services are provided in the course of transportation of goods by road and the charges for such services are included in the invoice issued by the GTA, and not by any other person, such services would form part of GTA service.</p>
<p>With effect from 01.07.2017</p>	
<p>Services supplied by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly</p>	
<p>Note: These services have been specified at S.No. 2 of N.No.13/2017-CT(R)/S.No. 3 of N.No.10/2017-IT(R)</p>	
<p>In order to attract the reverse charge mechanism, the following conditions need to be satisfied cumulatively:</p>	
(A)	<p><u>Supplier of services</u> Supplier of services shall be an individual advocate including senior advocate or a firm of advocates.</p>
(B)	<p><u>Scope of services</u> Legal services supplied by an individual advocate including a senior advocate or firm of advocates</p>
(C)	<p><u>Recipient of services</u> Any business entity located in taxable territory, having turnover exceeding such amount in the preceding financial year as makes it eligible for exemption from registration under the CGST Act, 2017 .If recipient of service is a business entity with a turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration under the CGST Act, 2017 then such legal services shall be exempted and consequently question of applicability of reverse charge shall not arise.</p>
<p><u>Relevant Exemptions</u> - Entry 47 of the N.No.9/2017-IT(R) or Entry 45 of the N.No.12/2017-CT(R) Services supplied by:</p>	
(a)	<p>...</p>
(b)	<p>A partnership firm of advocates or an individual as an advocate other than a senior advocate, by way of legal services to:</p>
(i)	<p>An advocate or partnership firm of advocates providing legal services; or</p>
(ii)	<p>Any person other than a business entity; or</p>
(iii)	<p>A business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017; or</p>

(iv)	The Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity
(c)	A senior advocate by way of legal services to:
(i)	Any person other than a business entity; or
(ii)	A business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017; or
(iii)	The Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity

With effect from 01.07.2017

Services supplied by an arbitral tribunal to a business entity

Note: These services have been specified at S.No. 3 of N.No.13/2017-CT(R)/S.No.4 of N.No.10/2017-IT(R)

In order to attract the reverse charge mechanism, the following conditions needs to be satisfied cumulatively:

(A)	<u>Supplier of Services</u> An arbitral tribunal (or arbitration tribunal) is a panel of one or more adjudicators which is convened and sits to resolve a dispute by way of arbitration. The tribunal may consist of a sole arbitrator, or there may be two or more arbitrators, which might include either a chairman or an umpire. Typically, members selected to serve on the tribunal are professionals with expertise in law and mediation. However, the ideal composition of an arbitral tribunal should include at least one economist, particularly in cases that involve questions of asset or damages valuation.
(B)	<u>Scope of services</u> Services supplied by an Arbitral Tribunal
(C)	<u>Recipient of Services</u> Any business entity located in the taxable territory, having turnover exceeding such amount in the preceding financial year as makes it eligible for exemption from registration under the CGST Act, 2017.
(D)	<u>Relevant Exemptions</u> Entry 47 of the N no. 9/2017-IT (R) / Entry 45 of the N.No.12/2017-CT (R), both dated 28.06.2017 Services supplied by-
(a)	An arbitral tribunal to -
(i)	Any person other than a business entity; or
(ii)	A business entity with an aggregate turnover up to such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017
(iii)	The Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity

Applicable with effect from 01.07.2017

Services provided by way of sponsorship to anybody corporate or partnership firm

Note: These services have been specified at S.No.4 of N.No.13/2017-CT(R)/S.No.5 of N.No.10/2017-IT (R)

In order to attract the reverse charge mechanism, the following conditions needs to be satisfied cumulatively:

(A)	<u>Supplier of Services</u> Any person
(B)	<u>Scope of services</u> -Sponsorship Services
(C)	<u>Recipient of Services</u> - Anybody-corporate or partnership firm

	<u>Relevant Exemptions - Entry 53 of N.No.12/2017-CT(R) or Entry 56 of N.No.9/2017-IT(R),both dated 28.06.2017</u>	
	Services by way of sponsorship of sporting events organized, -	
(a)	By a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country;	
(b)	By Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympics Committee of India or Special Olympics Bharat;	
(c)	By Central Civil Services Cultural and Sports Board;	
(d)	As part of national games, by Indian Olympic Association; or	
(e)	Under Panchayat Yuva Kreedha Aur Khel Abhiyaan (PYKKA) Scheme	
<u>Applicable with effect from 01.07.2017</u>		
Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding renting and other specified services		
Note: These services have been specified at S.No. 5 of N. No. 13/2017-CT (R)/ S.No. 6 of N. No. 10/2017-IT (R), both dated 28.06.2017.		
In order to attract the reverse charge mechanism, the following conditions needs to be satisfied cumulatively.		
(A)	<u>Supplier of services</u> Central Government, State Government, Union territory or local authority	
	<u>Scope of services</u> Any services excluding the following services:	
(A)	Renting of immovable property service, and	
(B)	(i)	Services by the Department of posts by way of speed post, life insurance, express parcel post and agency services provided to a person other than Central Government, State Government, Union territory or local authority
	(ii)	Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
	(iii)	Transport of goods or passengers
(C)	Recipient of Services- Any business entity located in the taxable territory	
<u>With effect from 25.01.2018</u>		
Services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017		
Note: These services are specified at S.No. 5A of N. No. 13/2017-CT (R) dated 28.06.2017 [as amended vide N.No.03/2018-CT(R)]/ S.No. 6A of N.No.10/2017-IT (R) dated 28.06.2017 [as amended vide N.No.03/2018-IT(R)]		
In order to attract the reverse charge mechanism on the above-mentioned services following conditions need to be satisfied cumulatively:		
(A)	<u>Supplier of Services</u> Central Government, State Government, Union territory or Local Authority	
(B)	<u>Scope of services</u> Renting of immovable property services supplied by the above-mentioned suppliers.	
(C)	<u>Recipient of Services</u> Any person registered under the CGST Act, 2017. Section 22 deals with the persons liable for registration. Further, Section 24 specifies the categories of persons who shall be compulsorily required to be registered. Furthermore, in terms of Section 25(3), a person, though not liable to be registered under Section 22 or Section 24, may get himself registered voluntarily.	

(D)	<u>Effective period-25.01.2018 onwards</u> Thus, for the period 01.07.2017 to 24.01.2018, these services were subject to Forward Charge.
<u>With effect from 01.04.2019</u>	
Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter	
Note: These supplies are mentioned at S.No.5B of N.No.13/2017-CT(R) [as amended vide N.No.05/2019-CT(R), dated 29.03.2019] and S.No.6B of N.No.10/2017-IT (R) [as amended vide N.No.05/2019-IT(R), dated 29.03.2019].	
In order to attract the reverse charge mechanism, the following conditions needs to be satisfied cumulatively.	
(A)	<u>Supplier of services</u> -Any person.
(B)	<u>Scope of services</u> Services supplied by way of transfer of development rights or Floor Space Index (FSI) (including FSI) for construction of a project by a promoter.
(C)	<u>Recipient of services</u> Any person who acts as a promoter for any project.
(D)	<u>Effective period- 01.04.2019 onwards</u> Thus, for the period 01.07.2017 to 31.03.2019, these services were subject to forward charge.
<u>With effect from 01.04.2019</u>	
Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter	
Note: Mentioned at S.No. 5C of N.No.13/2017-CT(R) [amended vide N.No.05/2019-CT(R), dated 29.03.2019] and S.No.6C of N.No.10/2017-IT(R) as amended vide N.No.05/2019-IT(R), dated 29.03.2019.	
In order to attract the reverse charge mechanism, the following conditions needs to be satisfied cumulatively.	
(A)	<u>Supplier of services</u> Any person.
(B)	<u>Scope of services</u> Long term lease of land (30 years or more) against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.
(C)	<u>Recipient of services</u> Any person who acts as a promoter for any project.
(D)	<u>Effective period- 01.04.2019 onwards</u> Thus, for the period 01.07.2017 to 31.03.2019, these services were subject to forward charge.
<u>Applicable with effect from 01.07.2017</u>	
Services supplied by a director of a company or a body corporate to the said company or the body corporate	
Note: Specified at S.No.6 of N.No.13/2017-CT(R) and S.No.7 of N.No.10/2017-IT(R), both dated 28.06.2017	
In order to attract the reverse charge mechanism, the following conditions needs to be satisfied cumulatively:	
(A)	<u>Supplier of services</u> A director of a company or a body corporate.

(B)	<u>Scope of services</u> All kind of services supplied in the capacity of a director. Thus, if a director supplies any other taxable service in the capacity of other than director to a company or a body corporate, the same shall not be subject to reverse charge.		
(C)	<u>Recipient of services</u> A company or a body corporate.		
<u>Applicable with effect from 01.07.2017</u> Services supplied by an insurance agent to any person carrying on insurance business			
Note : These services have been specified at S.No . 7 o f N.No.13/2017-CT(R) and S.No.8 of N.No.10/2017-IT(R), both dated 28.06.2017.			
In order to attract the reverse charge mechanism, the following conditions need to be satisfied cumulatively:			
(A)	<u>Supplier of services</u> An Insurance Agent		
(B)	<u>Scope of services</u> Any kind of services supplied or agreed to be supplied by an insurance agent.		
(C)	<u>Recipient of services</u> Any person carrying on insurance business, located in the taxable territory.		
<u>Applicable with effect from 01.07.2017</u> Services supplied by a recovery agent to banking company or a financial institution or non-banking financial company			
Note: Specified at S.No.8 of N.No.13/2017-CT(R) and S.No.9 of N.No.10/2017-IT (R).			
In order to attract the reverse charge mechanism, the following conditions need to be satisfied cumulatively:			
	<u>Supplier of services</u>		
(A)	A recovery agent i.e. any person engaged in recovery of sum due to its principal.		
(B)	<u>Scope of services</u> Any services provided by a recovery agent.		
(C)	<u>Recipient of services</u> Banking Company or a Financial Institution or a Non-Banking Financial Company, located in the taxable territory.		
<u>Applicable with effect from 01.10.2019</u> Supply of services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a publisher, music company, producer or the like.			
<u>Applicable for the period 01.07.2017 to 30.09.2019</u> Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like			
Note: These services are specified at S.No.9 of N.No.13/2017-CT(R) and S.No.11 of N.No.10/2017-IT(R), both dated 28.06.2017			
In order to attract the reverse charge mechanism, the following conditions needs to be satisfied cumulatively.			
	<u>Supplier of services</u>		
(A)	With effect from 01.10.2019	A music composer, photographer, artist, or the like.	
	For the period 01.07.2017 to 30.09.2019	An author or music composer, photographer, artist,	

		or the like.	
	<u>Scope of services falling within purview of this entry</u>		
(B)	With effect from 01.10.2019	Transfer or permitting the use or enjoyment of a copyright covered under section 13(1) (a) of the Copyright Act, 1957 relating to original Dramatic, Musical or Artistic works.	
	For the period 01.07.2017 to 30.09.2019	Transfer or permitting the use or enjoyment of a copyright covered under section 13(1) (a) of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works.	
	<u>Recipient of services</u>		
(C)	With effect from 01.10.2019	Music Company, Producer or the like, located in the taxable territory.	
	For the period 01.07.2017 to 30.09.2019	Publisher, Music Company, Producer or the like, located in the taxable territory.	
<u>With effect from 01.10.2019</u>			
Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright relating to original literary works to a publisher			
Note: These services have been specified at S.No.9A of N.No.13/2019-CT(R), dated 28.06.2017 [As amended vide N.No.22/2019-CT(R), dated 30.09.2019] and S.No.11A of N.No.10/2019-IT(R), dated 28.06.2017 [As amended vide N.No.21/2019-IT(R), dated 30.09.2019]			
In order to attract the reverse charge mechanism, the following conditions needs to be satisfied cumulatively.			
	<u>Supplier of services</u>		
	In order to get covered in this entry of reverse charge supplier of services needs to be an author. However, provisions of RCM in respect of this entry shall not apply where:		
(A)	(i)	The author has taken registration under the CGST Act, 2017 and filed a declaration , in the form at Annexure I within the time limit prescribed therein, with the jurisdictional CGST / SGST commissioner , that he exercises the option to pay tax on ins copyright services relating to original literary works under forward charge in accordance with Section 9(1) of the CGST Act or Section 5 (1) of the IGST Act, 2017 under forward charge , and to comply with all the provisions of CGST Act/ IGST Act, 2017 as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option ; and	
	(ii)	The author makes a declaration, as prescribed in Annexure II on the invoice issued by him in Form GST Inv-I to the publisher	
	<u>Scope of services</u>		
(B)	Transfer or permitting the use or enjoyment of a copyright covered under section 13(1) (a) of the Copyright Act, 1957 relating to original literary works.		
	<u>Recipient of services</u>		
(C)	Publisher located in the taxable territory.		
<u>With effect from 13.10.2017</u>			
Supply of services by the members of Overseeing Committee to Reserve Bank of India			
Note: These services are specified at S.No.10 of N.No.13/2017-CT(R) [Amended vide N.No.33/2017-CT(R), dated 13.10.2017] and S.No.12 of N.No.10/2017-IT(R)[Amended vide N.No.34/2017-IT(R), dated 13.10.2017].			
In order to attract the reverse charge mechanism, the following conditions needs to be satisfied cumulatively.			

(A)	<u>Supplier of services</u> Members of Overseeing Committee.
(B)	<u>Scope of services</u> Services supplied by the members of Overseeing Committee. There is no bar with regard to the nature of services to get covered in this entry of reverse charge. The aforesaid Committee reviews:
	(a) Cases being restructured under the Scheme for Sustainable Structuring of Stressed Assets
	(b) Resolution of other cases where aggregate exposure of the banking sector to the borrowing entity is greater than Rs. 500 Crore.
(C)	<u>Recipient of services</u> Reserve Bank of India.
(D)	<u>Effective period- 13.10.2017 onwards</u> Thus, for the period 01.07.2017 to 12.10.2017, these services were subject to forward charge.
<u>With effect from 27.07.2018</u> Services Supplied by individual direct selling agents (DSAs) other than a body corporate, partnership or limited liability partnership firm to bank or non-banking financial company (NBFCs) Note: Specified at S.No.11 of N.No.13/2017-CT(R) [amended vide N.No. 15/2018-CT(R)] , dated 26.07.2018] and S.No.13 of N.No.10/2017-IT(R)[amended vide N.No.16/2018-IT(R) , dated 26.07.2018]	
In order to attract the reverse charge mechanism, the following conditions need to be satisfied cumulatively:	
(A)	<u>Supplier of services</u> Individual Direct Selling Agents (DSAs) other than a Body Corporate, Partnership or Limited Liability Partnership Firm.
(B)	<u>Scope of services</u> The primary responsibility of the Banking Direct Selling Agent is branch management and in-branch services, teller and platform services, financial product sales, customer services, and management of lending risk to retail customer base. He builds a client base for banking direct sales through prospecting, networking, and referrals.
(C)	<u>Recipient of services</u> A banking company or a non-banking financial company, located in the taxable territory.
(D)	<u>Effective period-27.07.2018 onwards</u> Thus, for the period 01.07.2017 to 26.07.2018, these services were taxable under Forward Charge.
SPECIFIED SERVICES SUBJECT TO REVERSE CHARGE UNDER IGST ACT ONLY	
Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient	
<u>With effect from 01.07.2017</u> Note: These services have been specified at S.No.01 of N.No.10/2017-IT(R), dated 28.06.2017.	
In order to attract the reverse charge mechanism, the following conditions need to be satisfied cumulatively.	
(A)	<u>Supplier of Services</u> Any person located in the non-taxable territory.
(B)	<u>Scope of services</u> Any taxable service supplied or agreed to be supplied by any person located in the non-taxable territory.

(C)	<p><u>Recipient of services</u> Any person located in the taxable territory other than non-taxable online recipient. For meaning of the expression “non-taxable online recipient”, kindly see Referencer 1.</p>
<p><u>With effect from 01.07.2017</u> Services supplied by a person located in non- taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India</p>	
<p>Note: Specified at S.No.10 of N.No.10/2017-IT(R), dated 28.06.2017</p>	
<p>In order to attract the reverse charge mechanism, the following conditions need to be satisfied cumulatively:</p>	
(A)	<p><u>Supplier of services</u> A person located in non-taxable territory.</p>
(B)	<p><u>Scope of services falling within purview of this entry</u> Transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.</p>
(C)	<p><u>Recipient of services</u> Importer located in the taxable territory. For meaning of the term “importer” kindly see Referencer 1. <u>Relevant Case Law</u> Hon’ble High Court of Gujarat vide its order dated 23.01.2020 in the case of Mohit Minerals Pvt. Ltd. vs Union of India, reported as 2020(1)TMI 974, while allowing the appeal of the respondents, inter alia, held that 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. The impugned N. No.8/2017 - IT(R) dated 28.06.2017 and the Entry 10 of the N. N.10/2017 - IT (Rate) dated 28.06.2017 are declared as ultra vires the IGST, 2017, as they lack legislative competency. Both the Notifications are hereby declared to be unconstitutional.</p>
<p>SUPPLIES OF GOODS OR SERVICES OR BOTH SUBJECT TO REVERSE CHARGE UNDER SECTION 9(4)/SECTION 5(4)</p>	
<p><u>With effect from 01.02.2019</u> Provisions of reverse charge shall apply only when following cumulative conditions are satisfied:</p>	
(A)	<p>(i) A class of registered persons who are required to pay tax on reverse charge basis must be specified by the Government by Notification;</p>
	<p>(ii) The categories of supply of goods or services or both in respect of which tax is required to be paid by specified class of registered persons should also be specified ; and</p>
	<p>(iii) The supply of specified categories of goods or services or both must be made by an unregistered supplier to a specified class of registered persons</p>
(B)	<p><u>For the period 01.07.2017 to 31.01.2019</u> Central tax or integrated tax, as the case may be, in respect of the supply of taxable goods or services or both by an unregistered supplier to a registered person shall be paid by the recipient on reverse charge basis. In order to fall within the ambit of Section 9(4) or Section 5(4), it is necessary that supply of goods or services or both is made by an unregistered supplier to a registered person. Thus, when any supply of goods or services or both is made by a registered supplier to a registered person, the same cannot fall within the ambit of Section 9(4) or Section 5(4), as the case may be. Practically this exemption was available for 01.07.2017 to 12.10.2017 as these provisions were suspended thereafter from time to time till the date of rescinding of this notification vide N.No.1/2019-CT (R) dated 29.01.2019 with effect from 01.02.2019.</p>
<p>Supply of goods and services subject to reverse charge under section 9(4) of the CGST/ Section 5(4) of the IGST act <u>with effect from 01.04.2019</u></p>	

Applicable with effect from 01.04.2019

Supply of such specified goods and services or both [other than services by way of grant of development rights, long term lease of land or FSI (including additional FSI)] which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter from registered supplier for construction of project in a financial year /part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier.

These goods and services have been specified at S.No.1 of N.No.07/2019-CT(R)/ S.No.1 of 07/2019-IT(R), both dated 29.03.2019.

(A)	<u>Supplier of goods and services</u> Supplier of goods and services must be an unregistered person.		
(B)	<u>Scope of goods and services falling within the purview of this entry</u> In terms of N.No.03/2019-CT(R), dated 29.03.2019 80% of value of input and input services used in supplying the service of construction of project shall be received from registered supplier only. However, in computing the aforesaid 80% limit, following input services and inputs shall be excluded:		
	(i)	High speed diesel	(v) Services by way of grant of development rights,
	(ii)	Motor spirit	(vi) FSI (including additional FSI),
	(iii)	Natural gas	(vii) Services by way of long term lease of land (against upfront payment in the form of premium, salami, development charges)
(iv)	Electricity		
	This entry covers supply of above-mentioned input and input services which constitute the shortfall from the minimum 80% value of goods or services, or both required to be purchased by the promoter for construction of project. In simple words, if the promoter does not purchase minimum 80% of the value of above-mentioned inputs and input services, then tax would have to be paid on reverse charge only to the extent of shortfall. Furthermore, tax in the aforesaid case shall be paid @ 18% (effective).		
(C)	<u>Recipient of goods and services</u> Promoter.		

With effect from 01.10.2019 - N.No.24/2019-CT(R)/N.No.23/2019-IT(R), both dated 30.09.2019 Cement falling in chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975

For the period 01.04.2019 to 30.09.2019- N.No.07/2019-CT(R)/N.No.07/2019-IT(R), both dated 29.03.2019

Cement falling in chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier) as prescribed in N.No.11/2017- Central Tax (Rate), dated 28th June, 2017, at items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, as amended.

(A)	<u>Supplier of cement</u> Supplier of cement must be an unregistered person.	
(B)	<u>Scope of supply</u>	
	With effect from 01.10.2019	The threshold limit of 80% does not apply. Consequently, in respect of the whole purchase of cement, RCM shall apply.
	For the period 01.04.2019 to 30.09.2019	Supply of cement which constitutes the shortfall from the minimum 80% of its value which is required to be purchased by the promoter for construction of project.
(C)	<u>Recipient of cement</u> Promoter .	

<u>Applicable with effect from 01.04.2019</u>	
Capital goods falling under any chapter in the first schedule to the Customs Tariff Act, 1975 supplied to a promoter for construction of a project on which tax is payable or paid at the rate prescribed for items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, in N.No.11/ 2017- Central Tax (Rate), dated 28.06.2017 as amended.	
(A)	<u>Supplier of capital goods</u> Supplier of cement must be an unregistered person.
(B)	<u>Scope of supply</u> The criterion of 80% does not apply in case of capital goods. Thus, every purchase of capital goods must be made from registered dealers only.
(C)	<u>Recipient of capital goods</u> Promoter.
SUPPLY OF GOODS AND SERVICES SUBJECT TO REVERSE CHARGE UNDER Section 9(4) of the CGST/Section 5(4) of the IGST Act for the Period 01.07.2017 to 12.10.2017	
In order to attract the provisions of Section 9(4) during the period 01.07.2017 to 12.10.2017, following conditions are required to be satisfied cumulatively:	
(A)	<u>Supplier of goods or services or both</u> Supplier of goods or services or both must be an unregistered person.
(B)	<u>Scope of supply of goods or services or both</u> Any goods or services or both, if their aggregate value from any or all the unregistered suppliers exceeds Rs. 5,000/- in a day. Thus, scope of goods or services or both falling within the purview of this Entry is very wide because no exclusions have been specified.
(C)	<u>Recipient of goods or services or both</u> A registered person.

9.11 Important issues in respect of reverse charge

<u>Discharge of GST liability through ITC in respect of Supplies subject to Reverse Charge Mechanism Position in the GST Regime with effect from 01.07.2017</u>	
1.	Section 49(4) of the CGST Act, the amount available in the electronic credit ledger may be used for making any payment towards “output tax” under the following Acts::
	CGST/SGST/UTGST Act; or IGST Act
	However, in terms of definition of “output tax” as envisaged under Section 2(82) of CGST Act, 2017, it means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis. Thus, GST liability under reverse charge is required to be discharged only by cash and not through ITC.
2.	<u>A Registered Person is required to specify in tax invoice that tax is payable under reverse charge</u> Section 31(1) and Section 31(2) of the CGST Act provides, that a registered person supplying taxable goods and taxable services respectively shall issue a tax invoice showing the description, quantity and value of goods and services and other particulars as prescribed in the CGST Rules, 2017. In terms of Rule 46 of the aforesaid Rules, a tax invoice issued by the registered person shall, inter alia, state whether the tax is payable on Reverse Charge basis. Thus, it can be inferred that a registered person is statutorily required to specify in Tax Invoice that if Tax is payable under Reverse Charge.

3.	<p><u>Whether Department can demand GST from the recipient of supply again if GST liability has been discharged by the supplier inadvertently/ wrongly</u></p> <p>The concerned supplier and recipient of supply by mutual agreement or otherwise cannot shift the liability of payment of GST to the recipient of supply where supplier of goods or services or both is liable to discharge the GST liability. Similarly, in cases where recipient of supply is statutorily liable for payment of GST, its liability cannot be shifted to supplier. However, on the principle of natural justice that a transaction cannot be taxed twice there are certain judicial pronouncements in favour of assessee and contrary judgments in favour of revenue are also available on the same subject. permission to shift the liability from the supplier to recipient of supply or vice versa on the principle of natural justice shall depend on the facts of each case. If the assessee seeking relief is in possession of clear evidence that payment has been discharged by the other party and has sufficient documentary evidence to co-relate that payment with the specific supplies by him, Department should not demand GST from the other party. If the assessee seeking relief fails to prove so in such cases such assessee may be asked to deposit GST as provided under the law.</p> <p>Thus, it can be safely inferred that that in all those cases where GST is payable by the recipient of supply but is paid by the supplier of goods or services or both, or the vice-versa case, Department is bound to litigate the issue. Therefore, in order to avoid the possibility of any litigation on this count alone, it is essential on the part of the parties to strictly comply with the applicable provisions regarding the discharge of GST liability.</p>				
4.	<p><u>Where GST Liability is discharged by recipient of supply under RCM, whether such GST is to be deducted from the payment to be made to the supplier of such supplies or incidence of such tax is to be borne by the recipient of supply</u></p> <p>It shall depend on the agreement between the supplier and the recipient of supply. If the agreement (contract) specifically contains a provision regarding deduction of GST by the recipient of supply out of the amount payable to the supplier, then recipient of supply is justified in making deduction of amount of GST paid or payable by him under Reverse Charge Mechanism.</p>				
5	<p><u>Inclusion of Tax Deducted at Source (TDS) in the value of taxable supplies for computing GST liability under reverse charge</u></p> <p>Tax deduction at source either under Income Tax or CGST Act/SGST Act is a payment on behalf of the person to whom such payment is made. Therefore, in order to calculate the value of taxable supply it has to be added in the amount paid to the supplier. However, if Income Tax is not deducted out of the payment made to the supplier but is directly paid to the Government, and then such income tax shall not be included for the purpose of calculating the value of taxable supply.</p>				
6.	<p><u>Time of supply of goods or services in respect of which tax is paid or liable to be paid on reverse charge basis</u></p> <table border="1" data-bbox="212 1738 1469 1898"> <tr> <td data-bbox="212 1738 305 1814">(i)</td> <td data-bbox="305 1738 1469 1814">Time of Supply of Goods in Respect of Which Tax Is Paid or Liable to be paid on RCM - Section 12(3)</td> </tr> <tr> <td data-bbox="212 1814 305 1898">(ii)</td> <td data-bbox="305 1814 1469 1898">Time of supplies of services in respect of which tax is paid or liable to be paid on reverse charge basis-Section 13(3)</td> </tr> </table>	(i)	Time of Supply of Goods in Respect of Which Tax Is Paid or Liable to be paid on RCM - Section 12(3)	(ii)	Time of supplies of services in respect of which tax is paid or liable to be paid on reverse charge basis-Section 13(3)
(i)	Time of Supply of Goods in Respect of Which Tax Is Paid or Liable to be paid on RCM - Section 12(3)				
(ii)	Time of supplies of services in respect of which tax is paid or liable to be paid on reverse charge basis-Section 13(3)				
7	<p><u>HSN Code/Service Accounting Code under which GST is to be paid by recipient of supply of goods or services or both</u></p>				

	A recipient of supply of goods or services or both is required to pay GST under reverse charge, under the same HSNCode/ Service Accounting Code under which the supplier of goods or services or both pays or would have paid GST.
8	<u>Recipient of supply shall be entitled to claim ITC in respect of GST paid under RCM</u> A recipient of supply of goods or services or both shall be entitled to take ITC in respect of GST paid by it under reverse charge subject to satisfaction of relevant conditions of ITC Rules.

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