THE INSTITUTE OF
Company Secretaries of India
भारतीय कम्पनी सचिव संस्थान
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

EXECUTIVE PROGRAMME

TAX LAWS

(PART II - INDIRECT TAXES)

(NEW SYLLABUS)

(RELEVANT FOR STUDENTS APPEARING IN JUNE, 2020 EXAMINATION)

MODULE 1 - PAPER 4

Students appearing in June, 2020 Examination shall note the following:

1. For Direct taxes, Finance Act, 2019 is applicable.

2. Applicable Assessment year is 2020-21 (Previous Year 2019-20).

3. For Indirect Taxes:

i) Goods and Services Tax 'GST' is applicable for Executive Programme (Old Syllabus)

ii) Goods and Services Tax 'GST' & Customs Law is applicable for Executive Programme (New Syllabus)

iii) Goods and Services Tax 'GST' & Customs Law is applicable for Professional Programme (Old Syllabus)

iv) Goods and Services Tax 'GST' & Customs Law is applicable for Professional Programme (New Syllabus)

4. Students are also required to update themselves on all the relevant Rules, Notifications, Circulars, Clarifications, etc. issued by the CBDT, CBIC & Central Government, on or before six months prior to the date of the examination.

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GOODS & SERVICES TAX (GST)

CENTRAL GOODS & SERVICES TAX ACT, 2017 AND CGST RULES, 2017 NOTIFICATIONS

Sr. No.	Updates	Lesson No.
1.	Notification No. 30/2019 – Central Tax, dated 28th June, 2019: ***Seeks to provide exemption from furnishing of Annual Return / Reconciliation Statement for suppliers of Online Information Database Access and Retrieval Services ("OIDAR services")*** Central Government, on the recommendations of the Council, hereby notifies the persons registered under section 24 of the said Act read with rule 14 of the Central Goods and Services Tax Rules, 2017, supplying online information and data base access or retrieval services from a place outside India to a person in India, other than a registered person as the class of registered persons who shall follow the special procedure as mentioned below. 2. The said persons shall not be required to furnish an annual return in FORM GSTR-9 under sub-section (1) of section 44 of the said Act read with sub-rule (1) of rule 80 of the said rules. 3. The said persons shall not be required to furnish reconciliation statement in FORM GSTR-9C under sub-section (2) of section 44 of the said Act read with sub-rule (3) of rule 80 of the said rules.	**15 Procedural Compliance under GST**
2.	Notification No. 31/2019 – Central Tax, dated 28th June, 2019: ***Seeks to carry out changes in the CGST Rules, 2017*** Central Government hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely:- 1. (1) These rules may be called the Central Goods and Services Tax (Fourth Amendment) Rules, 2019. (2) Save as otherwise provided in these rules, they shall come into force on the date of their publication in the official gazette. 2. In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), after rule 10, the following rule shall be inserted, namely: -	**16 Basic overview on IGST, UTGST and GST Compensation to States Act**

	"10A. Furnishing of Bank Account Details.-After a certificate of registration in FORM GST REG-06 has been made available on the common portal and a Goods and Services Tax Identification Number has been assigned, the registered person, except those who have been granted registration under rule 12 or, as the case may be rule 16, shall as soon as may be, but not later than forty five days from the date of grant of registration or the date on which the return required under section 39 is due to be furnished, whichever is earlier, furnish information with respect to details of bank account, or any other information, as may be required on the common portal in order to comply with any other provision." *For more details please visit:* *http://cbic.gov.in/resources//htdocs-cbec/gst/notfctn-31-central-tax-english-2019.pdf*	
3.	Notification No. 47/2019 – Central Tax, dated 9th October, 2019: ***Seeks to make filing of annual return under section 44 (1) of CGST Act for F.Y. 2017-18 and 2018-19 optional for small taxpayers whose aggregate turnover is less than Rs. 2 crores and who have not filed the said return before the due date.*** Central Government, on the recommendations of the Council, hereby notifies those registered persons whose aggregate turnover in a financial year does not exceed two crore rupees and who have not furnished the annual return under sub-section (1) of section 44 of the said Act read with sub-rule (1) of rule 80 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules) before the due date, as the class of registered persons who shall, in respect of financial years 2017-18 and 2018-19, follow the special procedure such that the said persons shall have the option to furnish the annual return under sub-section (1) of section 44 of the said Act read with sub-rule (1) of rule 80 of the said rules: Provided that the said return shall be deemed to be furnished on the due date if it has not been furnished before the due date.	**15 Procedural Compliance under GST**
10.	Notification No. 48/2019 – Central Tax, dated 9th October, 2019: ***Seeks to amend notification No. 41/2019 – Central Tax, dated the 31st August, 2019.*** Central Government, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 41/2019-Central Tax, dated the 31st August, 2019, published in the Gazette of India, Extraordinary, Part II,	**16 Basic overview on IGST, UTGST and GST Compensation to States Act**

	Section 3, Subsection (i) vide number G.S.R. 618(E), dated the 31st August, 2019, namely:– In the said notification, in the opening paragraph– (a) in clause (ii), for the figures, letters and word "20th September", the figures, letters and word "11th October" shall be inserted; (b) after the clause (iv), the following clauses shall be inserted, namely: – "(v) the registered persons whose principal place of business is in the State of Jammu and Kashmir, having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, who have furnished, electronically through the common portal, details of outward supplies in FORM GSTR-1 of the Central Goods and Services Tax Rules, 2017 (hereafter referred to as the said rules), for the month of August, 2019, on or before the 11th October, 2019, for failure to furnish the said FORM GSTR-1 by the due date; (vi) the registered persons whose principal place of business is in the State of Jammu and Kashmir, required to deduct tax at source under the provisions of section 51 of the said Act, who have furnished electronically through the common portal, return in FORM GSTR-7 of the said rules under sub-section (3) of section 39 of the said Act read with rule 66 of the said rules, for the month of July, 2019, on or before the 10th October, 2019, for failure to furnish the said FORM GSTR-7 by the due date; (vii) the registered persons whose principal place of business is in the State of Jammu and Kashmir, required to deduct tax at source under the provisions of section 51 of the said Act, who have furnished electronically through the common portal, return in FORM GSTR-7 of the said rules under sub-section (3) of section 39 of the said Act read with rule 66 of the said rules, for the month of August, 2019, on or before the 10th October, 2019, for failure to furnish the said FORM GSTR-7 by the due date; (viii) the registered persons whose principal place of business is in the State of Jammu and Kashmir, who have furnished, electronically through the common portal, return in FORM GSTR-3B of the said rules, for the month of July, 2019, on or before the 20th October, 2019, for failure to furnish the said FORM GSTR-3B by the due date; (ix) the registered persons whose principal place of business is in the State of Jammu and Kashmir, who have furnished, electronically through the common portal,	

	return in FORM GSTR-3B of the said rules, for the month of August, 2019, on or before the 20th October, 2019, for failure to furnish the said FORM GSTR-3B by the due date."	
11.	Notification No. 49/2019 – Central Tax, dated 9th October, 2019: ***Seeks to carry out changes in the CGST Rules, 2017.*** Central Government hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely:- 1. (1) These rules may be called the Central Goods and Services Tax (Sixth Amendment) Rules, 2019. (2) Save as otherwise provided in these rules, they shall come into force on the date of their publication in the Official Gazette. 2. In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), in rule 21A,- (a) in sub-rule (3), the following explanation shall be inserted, namely:- "Explanation.-For the purposes of this sub-rule, the expression "shall not make any taxable supply" shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension."; (b) after sub-rule (4), the following sub-rule shall be inserted, namely:- "(5) Where any order having the effect of revocation of suspension of registration has been passed, the provisions of clause (a) of sub-section (3) of section 31 and section 40 in respect of the supplies made during the period of suspension and the procedure specified therein shall apply.". 3. In the said rules, in rule 36, after sub-rule (3), the following sub-rule shall be inserted, namely:- "(4) Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed 20 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37.". *For more details please visit:* *http://cbic.gov.in/resources//htdocs-cbec/gst/notfctn-49-central-tax-english-2019.pdf*	**14** **Input Tax Credit and Computation of GST Liability**

12.	Notification No. 51/2019 – Central Tax, dated 31st October, 2019: ***Seeks to amend notification no. 2/2017- Central Tax in order to notify jurisdiction of Jammu Commissionerate over UT of J&K and UT of Ladakh*** In exercise of the powers under section 3 read with section 5 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and section 3 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 02/2017-Central Tax, dated the 19th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 609(E), dated the 19th June, 2017, namely:– In the said notification, in Table II, in column (3), in serial number 51, for the words "State of Jammu and Kashmir", the words "Union territory of Jammu and Kashmir and Union territory of Ladakh" shall be substituted.	**16** **Basic overview on IGST, UTGST and GST Compensation to States Act**
13.	Notification No. 56/2019 – Central Tax, dated 14th November, 2019: ***Seeks to carry out Seventh amendment (2019) in the CGST Rules, 2017. [Primarily related to Simplification of the Annual Return / Reconciliation Statement]*** In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely:- 1. (1) These rules may be called the Central Goods and Services Tax (Seventh Amendment) Rules, 2019. (2) Save as otherwise provided in these rules, they shall come into force on the date of their publication in the Official Gazette. *For more details please visit:* *http://cbic.gov.in/resources//htdocs-cbec/gst/notfctn-56-central-tax-english-2019.pdf;jsessionid=66B8DD24C24A9E2E166447116F219FA3*	**15** **Procedural Compliance under GST**
14.		**16**

	Notification No. 62/2019 – Central Tax, dated 26h November, 2019: ***Seeks to notify the transition plan with respect to J&K reorganization w.e.f. 31.10.2019*** Government, on the recommendations of the Council, hereby notifies those persons whose principal place of business or place of business lies in the erstwhile State of Jammu and Kashmir till the 30th day of October, 2019; and lies in the Union territory of Jammu and Kashmir or in the Union territory of Ladakh from the 31st day of October, 2019 onwards, as the class of persons who shall follow the following special procedure till the 31st day of December, 2019 (hereinafter referred to as the transition date), as mentioned below. 2. The said class of persons shall:– (i) ascertain the tax period as per sub-clause (106) of section 2 of the said Act for the purposes of any of the provisions of the said Act for the month of October, 2019 and November, 2019 as below: (a) October, 2019: 1st October, 2019 to 30th October, 2019; (b) November, 2019: 31st October, 2019 to 30th November, 2019; (ii) irrespective of the particulars of tax charged in the invoices, or in other like documents, raised from 31st October, 2019 till the transition date, pay the appropriate applicable tax in the return under section 39 of the said Act; (iii) have an option to transfer the input tax credit (ITC) from the registered Goods and Services Tax Identification Number (GSTIN), till the 30th day of October, 2019 in the State of Jammu and Kashmir, to the new GSTIN in the Union territory of Jammu and Kashmir or in the Union territory of Ladakh from the 31st day of October by following the procedure as below: (a) the said class of persons shall intimate the jurisdictional tax officer of the transferor and the transferee regarding the transfer of ITC, within one month of obtaining new registration; (b) the ITC shall be transferred on the basis of ratio of turnover of the place of business in the Union territory of Jammu and Kashmir and in the Union territory of Ladakh; (c) the transfer of ITC shall be carried out through the return under section 39 of the said Act for any tax period before the transition date and the transferor GSTIN would be debiting the said ITC from its electronic credit ledger in Table 4 (B) (2) of FORM GSTR-3B and the transferee GSTIN would be crediting	**Basic overview on IGST, UTGST and GST Compensation to States Act**

	the equal amount of ITC in its electronic credit ledger in Table 4 (A) (5) of FORM GSTR-3B. 3. The balance of State taxes in electronic credit ledger of the said class of persons, whose principal place of business lies in the Union territory of Ladakh from the 31st day of October, 2019, shall be transferred as balance of Union territory tax in the electronic credit ledger. 4. The provisions of clause (i) of section 24 of the said Act shall not apply on the said class of persons making inter-State supplies between the Union territories of Jammu and Kashmir and Ladakh from the 31st day of October, 2019 till the transition date.	

CENTRAL GOODS & SERVICES TAX ACT, 2017 AND CGST RULES, 2017

CIRCULARS/ORDERS

<table>
<tr><th>Sr. No.</th><th>Updates</th><th>Lesson No.</th></tr>
<tr><td>1.</td><td>
CIRCULAR No. 103/2019 – CGST, dated 28th June, 2019

Clarification regarding determination of place of supply in certain cases – reg.

Various representations have been received from trade and industry seeking clarification in respect of determination of place of supply in following cases: -

(I) Services provided by Ports - place of supply in respect of various cargo handling services provided by ports to clients;

(II) Services rendered on goods temporarily imported in India - place of supply in case of services rendered on unpolished diamonds received from abroad, which are exported after cutting, polishing etc.

2. The provisions relating to determination of place of supply as contained in the Integrated Goods & Services Tax Act, 2017 (hereinafter referred to as “the IGST Act”) have been examined. In order to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by sub-section (1) of section 168 of the Central Goods & Services Tax Act, 2017 (hereinafter referred to as “the CGST Act”) clarifies the same as below: -

<table>
<tr><th>S. No.</th><th>Issue</th><th>Clarification</th></tr>
<tr><td>1</td><td>Various services are being provided by the port authorities to its clients in relation to cargo handling. Some of such services are in respect of arrival of wagons at port, haulage of wagons inside port area up-to place of unloading, siding of wagons inside the port, unloading of wagons, movement of</td><td>It is hereby clarified that such services are ancillary to or related to cargo handling services and are not related to immovable property. Accordingly, the place of supply of such services will be determined as per the provisions contained in sub-section (2) of</td></tr>
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</td><td>13
Concept of Time, Value and Place of Taxable Supply</td></tr>
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			unloaded cargo to plot and staking hereof, movement of unloaded cargo to berth, shipment/loading on vessel etc. Doubts have been raised about determination of place of supply for such services i.e. whether the same would be determined in terms of the provisions contained in sub-section (2) of Section 12 or sub-section (2) of Section 13 of the IGST Act, as the case may be or the same shall be determined in terms of the provisions contained in sub-section (3) of Section 12 of the IGST Act.	Section 12 or sub-section (2) of Section 13 of the IGST Act, as the case may be, depending upon the terms of the contract between the supplier and recipient of such services.		
		2	Doubts have been raised about the place of supply in case of supply of various services on unpolished diamonds such as cutting and polishing activity which have been temporarily imported into India and are not put to any use in India?	Place of supply in case of performance based services is to be determined as per the provisions contained in clause (a) of sub-section (3) of Section 13 of the IGST Act and generally the place of services is where the services are actually performed. But an exception has been carved out in case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process. In case of cutting and polishing activity on		

				unpolished diamonds which are temporarily imported into India are not put to any use in India, the place of supply would be determined as per the provisions contained in sub-section (2) of Section 13 of the IGST Act.		
2.	***CIRCULAR No. 104/2019 – CGST, dated 28th June, 2019*** ***Processing of refund applications in FORM GST RFD-01A submitted by taxpayers wrongly mapped on the common portal – reg.*** Doubts have been raised in respect of processing of a refund application by a jurisdictional tax authority (either Centre or State) to whom the application has been electronically transferred by the common portal in cases where the said tax authority is not the one to which the taxpayer has been administratively assigned. The matter has been examined. In order to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues in succeeding paras. 2. It has been reported by the field formations that administrative assignment of some of the tax payers to the Central or the State tax authority has not been updated on the common portal in accordance with the decision taken by the respective tax authorities, in pursuance of the guidelines issued by the GST Council Secretariat, vide Circular No. 01/2017 dated 20.09.2017, regarding division of taxpayer base between the Centre and States to ensure Single Interface under GST. For Circular No. 104/23/2019-GST P a g e 2 of 3 example, a tax payer M/s XYZ Ltd. was administratively assigned to the Central tax authority but was mapped to the State tax authority on the common portal. 3. Prior to 31.12.2018, refund applications were being processed only after submission of printed copies of FORM GST RFD 01A in the respective jurisdictional tax offices. Subsequent to the issuance of Circular No.79/53/2018-GST dated 31.12.2018, copies of refund applications are no longer required to be submitted physically in the jurisdictional tax office. Now, the common portal forwards the refund applications submitted on the said portal to the jurisdictional proper officer of the tax authority to whom the taxpayer has been administratively assigned. In case of the example cited in para 2 above, as the applicant was wrongly mapped with the State tax authority on the common portal, the application was transferred by					**15 Procedural Compliance under GST**

	the common portal to the proper officer of the State tax authority despite M/s XYZ Ltd. being administratively assigned to the Central tax authority. As per para 2(e) of Circular No. 79/53/2018-GST dated 31.12.2018, the proper officer of the State tax authority should electronically re-assign the said application to the designated jurisdictional proper officer. It has, however, been reported that the said re-assignment facility is not yet available on the common portal. 4. Doubts have been raised as to whether, in such cases, application for refund can at all be processed by the proper officer of the State tax authority or the Central tax authority to whom the refund application has been wrongly transferred by the common portal. 5. The matter has been examined and it is clarified that in such cases, where reassignment of refund applications to the correct jurisdictional tax authority is not possible on the common portal, the processing of the refund claim should not be held up and it should be processed by the tax authority to whom the refund application has been electronically transferred by the common portal. After the processing of the refund application is complete, the refund processing authority may inform the common portal about the incorrect mapping with a request to update it suitably on the common portal so that all subsequent refund applications are transferred to the correct jurisdictional tax authority.	
3.	***CIRCULAR No. 106/2019 – CGST, dated 29th June, 2019*** ***Refund of taxes paid on inward supply of indigenous goods by retail outlets established at departure area of the international airport beyond immigration counters when supplied to outgoing international tourist against foreign exchange - reg.*** The Government vide notification no. 11/2019-Central Tax (Rate), 10/2019-Integrated Tax (Rate) and 11/2019-Union territory Tax (Rate) all dated 29.06.2019 issued in exercise of powers under section 55 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the „CGST Act") has notified that the retail outlets established at departure area of the international airport beyond immigration counters shall be entitled to claim refund of all applicable Central tax, Integrated tax, Union territory tax and Compensation cess paid by them on inward supplies of indigenous goods received by them for the purposes of subsequent supply of goods to outgoing international tourists i.e. to a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes against foreign exchange (hereinafter referred to as the "eligible passengers"). Identical notifications have been issued by the State or Union territory Governments under the respective State Goods and Services Tax Acts (hereinafter referred to as the "SGST Act") or Union Territory Goods and Services Tax Acts (hereinafter referred	**15 Procedural Compliance under GST**

	to as the “UTGST Act”) also to provide for refund of applicable State or Union territory tax. 2. With a view to ensuring expeditious processing of refund claims, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act, hereby specifies the conditions, manner and procedure for filing and processing of such refund claims in succeeding paras. 3. Duty Free Shops and Duty Paid Shops: -It has been recognized that international airports, house retail shops of two types - „Duty Free Shops‟ (hereinafter referred to as “DFS”) which are point of sale for goods sourced from a warehoused licensed under Section 58A of the Customs Act, 1962 (hereinafter referred to as the “Customs Act”) and duty paid indigenous goods and ‘Duty Paid Shop’ retailing duty paid indigenous goods. *For more details please visit : http://cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-106.pdf*	
4.	***CIRCULAR No. 110/2019 – CGST, dated 3rd October, 2019*** ***Seeks to clarify the eligibility to file a refund application in FORM GST RFD-01 for a period and category.*** Several registered persons have inadvertently filed a NIL refund claim for a certain period under a particular category on the common portal in FORM GST RFD-01A/RFD-01 in spite of the fact that they had a genuine claim for refund for that period under the said category. Once a NIL refund claim is filed, the common portal does not allow the registered person to re-file the refund claim for that period under the said category. Representations have been received requesting that registered persons may be allowed to re-file the refund claim for the period and the category under which the NIL claim has inadvertently been filed. The matter has been examined and in order to clarify this issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies the issues raised as below: 2. Whenever a registered person proceeds to claim refund in FORM GST RFD-01A/RFD-01 under a category for a particular period on the common portal, the system pops up a message box asking whether he wants to apply for ‘NIL’ refund for the selected period. This is to ensure that all refund applications under a particular category are filed chronologically. However, certain registered persons may have inadvertently opted for filing of ‘NIL’ refund. Once a ‘NIL’ refund claim has been filed for a period under a particular category, the common portal does not allow the registered person to re-file the refund claim for that period under the said category.	**15 Procedural Compliance under GST**

	3. It is now clarified that a registered person who has filed a NIL refund claim in FORM GST RFD-01A/RFD-01 for a given period under a particular category, may again apply for refund for the said period under the same category only if he satisfies the following two conditions: a. The registered person must have filed a NIL refund claim in FORM GST RFD-01A/RFD-01 for a certain period under a particular category; and b. No refund claims in FORM GST RFD-01A/RFD-01 must have been filed by the registered person under the same category for any subsequent period. It may be noted that condition (b) shall apply only for refund claims falling under the following categories: i. Refund of unutilized input tax credit (ITC) on account of exports without payment of tax; ii. Refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax; iii. Refund of unutilized ITC on account of accumulation due to inverted tax structure; In all other cases, registered persons shall be allowed to re-apply even if the condition (b) is not satisfied 4. Registered persons satisfying the above conditions may file the refund claim under "Any Other" category instead of the category under which the NIL refund claim has already been filed. However, the refund claim should pertain to the same period for which the NIL application was filed. The application under the "Any Other" category shall also be accompanied by all the supporting documents which would be required to be otherwise submitted with the refund claim. 5. On receipt of the claim, the proper officer shall calculate the admissible refund amount as per the applicable rules and in the manner detailed in para 3 of Circular No.59/33/2018-GST dated 04.09.2018, wherever applicable. Further, upon scrutiny of the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer in writing, if required, to debit the said amount from his electronic credit ledger through FORM GST DRC-03. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in FORM GST RFD-06 and the payment order in FORM GST RFD-05.	
	CIRCULAR No. 111/2019 – CGST, dated 3rd October, 2019	

5.	***Seeks to clarify procedure to claim refund in FORM GST RFD-01 subsequent to favourable order in appeal or any other forum.*** Doubts have been raised on the procedure to be followed by a registered person to claim refund subsequent to a favourable order in appeal or any other forum against rejection of a refund claim in FORM GST RFD-06. The matter has been examined and in order to clarify this issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues raised as below: 2. Appeals against rejection of refund claims are being disposed offline as the electronic module for the same is yet to be made operational. As per rule 93 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "CGST Rules"), where an appeal is filed against the rejection of a refund claim, re-crediting of the amount debited from the electronic credit ledger, if any, is not done till the appeal is finally rejected. Therefore, such rejected amount remains debited in respect of the particular refund claim filed in FORM GST RFD-01. 3. In case a favourable order is received by a registered person in appeal or in any other forum in respect of a refund claim rejected through issuance of an order in **FORM GST RFD-06**, the registered person would file a fresh refund application under the category "Refund on account of assessment/provisional assessment/appeal/any other order" claiming refund of the amount allowed in appeal or any other forum. Since the amount debited, if any, at the time of filing of the refund application was not re-credited, the registered person shall not be required to debit the said amount again from his electronic credit ledger at the time of filing of the fresh refund application under the category "Refund on account of assessment/provisional assessment/appeal/any other order". The registered person shall be required to give details of the type of the Order (appeal/any other order), Order No., Order date and the Order Issuing Authority. The registered person would also be required to upload a copy of the order of the Appellate or other authority, copy of the refund rejection order in **FORM GST RFD 06** issued by the proper officer or such other order against which appeal has been preferred and other related documents. 4. Upon receipt of the application for refund under the category "Refund on account of assessment/provisional assessment/appeal/any other order" the proper officer would sanction the amount of refund as allowed in appeal or in subsequent forum which was originally rejected and shall make an order in FORM GST RFD 06 and issue payment order in FORM GST RFD 05 accordingly. The proper officer disposing the application for refund under the category "Refund on account of assessment/provisional assessment/appeal/any other order" shall also ensure re-credit of any amount which remains rejected in the	**15 Procedural Compliance under GST**

	order of the appellate (or any other authority). However, such re-credit shall be made following the guideline as laid down in para 4.2 of Circular no. 59/33/2018 – GST dated 04/09/2018. 5. The above clarifications can be illustrated with the help of an example. Consider a registered person who makes an application for refund of unutilized ITC on account of export to the extent of Rs.100/- and debits the said amount from his electronic credit ledger. The proper officer disposes the application by allowing refund of Rs.70/- and rejecting the refund of Rs. 30/-. However, he does not recredit Rs.30/- since appeal is preferred by the claimant and accordingly FORM GST RFD 01B is not uploaded. Assume that the appellate authority allows refund of only Rs.10/- out of the Rs. 30/- for which the registered person went in appeal. This Rs.10/- shall be claimed afresh under the category "Refund on account of assessment/provisional assessment/appeal/any other order" and processed accordingly. However, subsequent to processing of this claim of Rs.10/- the proper officer shall re-credit Rs.20/- to the electronic credit ledger of the claimant, provided that the registered person is not challenging the order in a higher forum. For this purpose, FORM GST RFD 01B under the original ARN which has so far not been uploaded will be uploaded with refund sanctioned amount as Rs.80/- and the amount to be re-credited as Rs. 20/-. In case, the proper officer who rejected the refund claim is not the one who is disposing the application under the category "Refund on account of assessment/provisional assessment/appeal/any other order", the latter shall communicate to the proper officer who rejected the refund claim to close the ARN as above only after obtaining the undertaking as referred in para 4.2 of Circular no. 59/33/2018 – GST dated 04/09/2018.	
6.	***CIRCULAR No. 118/2019 – CGST, dated 11th October, 2019*** ***Clarification regarding determination of place of supply in case of software/design services related to Electronics Semi-conductor and Design Manufacturing (ESDM) industry.*** Various representations have been received from trade and industry seeking clarification on determination of place of supply in case of supply of software/design services by a supplier located in taxable territory to a service recipient located in nontaxable territory by using the sample hardware kits provided by the service recipient. 2. It is stated that a number of companies that are part of the growing Electronics Semiconductor and Design Manufacturing (ESDM) industry in India are engaged in the process of developing software and designing integrated circuits electronically for customers located overseas. The client/customer electronically provides Indian development and design companies with design requirements and Intellectual Property blocks ("IP blocks", reusable units of software logic and design layouts that can be combined to form newer designs). Based on these, the Indian company digitally integrates	**13 Concept of Time, Value and Place of Taxable Supply**

	the various IP blocks to develop the software and the silicon or hardware design. These designs are communicated abroad (in industry standard electronic formats) either to the customer or (on behest of the customer) a manufacturing facility for the manufacture of hardware based on such designs. 2.1 In addition, the software developed is also integrated upon or customized to this hardware. On some occasions, samples of such prototype hardware are then provided back to the Indian development and design companies to test and validate the software and design that has been developed to ensure that it is error free. 2.2 The trade has requested clarification on whether provision of hardware prototypes and samples and testing thereon lends these services the character of performance-based services in respect of "goods required to be made physically available by the recipient to the provider". 3. The provisions relating to determination of place of supply as contained in the Integrated Goods & Services Tax Act, 2017 (hereinafter referred to as "the IGST Act") have been examined. In order to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by sub-section (1) of section 168 of the Central Goods & Services Tax Act, 2017 (hereinafter referred to as "the CGST Act") clarifies the same as below. 4. In contracts where service provider is involved in a composite supply of software development and design for integrated circuits electronically, testing of software on sample prototype hardware is often an ancillary supply, whereas, chip design/software development is the principal supply of the service provider. The service provider is not involved in software testing alone as a separate service. The testing of software/design is aimed at improving the quality of software/design and is an ancillary activity. The entire activity needs to be viewed as one supply and accordingly treated for the purposes of taxation. Artificial vivisection of the contract of a composite supply is not provided in law. These cases are fact based and each case should be examined for the nature of supply contracted. 4.1 Therefore, it is clarified that the place of supply of software/design by supplier located in taxable territory to service recipient located in non-taxable territory by using sample prototype hardware / test kits in a composite supply, where such testing is an ancillary supply, is the location of the service recipient as per Section 13(2) of the IGST Act. Provisions of Section 13(3)(a) of IGST Act do not apply separately for determining the place of supply for ancillary supply in such cases.	
7.	***CIRCULAR No. 123/2019 – CGST, dated 11th November, 2019***	**14**

Seeks to clarify restrictions in availment of input tax credit in terms of sub-rule (4) of rule 36 of CGST Rules, 2017.

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

2. To ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies various issues in succeeding paragraphs.

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

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

Input Tax Credit and Computation of GST Liability

			calculated supplier wise or on consolidated basis?	under sub-rule (4) of rule 36 is linked to total eligible credit from all suppliers against all supplies whose details have been uploaded by the suppliers. Further, the calculation would be based on only those invoices which are otherwise eligible for ITC. Accordingly, those invoices on which ITC is not available under any of the provision (say under sub-section (5) of section 17) would not be considered for calculating 20 percent of the eligible credit available.
	For more details please visit : http://cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-123_New.pdf			
8.	***CIRCULAR No. 124/2019 – CGST, dated 18th November, 2019***			**15 Procedural Compliance under GST**
	Seeks to clarify optional filing of annual return under notification No. 47/2019-Central Tax dated 9th October, 2019.			
	Attention is invited to notification No. 47/2019-Central Tax dated 9th October, 2019 (hereinafter referred to as "the said notification") issued under section 148 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the said Act") providing for special procedure for those registered persons whose aggregate turnover in a financial year does not exceed two crore rupees and who have not furnished the annual return under sub-section (1) of section 44 of the said Act read with sub-rule (1) of rule 80 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "the CGST Rules"). 2. Vide the said notification it is provided that the annual return shall be deemed to be furnished on the due date if it has not been furnished before the due date for the financial year 2017-18 and 2018-19, in respect of those registered persons. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the said Act, hereby clarifies the issues raised as below:– a. As per proviso to sub-rule (1) of rule 80 of the CGST Rules, a person paying tax under section 10 is required to furnish the annual return in **FORM GSTR-9A**. Since the said notification has made it optional to furnish the annual return for FY 2017-18 and 2018-19 for those registered persons whose aggregate turnover in a financial year does not exceed two crore rupees, it is clarified that the tax payers under composition scheme, may, at their own option file **FORM GSTR-9A** for the said financial years before the due date. After the due date of furnishing the annual return for the year 2017-		

	18 and 2018-19, the common portal shall not permit furnishing of **FORM GSTR-9A** for the said period. b. As per sub-rule (1) of rule 80 of the CGST Rules, every registered person other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return as specified under sub-section (1) of section 44 electronically in FORM GSTR-9. Further, the said notification has made it optional to furnish the annual return for FY 2017-18 and 2018-19 for those registered persons whose aggregate turnover in a financial year does not exceed two crore rupees. Accordingly, it is clarified that the tax payers, may, at their own option file **FORM GSTR-9** for the said financial years before the due date. After the due date of furnishing the annual return for the year 2017-18 and 2018-19, the common portal shall not permit furnishing of **FORM GSTR-9** for the said period. 3. Section 73 of the said Act provides for voluntary payment of tax dues by the taxpayers at any point in time. Therefore, irrespective of the time and quantum of tax which has not been paid or short paid, the taxpayer has the liberty to self-ascertain such tax amount and pay it through **FORM GST DRC-03**. Accordingly, it is clarified that if any registered tax payer, during course of reconciliation of his accounts, notices any short payment of tax or ineligible availment of input tax credit, he may pay the same through **FORM GST DRC-03.**	
9.	***CIRCULAR No. 125/2019 – CGST, dated 18th November, 2019*** ***Seeks to clarify the fully electronic refund process through FORM GST RFD-01 and single disbursement.*** After roll out of GST w.e.f. 01.07.2017, on account of the unavailability of electronic refund module on the common portal, a temporary mechanism had to be devised and implemented wherein applicants were required to file the refund application in FORM GST RFD-01A on the common portal, take a print out of the same and submit it physically to the jurisdictional tax office along with all supporting documents. Further processing of these refund applications, i.e. issuance of acknowledgement of the refund application, issuance of deficiency memo, passing of provisional/final order, payment advice etc. was also being done manually. In order to make the process of submission of the refund application electronic, Circular No. 79/53/2018-GST dated 31.12.2018 was issued wherein it was specified that the refund application in FORM GST RFD01A, along with all supporting documents, shall be submitted electronically. However, various post submission stages of processing of the refund application continued to be manual.	**15 Procedural Compliance under GST**

	For more details please visit : http://cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-125.pdf	
10.	***CIRCULAR No. 126/2019 – CGST, dated 22nd November, 2019*** ***Clarification on scope of the notification entry at item (id), related to job work, under heading 9988 of Notification No. 11/2017-Central Tax (Rate) dated 28-06-2017-reg.*** I am directed to say that doubts have been raised with regard to scope of the notification entry at item (id) under heading 9988 of Notification No. 11/2017-Central Tax (Rate) dated 28- 06-2017 inserted with effect from 01-10-2019 to implement the recommendation of the GST Council to reduce rate of GST on all job work services, which earlier attracted 18 % rate, to 12%. It has been stated that the entry at item (id) under heading 9988 of Notification No. 11/2017-Central Tax (Rate) dated 28-06-2017 inserted with effect from 01-10-2019, prescribes 12% GST rate for all services by way of job work. This makes the entry at item (iv) which covers "manufacturing services on physical inputs owned by others" with GST rate of 18% redundant. 2. The matter has been examined. The entries at items (id) and (iv) under heading 9988 read as under: **(3)** | **(4)** | **(5)** (id) Services by way of job work other than (i), (ia), (ib) and (ic) above; | **6** | **-** (iv) Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), (ib), (ic), (id), (ii), (iia) and (iii) above. | **9** | **-** 3. Job work has been defined in CGST Act as under. "Job work means any treatment or processing undertaken by a person on goods belonging to another registered person and the expression 'job worker' shall be construed accordingly." 4. In view of the above, it may be seen that there is a clear demarcation between scope of the entries at item (id) and item (iv) under heading 9988 of Notification No. 11/2017-Central Tax (Rate) dated 28-06-2017. Entry at item (id) covers only job work services as defined in section 2 (68) of CGST Act, 2017, that is, services by way of treatment or processing undertaken by a person on goods belonging to another registered person. On the other hand, the entry at item (iv) specifically excludes the services covered by entry at item (id), and therefore, covers only such services which are carried out on physical inputs (goods) which are owned by persons other than those registered under the CGST Act.	**14 Input Tax Credit and Computation of GST Liability**

INTEGRATED GOODS & SERVICES TAX ACT, 2017 AND IGST RULES, 2017

NOTIFICATIONS/CIRCULARS

<table>
<tr><th>Sr. No.</th><th>Updates</th><th>Lesson No.</th></tr>
<tr><td>1.</td><td>
Notification No. 04/2019 – Integrated Tax, dated 30th September, 2019:

Seeks to notify the place of supply of R&D services related to pharmaceutical sector as per Section 13(13) of IGST Act, as recommended by GST Council in its 37th meeting held on 20.09.2019.

In exercise of the powers conferred by sub-section (13) of section 13 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on being satisfied that it is necessary in order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, on the recommendations of the Council, hereby notifies following description of services or circumstances as specified in Column (2) of the Table A, in which the place of supply shall be the place of effective use and enjoyment of a service as specified in the corresponding entry in Column (3), namely:-

Table A
<table>
<tr><th>Sl No.</th><td>Description of services or circumstances</td><td>Place of Supply</td></tr>
<tr><td>(1)</td><td>(2)</td><td>(3)</td></tr>
<tr><td>1</td><td>Supply of research and development services related to pharmaceutical sector as specified in Column (2) and (3) from Sl. No. 1 to 10 in the Table B by a person located in taxable territory to a person located in the non-taxable territory.</td><td>The place of supply of services shall be the location of the recipient of services subject to fulfillment of the following conditions:-
(i) Supply of services from the taxable territory are provided as per a contract between the service provider located in taxable territory and service recipient located in non-taxable territory.
(ii) Such supply of services fulfills all other conditions in the definition of export of services, except sub-clause (iii) provided at clause (6) of Section 2 of Integrated Goods and Services Tax Act, 2017 (13 of 2017).</td></tr>
</table>
Table B
<table>
<tr><th>Sl No.</th><th>Nature of Supply</th><th>General Description of Supply</th></tr>
</table>
</td><td>16 Basic Overview on IGST, UTGST and GST Compensation to States Act</td></tr>
</table>

1	Integrated discovery and development	This process involves discovery and development of molecules by pharmaceutical sector for medicinal use. The steps include designing of compound, evaluation of the drug metabolism, biological activity, manufacture of target compounds, stability study and long-term toxicology impact.
2	Intetgrated development	
3	Evaluation of the efficacy of new chemical/ biological entities in animal models of disease	This is in vivo research (i.e. within the animal) and involves development of customized animal model diseases and administration of novel chemical in doses to animals to evaluate the gene and protein expression in response to disease. In nutshell, this process tries to discover if a novel chemical entity that can reduce or modify the severity of diseases. The novel chemical is supplied by the service recipient located in non-taxable territory.
4	Evaluation of biological activity of novel chemical/ biological entities in in-vitro assays	This is in vitro research (i.e. outside the animal). An assay is first developed and then the novel chemical is supplied by the service recipient located in non-taxable territory and is evaluated in the assay under optimized conditions.
5	Drug metabolism and pharmacokinetics of new chemical entities	This process involves investigation whether a new compound synthesized by supplier can be developed as new drug to treat human diseases in respect of solubility, stability in body fluids, stability in liver tissue and its toxic effect on body tissues. Promising compounds are further evaluated in animal experiments using rat and mice.
6	Safety Assessment/ Toxicology	Safety assessment involves evaluation of new chemical entities in laboratory research animal models to support filing of investigational new drug and new drug application. Toxicology team analyses the potential toxicity of a drug to enable fast and effective drug development.

7	Stability Studies	Stability studies are conducted to support formulation, development, safety and efficacy of a new drug. It is also done to ascertain the quality and shelf life of the drug in their intended packaging configuration.
8	Bio-equivalence and Bioavailability Studies	Bio-equivalence is a term in pharmacokinetics used to assess the expected in vivo biological equivalence of two proprietary preparations of a drug. If two products are said to be bioequivalent it means that they would be expected to be, for all intents and purposes, the same. Bioavailability is a measurement of the rate and extent to which a therapeutically active chemical is absorbed from a drug product into the systemic circulation and becomes available at the site of action.
9	Clinical trials	The drugs that are developed for human consumption would undergo human testing to confirm its utility and safety before being registered for marketing. The clinical trials help in collection of information related to drugs profile in human body such as absorption, distribution, metabolism, excretion and interaction. It allows choice of safe dosage.
10	Bio analytical studies	Bio analysis is a sub-discipline of analytical chemistry covering the quantitative measurement of drugs and their metabolites, and biological molecules in unnatural locations or concentrations and macromolecules, proteins, DNA, large molecule drugs and metabolites in biological systems.

CUSTOMS LAWS

NOTIFICATIONS/CIRCULARS

Sr. No.	Updates	Lesson No.
1.	**Circular No. 29/2019 – Customs, dated 5th September, 2019** Eligibility Criteria for availing of DPD Scheme by Importers CBIC has taken various steps which have had the impact of reducing the dwell time as well as bringing down the logistics cost of EXIM clearances. One of the flagship initiatives in this regard has been the Direct Port Delivery (DPD) of containers to the importers thus obviating the need of routing the clearance through the Container Freight Stations (CFSs). The initiative was first launched at JNPT and thereafter extended to other ports. This one single reform alone has played a critical role in improving our ranking in the Doing Business Report 2019. Not surprising, therefore, has been the wide appreciation for this step amongst the importers and its acknowledgement by World Bank. 2. Although this initiative is in operation at all the ports , however, Board has felt the need for providing general guidelines / eligibility criteria so that reach of DPD could be made maximized. Importers who have so far not availed the benefit of DPD for reasons including lack of awareness, may now join this program with certainty. 3. Ideally, any fully facilitated Bill of Entry (BoE) filed at the gateway port ought to get the DPD benefit. However, feedback from the field has suggested that factors like non-receipt of original documents from abroad and consequent delay in issuance of Delivery Order, financial and credit woes, delay in settlement of dues of shipping lines, opening PD Account with the terminals are some of the reasons inhibiting a larger section of importers to opt for DPD. CBIC by promoting DPD has raised the bar of efficiency. It is, therefore, but natural that other players in the EXIM logistics chain get their act together so that this successful reform measure could be made even more widespread. 4. Taking all the factors into consideration, following guidelines are being prescribed for implementation of DPD across all the formations (i) Inclusions: The following categories of importers may555 opt for facility of DPD:	**17 Overview of Customs Law**

	(a) importers who have already been accorded either AEO Tier I, II or III status; (b) importers with a clear track record of compliance and an import volume of 25 Full Container Load (FCL) TEUs through a particular port or otherwise in the preceding financial year; Importers falling under the said categories shall furnish information prescribed in application format i.e. Annexure-A (copy enclosed). While the criterion at (b) is desirable, Chief Commissioner may, however, in deserving cases of importers, relax the TEU benchmark. Such importers could be the ones whose imports have enjoyed a consistent pattern of customs risk facilitation / who provide an assurance that they would be in a position to pick up containers directly from the terminal. This dispensation may be particularly considered for the MSME sector. (ii) Exclusions: The following categories of importers however would be excluded from facility of DPD: - (a) importers against whom a case of mis-declaration of description of goods or of concealment / diversion of imported goods / evasion of duty has been made in the preceding five years; (b) importers facing prosecution proceedings in a matter under the Customs Act, 1962; (c) those importing goods that are subjected to 100% examination in terms of extant policy; (d) importers importing mostly LCL consignments. (iii) Conditions: The facility of DPD shall only be extended only to such consignments (a) which have either been fully facilitated or not subjected to examination; and (b) importers open a PD account with the terminals and arrange for their own transport to take delivery of containers from the terminal; and (c) any other procedural formality prescribed by the zone for better administration of DPD scheme. 5. In view of the above guidelines for availing DPD, Customs field formations at sea ports where containerized cargo is received are advised to issue/re-issue Public Notices for the benefit of importers so that they could avail DPD. In order to monitor the DPD percentages, all customs formation incharge of gateway ports shall publish the monthly percentage data related to DPD on their websites. Each zone shall also send a consolidated month/ port	

	wise report of DPD percentage every quarter to the Board at jscus@nic.in and dircus@nic.in.	