



# ICSI - GST

A Newsletter from The Institute of Company Secretaries of India

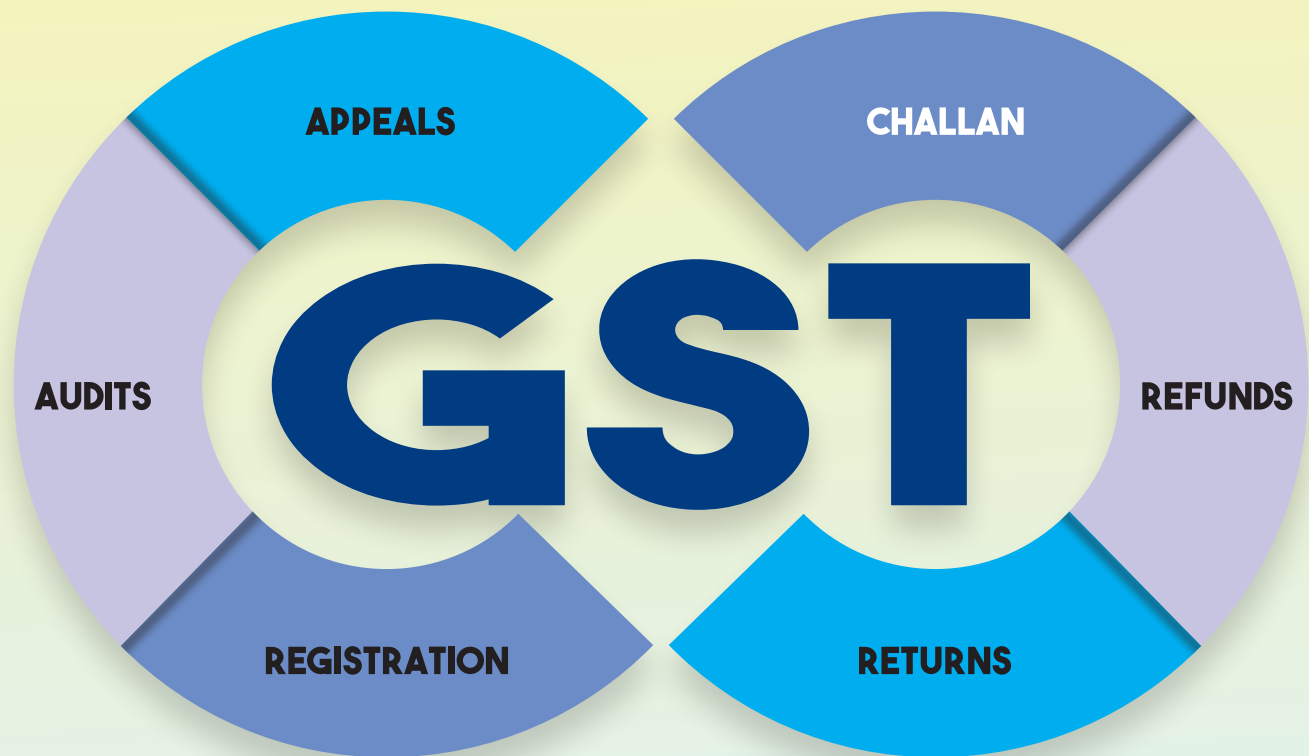


Monthly Newsletter

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## GOODS AND SERVICES TAX



**THE INSTITUTE OF  
Company Secretaries of India**

**भारतीय कम्पनी सचिव संस्थान**

**IN PURSUIT OF PROFESSIONAL EXCELLENCE**

Statutory body under an Act of Parliament

# INSIDE THE ISSUE

<b>01</b>	President Message	<b>03</b>
<b>02</b>	Launch of study Material for Executive Programme (New Syllabus 2017)	<b>04</b>
<b>03</b>	GST in News	<b>05</b>
<b>04</b>	Margin Scheme for Buyer and Seller of Old Second hand Goods	<b>09</b>
<b>05</b>	Mystery of GST Refund for exporters and consequence of wrong refund	<b>12</b>
<b>06</b>	GST QUIZ	<b>17</b>
<b>07</b>	Sectoral Analysis: Mining	<b>18</b>
<b>08</b>	Anti Profiteering Measures	<b>27</b>
<b>09</b>	Events Under GST	<b>27</b>

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# MESSAGE FROM PRESIDENT

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During the rapid development of economies at the globe, India is coming up as a modeled economy with confident hopes towards ambitious growth targets, well supported by a bunch of strategic undertakings like vision New India, 2022, Minimum Government-Maximum Governance, Start-up India, Young India – Vibrant India, Digital India, IBC and Make in India campaigns. Inter-Alia, the Goods and Services Tax (GST) is another such major breakthrough reform in the regime of indirect taxation, working as a stimulant for economic growth in India by transforming the existing base of indirect taxation towards the free flow of goods and services.

Right from making Indian products competitive in the domestic and international market to the process of enhancing the transparent character of GST administration, government is dynamic in removing the difficulties, ensuring the directed application of GST at each and every nook of trade and commerce.

The Government along with all the stakeholders is moving ahead to create a success story of GST with constant efforts in direction of simplifying the returns, speeding up of refund mechanism, setting up grievance redressal mechanisms, extension of crucial dates of filing various returns under GST along with issuing circulars and clarifications on various taxability issues.

Rightly said that, “GST is not just a tax reform, rather a tool to promote honesty and transparency”. Being the redeemer of governance, Company Secretaries are known for confirming the culture of honesty and transparency around the globe. Keeping forward our dedication as Governance Professionals towards desired implementation of GST, it becomes the need of hour to be well apprised with emerging trends of GST for succeeding the best parameters of our professional excellence in the service of Nation.

Over the time, the GST Newsletter has become a creditworthy foundation for describing the contemporary information on GST to professionals, academicians, students, and public as a whole.

With this, we are happy to release the May edition of the GST Newsletter covering varied aspects under Goods & Services Tax.

**CS Makarand Lele**  
**President, ICSI**

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## Launch of Study Material for Executive Programme (New Syllabus 2017)

*"Education is the passport to the future, for tomorrow belongs to those who prepare for it today."*



The Institute of Company Secretaries of India with its ever evolving educational structure aims to incorporate each single development in every arena of corporate activity concerning this brigade of professionals to make them truly live up to the meaning of 'intellectuals'.

The Company Secretaryship Course intends to inculcate in its students and more so the professionals of tomorrow with the right amount of knowledge, skill and training to render them fit in every possible environment facing the corporate arena.

Understanding the significance of knowledge in any professional course, especially one of the stature of this one, the Team ICSI has covered lengths and breadths in developing an apt Study material sustaining the needs of the dynamics of Indian corporates and the structure of the New Syllabus of 2017. It is heartening for me to share that the study material so developed has been strengthened with deliberations with not just Company Secretaries but Industry Experts and other professionals with a wide spectrum of acquaintance with the needs and requirements of the companies in the Indian Mainland.

At this juncture, I am pleased to share that the study material for the subjects of Executive Programme under New Syllabus has been uploaded on the ICSI website for the benefit of the students at the link:

<https://www.icsi.edu/AcademicCorner/StudyMaterialNewSyllabus2017.aspx>

*Executive Programme (New Syllabus – Examination to be held on December 2018)*

MODULE - I	MODULE - II
Jurisprudence, Interpretation and General Laws (Paper-1)	Corporate & Management Accounting (Paper-5)
Company Law (Paper-2)	Securities Laws and Capital Markets (Paper-6)
Setting up of Business Entities and Closure (Paper-3)	Economic, Business and Commercial Laws (Paper-7)
Tax Laws (Paper-4)	Financial and Strategic Management (Paper-8)

It goes without saying that utmost care has been taken to ensure that the contents covered under respective study material is all encompassing, completely updated and fully analyzed. Further, efforts have been made to incorporate sufficient number of case laws / practical aspects / practical problems as per the requirement of each subject.

I also convey my heartfelt gratitude to all the Writers / Reviewers / Resource Persons and Academic Officers in ICSI who burnt their midnight oil and contributed immensely towards the writing / reviewing / value addition of the contents of the study material of the subjects mentioned hereinabove.

I wish all the prospective Governance Professionals and Corporate Saviours a very bright future ahead !

**CS Makarand Lele**  
President, ICSI



## ***GST IN NEWS***

### **1. E-way bill mandatory for inter-state movement of goods**

- Businesses and transporters moving goods worth over Rs 50,000 from one state to another have to carry an electronic or e-way bill from April 1
- Touted as an anti-evasion measure that would help boost tax collections by clamping down on trade that currently happens on cash basis, the e-way bill provision of GST was first introduced on February 1
- To ensure a fool proof system, the GSTN has activated only that facility on its portal where e-way bill can be generated when goods are transported from one state to another by either road, railways, airways or vessels

### **2. Government sanctions Rs 127 billion of GST refund claims**

- The government has sanctioned GST refunds worth about Rs 127 billion or 80 per cent of the eligible claims of exporters
- The Central Board of Excise and Customs had organised refund facilitation camps in field offices between March 15-31 to assist exporters in filling up refund claim forms and correct errors

### **3. More than 5 lakh GST e-way bills issued on Day 2 of rollout**

- GST e-way bill was off to a successful start with more than five lakh e-way bills generated on the first working day of its implementation.
- The roll-out of e-way bill without any glitches came as a relief to businesses that feared disruption to trade.

### **4. Government sets up grievance redress mechanism for technical glitches on GST portal**

- The government had set up a grievance redress mechanism to address difficulties faced by taxpayers due to technical glitches on the Goods and Services Tax portal
- Under the new mechanism, if any taxpayer was unable to file any form or return due to a technical glitch by the due date, he or she would be allowed to do so within a stipulated time period.

- In case any taxpayers could not complete the process of filing TRAN-1 (transitional credit form) in time due to the IT glitch, he or she would be allowed to complete the process by April 30.
- The filing of GSTR 3B return for such TRAN-1 will have to be completed by May 31, the Finance Ministry said.
- It added that the Goods and Services Tax Council has delegated powers to an IT- Grievance Redressal Committee to approve and recommend steps to be taken to redress the grievances and provide relief to the taxpayers

#### **5. Railway catering services in trains, stations to attract 5% GST**

- Finance Ministry clarified that food and drinks supplied by the Indian Railways or the IRCTC in trains, platforms and stations, will attract 5% GST
- The Finance Ministry has written to the Railway Board on March 31 about the 5% rate to remove any doubt or uncertainty in the matter
- This would bring about uniformity in the rate of GST applicable to the supply of food and drinks made available in trains, platforms or stations

#### **6. Government mulls to convert GST Network into 100% state-owned company**

- The government is considering converting GST Network- which is handling the IT infrastructure of the new indirect tax regime - into a state-owned company
- Currently, private financial institutions are the majority owners in GSTN with 51 per cent stake, while the centre and states together hold 49 per cent.

#### **7. Intra-state e-way bill roll-out in 5 states from 15 April - Finance Ministry**

- E-way bill for movement of goods within the state have been rolled out from 15 April, starting with 5 states including Gujarat, UP and Kerala
- The same for intra, or within the state movement, will be rolled out from 15 April, finance ministry said in a statement. The five states which would form part of the first phase are Andhra Pradesh, Telangana, Gujarat, Kerala and Uttar Pradesh.
- Karnataka is the only state which had rolled out e-way bill system for intra-state movement of goods from 1 April

#### **8. Four more States, Puducherry to roll out intra-State e-way bill**

The Finance Ministry has announced that e-way bill will be mandatory for intra-State trade in four more States and the Union Territory of Puducherry from April 25

The four States are Madhya Pradesh, Arunachal Pradesh, Meghalaya and Sikkim.

The Ministry also clarified on who should generate e-way bill in 'bill to ship to' situations

It may be recalled that e-way bill is already mandatory for intra-State trade in 12 States – Andhra Pradesh, Bihar, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Telangana, Tripura, Uttarakhand and Uttar Pradesh.

E-way bills are getting generated successfully and till April 22, more than 1.84 crore e-way bills have been successfully generated which include more than 22 lakh e-way bills for Intra-State movement of goods, an official release

#### **9. GST applicability on food, drinks supplied to students by schools- Finance Ministry**

The Union Finance Ministry clarified GST is not applicable on food and drinks supplied by schools directly to the students, while it is 5 per cent without input tax credit for mess and canteens in educational institutions.

If schools up to higher secondary level supply food directly to students, then the same is exempt from GST, ministry said in an official statement

#### **10. GST Consumer Welfare Fund can be given as grant to Centre, states: CBIC**

- The proceeds from the consumer welfare fund, constituted under GST, can be given as grant to the Centre and state governments as well as regulatory authorities- CBIC
- In a notification, the Central Board of Indirect Taxes and Customs (CBIC) said the government shall constitute a Standing Committee with a Chairman, a Vice-Chairman, a Member Secretary and such other members for managing the fund.

#### **11. Govt advances deadline for GST seller returns for April, May, June**

- Government has advanced the deadlines for filing of seller forms under the goods and services tax, GSTR-1, for April, May and June, in comparison to those given for previous months
- GSTR-1 for the month of April will have to be filed by May 31
- Earlier, 40 days were given for filing these, which would have made June 10 the deadline
- Returns for May have to be filed by June 10 and for June by July 10. So, only 10 days after the month ends, against the earlier 40 days.
- However, the government has not changed the deadline for filing GSTR-3 B. These are to still be filed by the 20th of the following month.
- The idea is to allow reconciliation between the two forms, GSTR-3 Band GSTR-1.
- According to the original plan, the GST Council had decided to give only 10 days to file GSTR-1, after which GSTR-2, the return for buyers, had to be finalised and filed within the next five days. These were to be then used for filing GSTR-3 forms, to claim credits.

#### **12. Single-page GST filing system to be ready in 3-6 months, confirms Finance Secretary**

- Union Finance Secretary said the proposed new single page GST return filing system will be in place over the next three to six months that will ease the present problems
- At the April 17 ministerial panel meeting decided to roll out a new simplified model for GST return filing system in single-page, as per which credit could be given on a provisional basis once the supplier uploads the sales invoice

### **13. 'Duty Free' shops at Delhi International airport liable to pay GST: AAR**

- International passengers buying goods at airport 'Duty-Free' shops here will have to pay GST, with the Authority for Advance Ruling (AAR) saying that such outlets at the Delhi International Airport is not 'free from duties' under the Goods and Services Tax regime.
- In the earlier regime of excise and service tax prior to GST roll out on July 1, 2017, the duty-free shops were exempt from the levy of central sales tax (CST) and value added tax (VAT) as sale from such shops were considered as exports and supplies were taking place beyond the 'customs frontiers' of India.
- The New Delhi bench of the AAR in a recent ruling has held that the supply of goods to the international passengers going abroad from 'Duty Free' shops may be taking place beyond the customs frontiers of India under Integrated GST Act, however, the said shops are within the territory of India under the Central GST Act.

### **14. March GST mop-up hits Rs 96,000 crore**

- GST collections for March exceeded Rs 96,000 crore by April 23, the largest mop-up for any month since the comprehensive indirect tax's launch in July last year, an official source said.
- The March collections could cross the coveted Rs 1 lakh crore mark by April-end, as payments are still being made by a section of taxpayers with late penalties, analysts feel.
- The forecast is based on the customary spurt in tax payments in the last month of the financial year and the fact that only 55 lakh assesseees had paid the tax by April 23 – three days past the deadline for payment without fines – against an average of around 65 lakh in the previous months.

### **15. GST Council may consider sugar cess in next meeting**

- GST Council will likely take up as early as in its next meeting, a proposal for the imposition of a cess on sugar to create a fund that will help mills clear cane dues owed to farmers
- The fund is proposed to finance the gap between the cane price mills can pay to farmers in accordance with a revenue-sharing formula recommended by the Rangarajan Committee and the benchmark rate – fair and remunerative price (FRP) – fixed by the central government
- Proposals such as a production-linked subsidy on cane and a reduction in the GST rate on ethanol (a cane by-product) from the current 18% would be placed before the Cabinet as well.

### **16. Finance ministry to shift to cash basis accounting for GST this fiscal**

- To bridge the lag in actual revenue accrual, the finance ministry will shift to cash basis accounting for GST this fiscal. Monthly collections will be reported on the first working day of the following month
- Till now, monthly tax returns under GST, which has combined 17 central and state taxes into one, were allowed to be filed by the 20th of the following month and revenues collected were reported on 26th, almost a month-long lag between collections and their reporting
- Only the Integrated-GST, levied on inter-state movement of goods as well as imports, will be shown in March tax collection.



# Margin Scheme for Buyer and Seller of Old Second Hand Goods\*

Law is made to solve various problems. GST too was rolled out to resolve various business & economic issues. GST is not only a tax reform; largely it is a business reform. GST law will bring positive reforms in business.

Buyers & sellers of old second hand goods were wondering with questions like, “at what value GST rate will be charged?” Some business houses were charging GST rate at transaction value and felt huge burden of taxes on their sales, due to unawareness about rule 32(5) of the CGST Rules 2017. Through this article, endeavours are made to create awareness and to provide basis knowledge of margin scheme.

## What is margin scheme?

Usually, under regular scheme GST is charged on transaction value. But Business segments selling second hand goods may be allowed to pay tax on margin i.e. difference between the value at which goods are supplied and the price at which goods are purchased.

## Illustration

M/s ABC Pvt. Ltd. is in business of buying and selling of second hand cars. It purchases an old Toyota Etios at INR 2.5 lakhs from an unregistered person and after making minor repairs, sells it for INR 3.5 lakhs. In this situation, supply of car to M/s ABC Pvt. Ltd. for INR 2.5 lakhs shall be exempted and supply by M/s ABC Pvt. Ltd. to final customer at INR 3.5 lakhs will be taxed and tax will be levied at INR 1 lakhs, i.e. the difference between the selling price and purchase price. Repair charges shall also be part of margin.

## Benefits of Margin scheme

This scheme will mitigate the problem of double taxation, as goods bought for selling had already born incidence of tax.

## Relevant Rules and Notification related to Margin Scheme

1. Rule 32(5) of CGST rules 2017
2. Notification number 10/2017 central tax (rate)
3. Notification number 8/2018 of central tax (rate)
4. Notification number 9/2018 of IGST
5. Notification number 1/2018 cess(rate)

## How to determine value of Supply under Margin Scheme?

As per Rule 32(5) of CGST Rules 2017 Where a taxable supply is provided by a person dealing in buying and selling of second hand goods i.e., used goods as such or after such minor processing which does not change the nature of the goods and where no input tax credit has been availed on the purchase of such goods, the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored.

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\*Contributed by FCS Payal Kataria, Special invitee ICSI GST Core Advisory Group

Provided that the purchase value of goods repossessed from a defaulting borrower, who is not registered, for the purpose of recovery of a loan or debt shall be deemed to be the purchase price of such goods by the defaulting borrower reduced by five percentage points for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession.

**Is there any exemption on buying old second hand goods from unregistered person?**

As per Notification No.10/2017-Central Tax (Rate) dated 28-06-2017 There is exemption on intra-State supplies of second hand goods received by a registered person, dealing in buying and selling of second hand goods and who pays the central tax on the value of outward supply of such second hand goods as determined under sub-rule (5) of rule 32 of the Central Goods and Services tax Rules, 2017, from any supplier, who is not registered, from the whole of the central tax leviable thereon under sub-section (4) of section 9 of the Central Good and Services Tax Act, 2017

***Relaxation in GST rates and cess on old cars after 25<sup>th</sup> GST Council Meeting***

Used car industry was suffering burden of 28% GST rate, their pain was considered in 25<sup>th</sup> GST Council meeting and decision was taken to reduce GST rate and cess on used car. As per Notification No. 8/2018 -Central Tax (Rate) dated 25-01-2018 new rates are:

S. No.	Description of Goods	GST
1.	Old and used, petrol Liquefied petroleum gases (LPG) or compressed natural gas (CNG) driven motor vehicles of engine capacity of 1200 cc or more and of length of 4000 mm or more.	9%
2.	Old and used, diesel driven motor vehicles of engine capacity of 1500 cc or more and of length of 4000 mm	9%
3.	Old and used motor vehicles of engine capacity exceeding 1500 cc, popularly known as Sports Utility Vehicles (SUVs) including utility vehicles.	9%
4.	All Old and used Vehicles other than those mentioned from S. No. 1 to S.No.3	6%

As per Notification No. 1/2018-Compensation Cess (Rate) dated 25-01-2018 Cess is reduced to Nil

Description of Goods	All old and used motor vehicles	Cess
Explanation:	Nothing contained in this entry shall apply if the supplier of such goods has availed input tax credit as defined in clause (63) of section 2 of the Central Goods and Services Tax Act, 2017, CENVAT credit as defined in CENVAT Credit Rules, 2004, or the input tax credit of Value Added Tax or any other taxes paid on such vehicles.	NIL

### Points to remember:

- **Scenarios for calculation of Margin:**
  - I. If registered person has claimed depreciation under section 32 of the Income-Tax Act,1961 on the used second hand goods, the value that represents the margin of the supplier shall be the difference between the consideration received for supply of such goods and the depreciated value of such goods on the date of supply, and where the margin of such supply is negative, it shall be ignored; and
  - ii. In any other case, the value that represents the margin of supplier shall be, the difference between the selling price and the purchase price and where such margin is negative, it shall be ignored.
- Maintain authentic documents like payment voucher against buying of second hand goods from unregistered seller
- Make payment for buying old goods through banking channel which is authentic proof for your purchase price.
- If margin scheme is availed, then ITC can't be claimed
- Unregistered person cannot issue tax invoice



## Mystery of GST Refund for exporters and consequence of wrong refund\*

The GST has maximum impact on exporters due to blocking of huge amount of working capital since non-availability of upfront exemption of GST and delay in the processing of the refund.

After lot of representations, Notifications have been issued under CGST and IGST for supply of goods to merchant exports on payment of 0.10% of GST, earlier merchant exporters were required to pay full GST on purchase and claim the refund of GST paid after exports. Notifications have also been issued to exempt the IGST on importation by EOU, Advance Authorisation Holder and EPCG Holder,

The above mentioned notification were issued to solved the problem of exporters, However the problem of exporters aggravated after issue of notification No. 3/2018 C. Tax dated 23rd January, 2018. Through this notification. Rule 96 of CGST Rule 2017 has been amended retrospectively. Relevant text of notification is as below:

**(10) The persons claiming refund of integrated tax paid on exports of goods or services should not have received supplies on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 48/2017-Central Tax dated the 18th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E) dated the 18th October, 2017 or notification No. 40/2017-Central Tax (Rate) 23rd October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E) dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate) dated the 23rd October, 2017 published in the Gazette of India, Extraordinary, Part II, Section**

**3, Sub-section (i), vide number G.S.R 1321 (E) dated the 23rd October, 2017 or notification No. 78/2017- Customs dated the 13th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E) dated the 13th October, 2017 or notification No. 79/2017- Customs dated the 13th October, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E) dated the 13th October, 2017.";**

The impact of above amendment is that if a person has availed the benefit of above notifications even once than such person has to claim the refund of input tax and required to make supply under LUT / bond and he will not be able to claim the refund of IGST paid on exports.

Type of Supplier	Notification No.	Benefits given
Supplier to Merchant Exporter	40/2017-Central Tax (Rate) 23rd October / 41/2017-Integrated Tax (Rate) dated 13rd October 2017	Charging 0.05% of CGST & 0.05% of SGST or 0.1% of IGST
EOU	78/2017-Customs dated the 13th October, 2017	Exemption of Basic Customs Duty and IGST
Advance Licence Holder & EPCG Holder	79/2017-Customs dated the 13th October, 2017	Exemption of Integrated Tax/ Cess on import of goods under

\*Contributed by CA Sanjay Jain

Hence this notification will have impact in claiming refund by Merchant Exporters, EOU and person availing exemption of Integrated Tax/Cess on import of goods under Advance Authorisation / EPCG schemes as below:

**1) Merchant Exporter:**

The Merchant exporter can procure the goods from his supplier on payment of 0.05% of CGST + .05% of SGST and 0.10% of IGST. The Merchant exporter availing the benefit of this notification is not entitled to claim refund of IGST paid on export of goods under Rule 96 of CGST Rules 2017. What is worse if such Merchant Exporter has more than one units / or business under single registration and also engaged as manufacture exporters / service exporters and even standalone purchases has been made on payment of 0.05% of CGST + .05% of SGST / 0.10% of IGST then all the units under the same GSTN will not be eligible to claim the refund of IGST paid on exports under Rule 96 of CGST Rules 2017.

**2) EOU:**

EOU were granted exemption for payment of Custom duty and excise duty earlier. After the appointed date of GST, the EOUs were required to pay GST. The relief has been given to EOU for payment of IGST at the time of import through custom notification No. 78/2017 dated 13.10.2017. Under this notification, Basic Custom Duty and IGST are exempted and therefore EOU will not be eligible to pay IGST on exports and claim the refund under Rule 96. Further when such EOU procure the goods from domestic area, there is no exemption to CGST + SGST or IGST. Hence the EOU Unit is required to pay CGST + SGST / IGST on domestic procurement. The refund of GST paid by EOU can be claimed either by supplier or by EOU under Notification No. 48/2017 Central Tax dated 18.10.2017.

The CGST Circular No. 14/2017 dated. 06th November 2017, has been issued for the procedure of claiming the refund of GST paid by EOU on domestic procurement. The EOU has to issue the Form A to domestic supplier. The EOU is also required to report the consumption of such material in Form B in line with Form A to the Custom / IGST Officer.

Hence EOU has to consider the various option available and accordingly it should decide its procurement planning. The worst case will be where such EOU has more than one units (i.e. EOU and DTA units) under single registration than if one unit availed the benefit of above-mentioned notification than all units under same registration shall not be eligible to claim the refund of IGST paid on exports. Hence EOU can procure the material from domestic supplier on payment of CGST + SGST or IGST. In this option, the EOU is required to issue Form A to domestic supplier & report consumption of such material in Form B. The second option available with EOU is take the input credit of GST paid at the time of purchase and claim the refund of input under Rule 89 of CGST Rules 2017.

### 3) Supply of Goods against Advance Authorisation/EPCG Scheme:

If any goods have been procured under Advance Authorisation Scheme or EPCG Scheme after obtaining the advance release order (ARO) from licensing authority, such supplies are received from domestic supplier, then the Advance Authorisation / EPCG licence holder receiving the goods against ARO / authorisation letter will not be eligible to claim the refund of IGST paid on export of goods & services under Rule 96 of CGST Rules 2017. Similarly, if any such EPCG licence holder or Advance Authorisation holder import under such authorisation without the payment of tax then such person is not eligible to claim refund of IGST paid on export of goods under Rule 96 of CGST Rules 2017.

It is worth noted that the CGST notification no 3 has been issued on 23rd January, 2018 and has been made effective from 23rd October, 2017. There is no clarity if such exporters have exported goods on payment of IGST before the issue of such notification, how to file the refund claim in respect of such exports. It is a case of hardship on exporter since they do not have any option to claim the refund of IGST paid on exports and they can claim only refund of input tax. It is also worth to noted that refund is available for input, in case such exporter avails the input credit of capital goods or has significant amount of tax credit under Tran1 than such exporter will not be able to make claim of refund of such input credit of capital goods / Tran 1 return credit.

Since GST portal has been accepting the refund claim of IGST paid on exports and in case refund has been availed by the person wrongly who was not entitled for it, is required to repay it back on same day. Hence if any refund is received of IGST paid on exports and such exporters have availed the concession / exemption under as mentioned above, has to repay the amount of refund received on same day. If such amount is not repaid than it will be repaid with interest and may attract the penalty provisions.

#### Consequence of refund wrongly availed:

##### Quote:

**Section 73 Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful misstatement or suppression of facts.**

- (1) Where it appears to the proper officer that any tax has not been paid or short paid or **erroneously refunded**, or where input tax credit has been wrongly availed or utilized for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the **refund has erroneously been made**, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.
- (2) The proper officer shall issue the notice under sub-section (1) at least three months prior to the time limit specified in sub-section (10) for issuance of order

- (3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or **erroneously refunded** or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.
- (4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.
- (5) The person chargeable with tax may, before service of notice under sub-section (1) or, as the case may be, the statement under sub-section (3), pay the amount of tax along with interest payable thereon under section 50 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.

**74 Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful misstatement or suppression of facts.**

74. (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilized by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.
- (2) The proper officer shall issue the notice under sub-section (1) at least six months prior to the time limit specified in sub-section (10) for issuance of order.
- (3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.
- (4) The service of statement under sub-section (3) shall be deemed to be service of notice under sub-section (1) of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.
- (5) The person chargeable with tax may, before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent. of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.

### **Unquote:**

Hence under section 73 and 74, both cases, the amount of refund received for which such exporter is not entitled, is to be repaid. In case of delay in repayment than it has to be repaid with interest and penalty as applicable if the refund has been obtained without any wilful-misstatement or suppression of facts to evade tax. Hence if the refund claim of IGST paid on exports has been filed after 23rd October, 2017 and before 23rd January, 2018 i.e. before the issue of CGST notification 3 dated 23rd January, 2018, then such case may get covered under section 73.

If such person knowingly file, the claim of refund of IGST paid on exports (if not eligible due to above mentioned notifications) than it can be a case of section 74 of obtaining refund with wilful misstatement and suppression of facts. The Penalty amount will be upto 50% of tax apart from recovery of amount refunded alongwith interest.

### **Quote:**

#### **Section 122 - Penalty for certain offences.**

**Sub Section (2):** Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or **erroneously refunded**, or where the input tax credit has been wrongly availed or utilised, –

- (a) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or ten per cent. of the tax due from such person, whichever is higher;
- (b) for reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty equal to ten thousand rupees or the tax due from such person, whichever is higher.

### **Unquote:**

If the tax has been erroneously refunded and not repaid than it will attract penalty from 10% of tax and upto tax amount in case of wilful misstatement or suppression of fact.

If the amount of offence under this section is more than Rs 2.50 lakhs than such exporter will not be eligible to submit LUT also.

Hence the provision of CGST notification 3 dated 23rd January, 2018 are very hash and will create the liquidity crunch for exporter unless the amendment is made in the provision of CGST notification 3





# GST QUIZ

1.	GST is a	<ul style="list-style-type: none"> <li>a. Destination based tax</li> <li>b. Source based tax</li> <li>c. Neither of the above</li> <li>d. Both are okay, as it is consumption based</li> </ul>
2.	In a mixed supply arrangement, goods are:	<ul style="list-style-type: none"> <li>a. Intentionally bundled</li> <li>b. Naturally bundled</li> <li>c. Aesthetically bundled</li> <li>d. All of the above</li> </ul>
3.	In a composite supply, the goods are	<ul style="list-style-type: none"> <li>a. Intentionally bundled</li> <li>b. Naturally bundled</li> <li>c. Aesthetically bundled</li> <li>d. All of the above</li> </ul>
4.	In a composition levy, the supplier can himself take ITC	<ul style="list-style-type: none"> <li>a. True</li> <li>b. False</li> </ul>
5.	In a reverse charge mechanism:	<ul style="list-style-type: none"> <li>a. the Government pays tax to the supplier</li> <li>b. the recipient pays tax to the supplier</li> <li>c. the supplier pays tax to the Government</li> <li>d. the recipient pays tax to the Government</li> </ul>

Ans: Q1- A, Q 2- A, Q3- B, Q4- B, Q5- D

# SECTORAL ANALYSIS: MINING\*



# GST

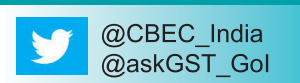
SECTORAL SERIES



## Mining



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Directorate General of Taxpayer Services  
**CENTRAL BOARD OF EXCISE & CUSTOMS**

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Source: <http://www.cbec.gov.in/resources//htdocs-cbec/gst/faq-mining.pdf>

## FAQ: Mining

**Question 1:** Can small mining leaseholders with a turnover less than Rs.75 lacs operate under composition scheme?

**Answer:** As per Sec. 10(1) of the CGST Act, 2017, a registered person whose aggregate turnover in the preceding FY did not exceed Rs.75 lakhs, would be eligible for paying GST under the composition scheme.

**Question 2:** What is the GST rate for minerals and ores in Composition Scheme?

**Answer:** In a case where the process amounts to manufacture, the rate of tax will be 1% (CGST) and 1% (SGST/UTGST). In any other case, the rate will be ½% (CGST) and ½% (SGST/UTGST).

**Question 3:** Will they have to deposit GST under SGST/CGST heads separately?

**Answer:** Yes. GST has to be paid separately under CGST and SGST/UTGST by generating a single challan through the common portal under a single return.

**Question 4:** Can a small Mine Lease holder undertake inter-State supply if it avails composition scheme?

**Answer:** No. If a supplier chooses to avail of composition scheme, he shall not undertake inter-State supply.

**Question 5:** What is the IGST rate for minerals and ores in case of inter – State supply?

**Answer:** At present, the IGST rate is the sum of CGST and SGST/ UTGST rate. These rates have been notified and are available in public domain.

1



**Question 6:** Can the buyer get input credit on the supply of minerals from a mine owner in composition scheme?

**Answer:** No, the buyer cannot avail of the credit of tax paid by the supplier who is under the composition scheme as the person paying tax under composition scheme cannot issue a tax invoice and collect taxes on his supplies.

**Question 7:** Will the recipient have to pay tax under reverse charge?

**Answer:** GST on reverse charge mechanism is payable under section 9(4) of the CGST Act, 2017 only in case of purchases from unregistered suppliers. As the mine owner who is paying tax under composition scheme is registered, the recipients need not pay GST on reverse charge mechanism.

**Question 8:** What is the threshold limit and conditions when a small mine owner/lease holder under Composition Scheme has to migrate into full GST System?

**Answer:** As per section 10(3) of the CGST Act, 2017, the option availed of by the small mine owner/lease holder shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds Rs. 75 lakhs. For details regarding other conditions, section 10 of the CGST Act, 2017 and the rules framed there under may be referred to.

**Question 9:** Is the Return filing and compliance simpler under composition scheme?

**Answer:** Yes, Return filing and compliance is simpler under the composition scheme. The registered person has to file only one return on a quarterly basis in Form GSTR-4.

2

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**Question 10:** Will the basic exemption limit from GST be applicable to the tiny & micro segment in mining?

**Answer:** Yes, the basic exemption limit of Rs. 20 lakhs (Rs.10 lakhs in the case of special category States) is applicable to the tiny and micro segment even in mining. However, a person engaged in making taxable supply and having aggregate annual turnover (more than Rs.20 lakhs in any State other than the special category States) would be liable to obtain registration under GST. The return has to be filed on monthly basis by regular taxable persons and on quarterly basis by the taxable persons registered under the composition scheme. .

**Question 11:** What is aggregate turnover?

**Answer:** As per section 2(6) of the CGST Act, 2017, “aggregate turnover” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes Central tax, State tax, Union territory tax, integrated tax and compensation cess.

**Question 12:** Will the buyer of goods from unregistered person pay reverse tax?

**Answer:** A registered person receiving taxable goods or services from a supplier who is not registered, would be liable to pay GST under reverse charge mechanism. However, in terms of notification no. 8/2017-Central Tax (rate) dated 28th June, 2017, aggregate value of supplies of goods and/or service received by a registered person from any or all the suppliers, who is or are not registered, upto five thousand rupees in a day is exempt from tax under reverse charge mechanism. This exemption will not apply if the value exceeds Rs.5000/-.

3



**Question 13:** Can a buyer of goods and services pay the value of services / goods to the supplier and deposit the GST component of the invoice in the supplier's account so that when the buyer claims input credit, he may get the same cross entry tallied from the supplier's account?

**Answer:** No. This option is not available under GST Law.

**Question 14:** In case there are disputes regarding quality, weight, etc. between the buyer and the supplier and the goods are returned fully or partially, as found unfit for use, can the excess paid tax component be adjusted from future tax liability?

**Answer:** In such cases, the supplier may issue a credit note to the recipient in accordance with the provisions of section 34(1) of the CGST Act, 2017.

**Question 15:** Whether deduction of Liquidity Damage (LD)/Penalty deduction from contractor's bills and charging Penalty for non-lifting of coal till targeted minimum level to Annual Contractual Quantity (ACQ) will attract GST?

**Answer:** Yes, it is a service being “tolerating an act” as per Schedule II of the CGST Act, 2017 thus GST shall apply.

**Question 16:** Will GST be payable at the time of raising an invoice for supply of goods from a mining lease holder or it will be applicable on the amount of advance received by the mining company for booking the order?

**Answer:** No. As per the provisions of section 12(2) of the CGST Act, 2017 the time of supply of goods shall be the date of issue of invoice or the date of receipt of payment, whichever is earlier. Accordingly, GST would be payable on advance payment received prior to issuance of the invoice.

4

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**Question 17:** Will the supplier have to issue “receipt voucher” against each advance received?

**Answer:** Yes, as per section 31(3)(d) of the CGST Act, 2017 the supplier has to issue a “receipt voucher” for every advance received.

**Question 18:** How do I show the advance received in GSTR 1?

**Answer:** Where against an advance the invoice is issued in the same tax period, the advance need not be shown separately in Form GSTR-1 but the specified details of invoice itself can be directly uploaded on the system. Details of all advances against which the invoices have not been issued till the end of the tax period shall have to be reported on a consolidated basis in Table 11 of Form GSTR-1. As and when the invoices against these advances are issued, they have to be declared in Form GSTR-1 and the adjustment of the tax paid on advances against the tax payable on the invoices uploaded in Form GSTR-1 shall have to be done in Table 11 of Form GSTR-1.

**Question 19:** In case no supplies are made against an advance, will the dealer have to issue a “refund voucher” only for the advance or for advance including GST?

**Answer:** Refund voucher has to be made for the full value of advance, including the amount of GST.

5



**Question 20:** It will be difficult to link between “Advance Receipt Voucher” and invoices in case of sales billing on Cash Sale (Rail/Road)/e-Auction etc., especially in case of Rail Cash sale, where purchasers deposit money in advance to the tune of many crores for which lifting of coal has to be made from various loading point and time. In such situation how will the billing person at one point realize how much “balance advance” is available for adjustment while raising invoice at his end at a specific point of time?

**Answer:** Under GST gross amount of advance is to be reported and tax has to be paid. Advance can be adjusted in totality. While raising the invoice subsequent to receipt of advance, the tax payable will get reduced by the amount of tax paid on the advance and balance amount of advance may be adjusted against future supplies.

**Question 21:** Will GST charged on purchase of all earth moving machinery including JCB, tippers, dumpers by a mining company be allowed as input credit?

**Answer:** The provision of Sec. 17(5) (a) of the CGST Act, 2017 restricts credit on motor vehicle for specified purposes listed therein. Further, in terms of the provision of Section 2(76) of the CGST Act, 2017 the expression ‘motor vehicle’ shall have the same meaning as assigned to it in Clause (28) of Section 2 of the Motor Vehicle Act, 1988, which does not include the mining equipment, viz., tippers, dumpers. Thus, as per present provisions, the GST charged on purchase of earth moving machinery including tippers, dumpers used for transportation of goods by a mining company will be allowed as input credit.

6

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**Question 22:** Whether GST is payable on royalty (to be paid to Government) for Mining Lease granted by State Govt.

**Answer:** Yes, on royalty GST will apply under reverse charge mechanism. Further, such payment of GST under reverse charge mechanism would be eligible as ITC in the hands of the recipient of supply for payment of GST.

**Question 23:** Is ITC available on hiring of immovable properties (land, office, warehouse, processing unit, stock yards) for facilitation of mining operations?

**Answer:** Yes. GST paid on hiring of land, office, warehouse, processing unit, stock yards when these are used in the course or furtherance of business, would be allowed as ITC.

**Question 24:** What is the time limit for availing input credit under GST?

**Answer:** As per provisions of Section 16(4) of the CGST Act, 2017 the ITC is not available after the due date of furnishing the return for the month of September of the next year or furnishing of the annual return, whichever is earlier.

**Question 25:** Would the net outstanding amount of unutilised input credit be refunded by the Government?

**Answer:** In terms of the provision of Section 54(3) of the CGST Act, 2017 subject to conditions, refund of unutilized input tax credit would be available in respect of zero rated supply or where ITC has accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supply. However, such refund of ITC would not be available if export duty is payable on the goods so exported out of India.

7



**Question 26.** Will GST charged by tax consultants, advocates, Chartered Accountants, environmental consultants, canteen service providers and other service providers to mining companies be allowed as input credit?

**Answer:** ITC on any input service/ inputs used in the course or furtherance of business would be available subject to restrictions and other conditions as per the provisions of Chapter-V of the CGST Act, 2017. However, tax paid in respect of canteen service providers shall not be available as credit.

**Question 27.** Whether free issue of coal to employees paid in course of employment and on the basis of wage agreement with value below Rs.50, 000/- per employee will attract GST?

**Answer:** Gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both (as per Schedule 1 of the CGST Act, 2017). Free issue of coal based on the wage agreement is not a gift. Therefore, free issue of coal in this case will attract GST.

**Question 28.** Can GST charged as per transport bilti on movement of mineral from mine to the buyer be allowed as ITC to the buyer irrespective of the ownership of the transporting vehicle?

**Answer:** In case of an FOR contract for supply of mineral from the mine to the buyer, it is a composite supply where the consideration will be inclusive of the transportation cost. Therefore, GST on forward charge will be payable by the supplier of the mineral and credit will be available to the buyer if otherwise available. The supplier of the mineral will also pay tax on reverse charge basis on the freight charged by the GTA and the credit of the same will be available to the supplier of the mineral.

In case of an ex-works contract of supply, where the GTA service has been booked by the supplier at the instance of the buyer and the service is billed by the GTA to the buyer

8

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and the minerals are billed by the supplier of the mineral to the buyer, then GTA on reverse charge shall be paid by the buyer who shall be entitled to take credit of the same. The tax on the mineral will be paid on forward charge by the supplier of the mineral and credit will be available to the buyer if otherwise available.

**Question 29.** Will the situation as mentioned above be different if the value of mineral is less than the cost of freight in long distance consignments?

**Answer:** In the aforesaid example relating to FOR contract, the supply under the contract shall be classified as 'composite supply' where there is a principal supply and other supplies are naturally bundled and supplied in conjunction with each other in the ordinary course of business. The GST rate of principal supply shall be applicable in this case i.e. GST rate as applicable to the mineral.

**Question 30.** Exploration companies undertake exploration activities for preparing mining blocks for auction in different States in the country. They use rigs for exploration. CENVAT credit was available on rig operations under the existing law. Will the company be eligible to take ITC under GST?

**Answer:** Rigs, capitalized in the books of accounts as capital goods are used in the course or furtherance of business. Hence, it will be eligible as capital goods and ITC will be available under GST.

**Question 31.** Will ITC be available for holding Environmental Clearance (EC) and Forestry Clearance (FC) meetings and for obtaining 'consent to operate' the Mines?

**Answer:** Yes, ITC on expenses incurred in the course or furtherance of business shall be available.

9



**Question 32.** Will the mining companies be eligible to take ITC for construction of townships, hospitals and schools?

**Answer:** No. Mining companies will not be eligible for ITC on such activities even if used in course or furtherance of business. In this connection, the provisions contained in section 17(5) (c) of the CGST Act, 2017 refer.

**Question 33.** Are minerals sent for export in processed or raw form fully exempted from payment of GST or IGST?

**Answer:** In terms of the provision of Section 16(1) of the IGST Act, 2017 export of goods is considered as zero rated supply. Further, in terms of the provision of Section 16(3) of the IGST Act, 2017 a registered person may export goods (i) without payment of IGST against bond/letter of undertaking and claim refund of unutilised ITC, or (ii) on payment of IGST, utilising eligible ITC and claim refund of such IGST.

**Question 34.** What is the procedure for return of goods under GST?

**Answer:** In terms of Section 34(1) of the CGST Act, 2017 in case of return of goods on which GST was paid at the time of supply, the supplier of such goods may issue a credit note for the full value, including the amount of GST in favour of the recipient, and will be entitled to reduce his output tax liability subject to the condition that the recipient of such supply has not availed credit of such GST and if availed, has reversed his ITC on the same.

10

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**Question 35.** How can we take support during filing of returns, as huge mines are located throughout the districts in the country, especially in rural and backward areas, and the problem will be aggravated as the huge number of mines are operating without any IT infrastructure?

**Answer:** Returns may be filed from the central office of the Company which are usually located in areas with infrastructure required for filing such returns.

**Question 36.** Whether GST TDS will be applicable on Works Contract Jobs (to be renamed as Supply of Services) in case of PSUs, since such GST TDS U/s 51 (1) of CGST Act, 2017 is applicable on: a) Dept. or establishment of the Central Govt. or State Govt.; or b) Local authority; or c) Govt. agencies; or d) Such persons or category of persons as may be notified by the Govt. on the recommendations of the Council.

**Answer:** TDS, under section 51 (1) of the CGST Act, 2017 will apply to supplies made to such agencies as may be mandated by the Government for TDS. As of now, this section has not been notified and therefore TDS is not applicable on any supplies. .

**Question 37.** What is the requirement for E-way bill for companies operating in the sector?

**Answer:** As per rule 138 of the CGST Rules, 2017, till such time as final rules are issued, the Government may, by notification, specify the documents that the person in-charge of a conveyance shall carry while the goods are in movement or in transit storage. As and when the new e-way bill rules are notified, the person transporting the goods shall carry the said e-way bill generated from the common portal along with the invoice (challan in the case of movement other than by way of supply).

11



**Question 38.** Whether an Input Service Distributer (ISD) will be eligible to distribute the ITC in respect of services received during April 17 to June 17 even if the invoices are raised and submitted by contractors after appointed date i.e. in July 17.

**Answer:** In terms of section 140(7) of the CGST Act, 2017 the ISD will be able to distribute the available credit even if the invoices are received after the appointed day.

**Question 39.** In Table 5(b) of GST-TRAN-1, the details of Form C, F and H/I are to be given for the period April 15 to June 17 (i.e. for 27 months) which would be a voluminous task. Reasons of furnishing the details for last 27 months may please be clarified?

**Answer:** In cases where sales were covered by Forms C, F,H and I, the input tax credit has remained in the account of the taxpayer because the taxpayer has availed of the benefit of concessional rate/nil rate of tax on the sale/ stock transfer under CST Act. The benefit of concessional rate/nil rate is available conditional upon production of the statutory forms. Therefore,allowing migration of the credit that has accrued on account of sale/stock transfer having been made on concessional rate/nil rate should be given only on production of the statutory forms. Even otherwise, the taxpayer would have claimed refund of this ITC and such refund would have been given only on production of the statutory forms. It has been presumed that forms for periods before April '15 would have either been presented or the State would have recovered the additional tax payable on account of non-production of statutory forms. Production of these forms is a statutory liability and the taxpayers have already availed the benefit.

12

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**Question 40.** Education Cess and S&H Education Cess carried forward in ER-1 – whether eligible for ITC under the CGST Act, 2017?

**Answer:** No. Credit of Education Cess and SH Education Cess cannot be carried forward.

**Question 41.** What will happen to the balance available in the current account (PLA) under Central excise, deposited in cash in advance by any assessee?

**Answer:** Balance in PLA will not be under transition to GST since that has not been appropriated to the Government account which will be determined post completion of the pending assessment. The same can be claimed as refund under the Central Excise Law.

**Question 42.** Whether credit of Green Cess (Clean Energy Cess) paid on coal and available at the time of transition be eligible for being carried over?

**Answer:** No. Credit of Clean Energy Cess cannot be carried forward on transition.

**Question 43.** Whether stock held by mining companies on which Clean Energy Cess has been paid be chargeable to compensation cess in GST regime?

**Answer:** Yes. Compensation cess will be charged on supply of such stock.

**Question 44.** Can supplies of coal under a particular order or under FSA (Fuel Supply Agreement) be eligible under the definition of 'continuous supply of goods'?

**Answer:** Such supplies are in the nature of continuous supply as the invoices are raised periodically. The individual dispatches may be covered under delivery challans and invoice may be issued for the supplies made during a period as per the contract.

13



**Question 45.** In case of coal, the applicable Compensation Cess is a Fixed Amount of Rs.400/- per MT. Under above situation, how such apportionment is possible since in case of FSA Sale, supply of different grade of coal as per availability of stock against single bulk receipt of "Advance" is to be adjusted?

**Answer:** If tax rate is not determinable, the tax rate may be determined and paid on the amount of advance at 18%.

**Question 46.** Whether Railway siding in mining industry exclusively utilized for effecting dispatch of taxable goods viz. coal (i.e. directly used in the course or furtherance of business) will be treated as Plant and Machinery and ITC under GST will be allowed or treated as civil structure and ITC will be denied?

**Answer:** ITC will not be available as railway siding is not plant and machinery as defined in section 17 of the CGST Act, 2017.

**Question 47.** According to HSN Code 2516 calcareous building stone comes under 5% tax rate, but simultaneously under HSN Code 6802 it comes under 28% tax rate. Clarity on the same may be provided by the Government

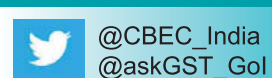
**Answer:** Chapter 68 covers value added articles of sandstone etc. which are further worked other than by way of roughly trimmed or merely cut into blocks or slabs.

**Question 48.** Whether supply of HSD free of cost for mining operation would attract GST and whether the input tax credit would be available for GST so charged by the Service provider?

**Answer:** HSD is outside GST and therefore, input tax credit would not be admissible.

14

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**Question 49:** Will ITC be available on steel, timber and sometimes cement which are used in the underground mines to provide a protective device for security purpose?

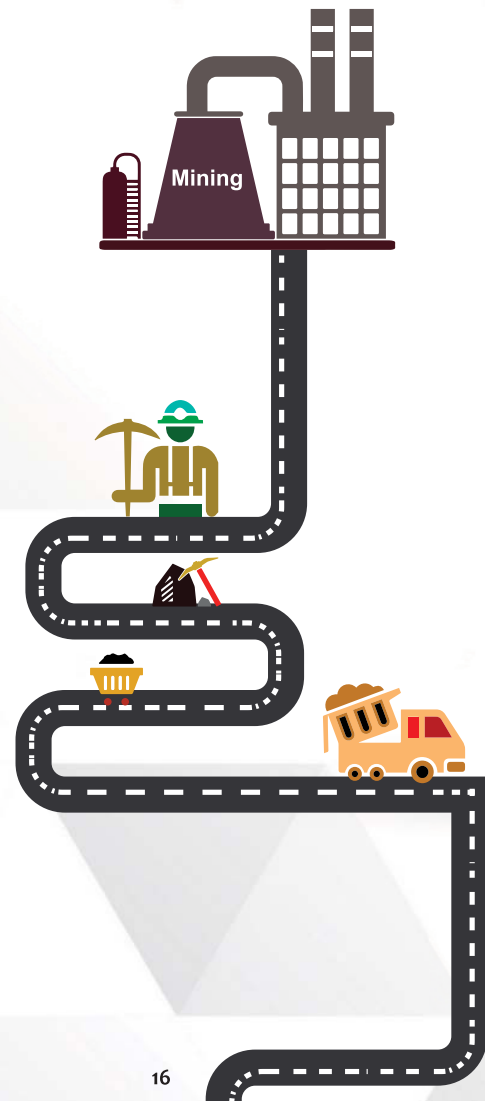
**Answer:** Credit will not be available if these goods are supplied for construction of an immovable property. But if these are temporarily placed for protective purposes, credit will be available.

**Question 50:** As per Section 54 (3), it is clear that no refund of ITC will be available for export in the cases where product is subject to export duty. Iron Ore export is subjected to export duty. In the earlier regime, the exporters were allowed to take refund of service tax paid on exports. Will not our exports become uncompetitive as no refund of ITC will be available?

**Answer:** The refund of ITC credit is not admissible in view of the second proviso to section 54(3) of the CGST Act, 2017.

**Note:** Reference to CGST Act, 2017 includes reference to SGST Act, 2017 and UTGST Act, 2017 also.

15



16

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# Anti Profiteering Measures\*

## Lower Prices Under GST - Anti-profiteering Measures To Benefit Consumers

The Government is committed to ensure all consumers enjoy the benefit of lower prices of goods and services under GST.

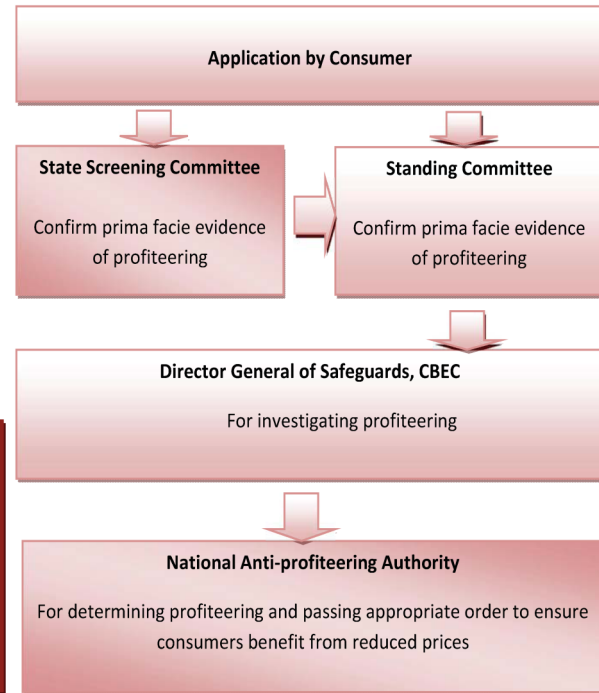
Under GST, suppliers of goods and services must pass on any reduction in the rate of tax or the benefit of input tax credit to consumers by way of commensurate reduction in prices. If this is not done, the consumer's interest is protected by the National Anti-profiteering Authority which may order:

- (a) reduction in prices;
- (b) return of the amount not passed on with interest @ 18% to the recipient;
- (c) imposition of penalty; and
- (d) cancellation of registration of the supplier.

Affected consumers may file an application, in the prescribed format, before the Standing Committee on Anti-profiteering if the profiteering has all-India character OR before the State Screening Committees if the profiteering is of local nature.

Contact for further details:

Standing Committee on Anti-profiteering,  
Second Floor, Bhai Vir Singh Sahitya Sadan,  
Bhai Vir Singh Marg, Gole Market, New Delhi -110001.  
Tel No.: 011-2371537, Fax No.: 011-23741542,  
Email: [anti-profiteering@gov.in](mailto:anti-profiteering@gov.in).



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## Workshop series on GST by PHDCCI

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Events Under GST

Sl. No.	Topic	Day & Date
1.	Issues in Export & Import of Goods & Services vis-a-vis Foreign Trade Policy	Friday 11 May 2018
2.	Assessment, Audit, Demand and Recovery under GST - Analysis and Open Issues	Thursday 24 May 2018
3.	Levy & Collection of GST- Intra/Inter State Supply of Goods/Services – Analysis and Open Issues	Friday 8 June 2018
4.	Availment & Utilisation of Input Tax Credit under GST - Analysis & Open Issues	Friday 22 June 2018
5.	Reverse Charge Mechanism under GST along with its implications on taxability and Input Tax Credit -Analysis and Open Issues	Friday 29 June 2018



### Motto

“ सत्यं वद। धर्मं चर।  
इष्टकारं कृते तृप्तये। क्लेशोद्वेगं ह्यु कृते त्वयः। ”

### Vision

“ To be a global leader in promoting  
good corporate governance ”

### Mission

“ To develop high calibre professionals facilitating  
good corporate governance ”



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