

Draft Minutes of the 12th GST Council Meeting held on 16th March 2017

The twelfth meeting of the GST Council (hereinafter referred to as ‘the Council’) was held on 16 March 2017 in Vigyan Bhavan, New Delhi under the Chairpersonship of the Hon’ble Union Finance Minister, Shri Arun Jaitley. The list of the Hon’ble Members of the Council who attended the meeting is at **Annexure 1**. The list of officers of the Centre, the States, the GST Council and the Goods and Services Tax Network (GSTN) who attended the meeting is at **Annexure 2**.

2. The following agenda items were listed for discussion in the 12th meeting of the Council –

1. Confirmation of the Minutes of the 11th GST Council Meeting held on 4 March 2017
2. Approval of the Draft Model SGST Law as modified in accordance with the decisions of the GST Council and as vetted by the Ministry of Law & Justice, Government of India
3. Approval of the Draft UTGST Law as vetted by the Ministry of Law & Justice, Government of India
4. **Additional Agenda Items**
 - 4.1. Amendments to the draft IGST Law
 - 4.2. Amendments to the draft Goods and Services Tax (Compensation to the States) Bill, 2017
 - 4.3. Constitution of a Task Force to suggest measures for creating an eco-system for seamless freight movement (Based on agenda note received from MoRTH)
5. Any other agenda item with the permission of the Chairperson
6. Date of the next meeting of the GST Council

3. In his opening remarks, the Hon’ble Chairperson welcomed all the Members of the Council. He noted that representation in the Council would undergo a change after the recent State elections and that the Hon’ble former Ministers from Punjab (Shri Parminder Singh Dhindsa), Uttarakhand (Ms. Indira Hridayesh) and Uttar Pradesh (Shri Abhishek Mishra) would no longer be attending the meetings of the Council. He placed on record the positive contribution of the outgoing Ministers in the Council’s deliberations which the Council fully endorsed.

Discussion on Agenda Items

Agenda Item 1: Confirmation of the Minutes of the 11th GST Council Meeting held on 4 March, 2017:

4. The Hon'ble Chairperson invited comments of the Members on the draft Minutes of the 11th Meeting of the Council (hereinafter referred to as 'Minutes') held on 4 March 2017 before its confirmation. The Members suggested the following amendments to the draft Minutes.

4.1. The Hon'ble Minister from Jammu & Kashmir stated that in paragraph 8.3 of the Minutes, in the second sentence, the expression 'Article 5 of the Constitution of Jammu & Kashmir' should be replaced by the expression 'Section 5 of the Constitution of Jammu & Kashmir'. The Council agreed to this suggestion.

4.2. Shri R.K Tiwari, Additional Chief Secretary, Uttar Pradesh stated that in paragraph 6.2.8 of the Minutes, the version of the Secretary to the Council (hereinafter referred to as 'Secretary') was recorded as 'if the refund was not given within a certain period of the passing of an adjudication or appellate order where the order had acquired finality, the rate of interest for delayed refund would be 9%...' and that it appeared odd that the same principle did not apply to a refund arising out of an assessment order. The Secretary stated that the word 'adjudication' also included an assessment order. He further observed that this was a discussion summary and based on the decision taken on this subject, the relevant amendment had been incorporated in Section 56 of the CGST Law and circulated to all the States. He suggested that at this stage, the Minutes need not be amended on this issue. The Council agreed to this suggestion.

5. In view of the above discussion, for **Agenda item 1**, the Council decided to adopt the Minutes of the 11th Meeting of the Council with the change as recorded below:

5.1. In paragraph 8.3 of the Minutes, in the second sentence, the expression 'Article 5 of the Constitution of Jammu & Kashmir' to be replaced by the expression 'Section 5 of the Constitution of Jammu & Kashmir'.

Agenda Item 2: Approval of the Draft Model State Goods and Services Tax (SGST) Law as modified in accordance with the decisions of the GST Council and as vetted by the Ministry of Law & Justice, Government of India:

6. Introducing this agenda item, the Secretary informed that the draft SGST Law was almost a replica of the Central Goods and Services Tax (CGST) Law, with some minor changes. He invited Dr P.D. Vaghela, Commissioner, Commercial Taxes (CCT), Gujarat to briefly explain the changes

in the SGST Law *vis-à-vis* the CGST Law. CCT, Gujarat explained that there were three major changes in the SGST Law as compared to the CGST Law, namely (i) the transitional provisions would be different in each State; (ii) Advance Ruling Authority would be constituted under the SGST Law; and (iii) the repeal and saving clause would be State specific. He further stated that there were other small changes like substituting reference to Central tax in the CGST Law to State tax in the SGST law. He informed that all such changes were indicated in 'bold' and 'italics' in the draft SGST Law circulated to the States. The Secretary stated that the draft SGST Law circulated to the States was discussed today in a four-hour meeting with the officers of the States and the Centre and they suggested a few changes which were also circulated for the consideration of the Members as part of the discussion on the draft SGST Law. The Hon'ble Chairperson desired that an officer should explain the changes proposed in the SGST Law that was circulated to the States just before the commencement of the Council meeting. Shri Upender Gupta, Commissioner (GST Policy Wing), CBEC explained these changes and the same are included as **Annexure-3** to the Minutes. The Secretary invited comments of the Members on the draft SGST Law circulated as an Agenda Note and the amendments proposed thereto as contained in Annexure-3.

6.1. The Hon'ble Deputy Chief Minister of Delhi stated that in Section 67(1) of the draft SGST Law, it was provided that a proper officer not below the rank of Joint Commissioner could authorise inspection or search of a premise. He observed that this power should only vest with the Commissioner as otherwise all officers of the rank of Joint Commissioner could exercise the power of inspection, search and seizure. The Secretary stated that this provision restricted the power to authorise inspection and search to an officer not below the rank of Joint Commissioner and this did not preclude this power to remain vested only with the Commissioner. Dr. Reeta Vasishta, Additional Secretary, Legislative Department, Ministry of Law explained that an officer below the rank of Joint Commissioner could not be designated as a proper officer under Section 67(1) of the draft SGST Law. The Secretary stated that not all Joint Commissioners would be proper officers under this Section and that only a Joint Commissioner who had been assigned the function under this Section could exercise this power as a proper officer. The Hon'ble Chief Minister of Puducherry observed that under Section 67(1), a proper officer would be one who had been assigned this power by the Commissioner. The Hon'ble Chairperson stated that under this Section, the decision to inspect or search a premise would be taken by an officer not below the rank of Joint Commissioner and then he could authorise any other officer to carry out the inspection or search.

6.2. The Hon'ble Minister from Jammu & Kashmir stated that while all other States would enact their SGST Act by exercising the enabling power under Article 246A(1) of the Constitution of

India, for his State, it would be done by exercising the enabling power under Section 5 of the Constitution of the State of Jammu & Kashmir. He stated that on this account, if certain drafting changes were required in the SGST Law of the State of Jammu & Kashmir, it would be done in consultation with the Council. The Hon'ble Chairperson observed that the SGST Legislation of Jammu & Kashmir could be enacted by the Jammu & Kashmir Legislature itself without reference to the Council and that their SGST Law would need to have a provision to integrate it to the GST process of the country. The Hon'ble Minister from Jammu & Kashmir raised an issue that since the SGST Law of his State was to be enacted under its own Constitution, whether it could enact a more ambitious SGST Legislation, like including sectors such as real estate and power under their SGST Law. The Secretary observed that this would not be feasible as a separate dispensation on real estate or power sector in the SGST Act of Jammu & Kashmir would create problem in relation to operation of the IGST Law.

6.3. The Hon'ble Minister from West Bengal stated that under Section 51(1), a department or establishment of the Central Government or a State Government was required to carry out tax deduction at source and the amount so deducted was to be deposited in the CGST and SGST heads of account in equal proportion. He observed that such Government departments would not have an annual turnover, and, therefore, there should be clarity as to which administration would carry out scrutiny or audit of such tax deductor, if required. He suggested that the Central Tax Administration could carry out audit and scrutiny of the departments of the Central Government and the respective State Tax Administration could carry out audit and scrutiny of departments of the concerned State Government. The Secretary suggested that such a provision could be made in the relevant GST Rule. The Council agreed to the suggestion.

7. For **agenda item 2**, the Council approved the draft SGST Law with the changes as indicated in **Annexure-3** of the Minutes (the changes as suggested in the meeting of the officers of the Centre and the States held on 16 March 2017 in New Delhi). The Council also authorised the Law Committee of Officers to make minor corrections and rectify typographical errors, wherever required, and that the revised draft SGST Law shall be shared with the States. The Council also agreed that the relevant GST Rule shall provide that, if so required, the Central Tax Administration would carry out audit and scrutiny of the departments of the Central Government which deducted tax at source under Section 51(1) of the draft CGST/SGST Law and similarly, the respective State Tax Administration would, if so required, carry out audit and scrutiny of departments of the concerned State Government.

Agenda Item 3: Approval of the Draft Union Territory Goods and Services Tax (UTGST) Law as vetted by the Ministry of Law & Justice, Government of India

8. Introducing this agenda item, the Secretary informed that the UTGST Law circulated as an agenda note for this meeting was discussed extensively in the meeting of the officers of the Central and the State Governments in the morning of 16 March, 2017 and that they had suggested some changes which were also circulated for the consideration of the Members. He invited Commissioner (GST Policy Wing), CBEC to explain the changes and the changes, as explained, are included as **Annexure-4** of the Minutes.

8.1. The Secretary observed that the UTGST Law was a short law and a large number of provisions under this law were drawn through a cross-referencing to the draft CGST Law. He further stated that the officers from some of the Union Territories had attended the Officers' meeting held earlier during the day and had given their inputs. He invited the comments of the Members on the draft UTGST Law and the suggested changes to the same circulated during the meeting of the Council. No Member offered any comment on the draft UTGST Law. The Council thereafter approved the draft UTGST Law along with the proposed changes.

9. For **agenda item 3**, the Council approved the draft UTGST Law with the changes as indicated in **Annexure-4** of the Minutes (the changes as suggested in the meeting of the officers of the Centre and the States held on 16 March 2017 in New Delhi). The Council also authorised the Law Committee of Officers to make minor corrections and rectify typographical errors, wherever required, and that the revised UTGST Law shall be shared with the States.

Agenda Item 4.1: Amendments to the draft Integrated Goods and Services Tax (IGST) Law

10. Introducing this agenda item, the Secretary stated that certain changes were proposed in the draft IGST Law due to the strong concerns expressed by the Ministry of Commerce in respect of certain provisions of the draft IGST Law which could adversely affect the export competitiveness of the units working in Special Economic Zones (SEZs). He invited Shri Alok Chaturvedi, Additional Secretary, Department of Commerce to give a brief overview of the concerns regarding the impact of the IGST Law on SEZs.

10.1. The Additional Secretary, Department of Commerce stated that the concept behind SEZs was that they were like zero tax territories with an excellent eco-system to promote exports. He stated that this environment was necessary for India to compete with other countries like Singapore, Dubai, China, Hong Kong, Philippines and Thailand. He stated that SEZs accounted

for 27% of total exports from the country and had a total investment of Rs. 4 lakh crore and provided employment to 16.88 lakh persons. He observed that all this could be adversely affected if the existing SEZ concept was not continued under the GST framework. He stated that presently supplies from the Domestic Tariff Area (DTA) to SEZs were treated at par with physical exports and therefore they enjoyed exemption from Customs and Central Excise duty, Service Tax, Central Sales Tax and also from Value Added Tax in some States. He observed that in the IGST Law, the provision in respect of supplies to SEZs was to pay the tax first and to claim refund later. He added that the provision of refund, within seven days, of 90% of the amount of refund claimed was only provided for physical exports and was not available for supplies to SEZs. He further observed that the procedure of export under bond was not available for supplies from DTA to SEZs. He stated that due to such provisions, supplies from DTA to SEZ would be at a disadvantage *vis-à-vis* physical exports and as a result, SEZ units would be discouraged to source their raw material from DTA. He said that this would adversely affect the 'Make in India' campaign and would also be against the principle of ease of doing business. He therefore strongly suggested that supplies from DTA to SEZs should be treated at par with physical exports and both should be extended the same facilities.

10.2. The Secretary explained that in the GST Law, for a person doing physical export, there were two options – namely to pay IGST and to take refund after export or to give a bond and export without payment of duty. He stated that for supplies from DTA to SEZ, the draft IGST Law gave only one option, namely to pay IGST and then the recipient of the supply located in SEZ to claim refund later. He stated that this put SEZs at a serious disadvantage. He added that like all other countries, India exempted imported goods when used for export and if the domestic supplier did not enjoy a similar benefit, it would adversely affect his competitiveness. He suggested that physical exports and supply to SEZs should be given similar treatment of zero rating. He added that in the Officers' meeting held earlier that day, this proposition was supported by all officers except from Karnataka. He explained that in view of this, an amendment had been suggested in Section 16 of the draft IGST Law where it was proposed to delete sub-Section 4 and to replace in sub-Section 3 the expression 'exporting goods and services or both' with the expression 'making zero rated supply'. He stated that some other small consequential changes were also suggested in sub-Section 3 of Section 16.

10.3. The Secretary stated that another concern in relation to exports that needed to be addressed related to cascading of input taxes for six products which were not under GST, namely the five petroleum products (petroleum crude, high speed diesel, motor spirit or petrol, natural gas and aviation turbine fuel) and alcoholic liquor for human consumption. He stated that the existing

wording in sub-Section 1 and sub-Section 2 of Section 16 of the IGST Law gave the benefit of zero rating to only taxable supplies and thus exported petroleum products and alcoholic liquor would not be eligible to get refund of GST paid on the inputs used in relation to such exported products. He stated that for petroleum products, input taxes constituted about 1.5% of the value of the final product and if this was cascaded, the Indian petroleum products (which accounted for around 9.3% of country's total export) would lose their competitiveness as the price of petroleum products was benchmarked globally. He stated that alcoholic liquor for human consumption also had a good export potential and India's export in 2015-16 was approximately Rs. 2000 crore. He stated that on account of these considerations, it was proposed to delete the word 'taxable' in sub-Section 1 of Section 16 as also the phrase 'other than non-taxable supply' in sub-Section 2 of Section 16 of the IGST Law. The changes proposed to the IGST Law, including some other editorial corrections, are at **Annexure-5** of the Minutes.

10.4. The Hon'ble Deputy Chief Minister of Gujarat stated that suppliers of raw material from DTA to SEZ should be encouraged and they should get more business as compared to import. The Hon'ble Minister from Karnataka stated that GST was based on a seamless refund mechanism and if time-bound refunds were assured, the changes proposed for supply to SEZ were not required. He stated that the Council should not question the fundamentals of the efficacy of the refund mechanism under GST and the efficient functioning of the Goods and Services Tax Network (GSTN). He stated that an underlying tenet of GST was to get rid of the existing system of declarations, bonds, etc. and this should not be reintroduced for DTA supplies to SEZ. The Secretary pointed out that under the existing tax regime, goods could be bought from DTA for use in SEZ without payment of duty and that the new dispensation under GST should not be disadvantageous for supplies to SEZ. He observed that in order to avoid misuse and diversion of goods when supplied to SEZ, the principle to pay IGST first and then take refund was being introduced under the IGST Law but the old provision was continued for physical exports. He observed that about 75% of India's exports were physical exports and it would be unjustified to keep a different procedure for the remaining 25% of exports accounted for by SEZs.

10.5. The Hon'ble Minister from Karnataka stated that his State administration had come across large mismatches between Form-I, Form-C and Form-H and this had led to a demand of about Rs. 5,000 crore in the financial year 2015-16. He stated that if he was given some time, he could furnish more disaggregated data of the misuse relating to SEZ. The Hon'ble Chairperson observed that the principle of paying tax first and claiming refund later blocked the working capital of DTA suppliers and this favoured import. The Hon'ble Minister from Karnataka stated that the blocking of fund would only be for 20 days and that it was important to remember that there were other

costs like bank credit, etc. for undertaking import. He cautioned that if such a dispensation was allowed for supplies to SEZs, other segments of business might seek a similar dispensation. He further observed that this issue had been debated several times in the Law Committee of Officers before the provision was drafted in the present form and that it should not be changed at this late stage. He suggested that this provision should be retained presently in the IGST Law, and in case it caused severe disadvantage to domestic suppliers, it could be amended later on and that such an amendment would be relatively easy to carry out as it was to be done only by the Parliament and not simultaneously by the State Legislatures.

10.6. The Secretary stated that one difference between the existing procedure and the procedure under GST would be that the existing Forms like I, H, C etc., were issued manually and this lent them to greater misuse whereas in the GST regime, there would be an all-India record of movement of goods through GSTN and that the Customs ICEGATE (Indian Customs Electronic Commerce/Electronic Data interchange (EC/EDI) Gateway) would also monitor the receipt of goods in SEZs. He stated that greater use of technology would make diversion of goods meant for SEZs more difficult and that in this background, it would not be fair to withdraw a facility which was presently available to SEZs. He added that as regards the apprehension that many other segments might demand similar concessions, it needed to be kept in mind that several new provisions were being introduced for domestic suppliers which were different from and more stringent than the presently followed system like tax on stock transfer, but it was important to draw a distinction between domestic supply and exports. He strongly urged that this proposal be accepted. The Hon'ble Minister from Karnataka stated that insertion of such a provision would re-introduce audit of forms and would increase the workload of officers. He reiterated that this issue could be revisited after GST implementation if it caused a serious bottleneck. The Hon'ble Chairperson stated that it would not be advisable to discriminate between domestic supplies and imports to SEZs.

10.7 The Hon'ble Chief Minister of Puducherry stated that exports through SEZs should be encouraged. He further stated that if a refinery was outside SEZ and they were given certain special facility, others would also claim the same. The Secretary stated that the facility of refund of input taxes on exported goods which were outside GST related to only 6 products and that, in the absence of such a provision, these goods would suffer loss of international competitiveness in the GST regime due to tax cascading. After further discussion, the Council approved the proposed changes to Section 16 of the draft IGST Law as contained in Annexure 5 of the Minutes.

10.8. The Secretary stated that as supply to SEZs was to be treated at par with physical exports, it would be desirable to carry out another consequential change in Section 54(6) of the CGST Law

by replacing the word ‘export’ with the words ‘zero rated supply’ so that supplies to SEZs also qualified to get 90% of the claimed refund amount in a shorter time frame as envisaged for physical exports. The Council agreed to this suggestion.

10.9. The Commissioner (GST Policy Wing) stated that there was an inadvertent omission in Section 20 of the IGST Law approved by the Council where the ‘scope of supply’ was not listed as one of the topics which was to be cross-referenced to the CGST Law and accordingly, an amendment was proposed in Section 20 of the IGST Law. The Council agreed to this suggestion.

11. For **agenda item 4.1**, the Council approved certain additional changes to the IGST Law which were earlier approved by the Council in its 11th Meeting (held on 4 March 2017). These approved changes are shown in **Annexure-5** of the Minutes. The Council also approved the consequential change in Section 54(6) of the CGST Law, approved earlier by the Council in its 11th Meeting (held on 4 March 2017), by replacing the word ‘export’ with the words ‘zero rated supply’.

Agenda Item 4.2: Approval of the amendments to the draft Goods and Services Tax (Compensation to the States) Bill, 2017

12. Introducing this agenda item, the Secretary informed that in light of the approval of the CGST Law and the IGST Law with certain changes by the Council in its 11th Meeting (held on 4 March 2017), certain consequential changes were required in the Goods and Services Tax (Compensation to the States) Bill, 2017. He further stated that ceiling rates for imposition of cess were also to be provided in the Compensation Law and on this account, certain consequential changes were proposed to Section 8 of the Goods and Services Tax (Compensation to the States) Bill, 2017 and a Schedule of ceiling rates of cess was presented for the approval of the Council. The Hon’ble Chairperson asked an officer to explain the method of arriving at the ceiling rates of cess. The Secretary invited Shri Alok Shukla, Joint Secretary (TRU), CBEC to explain the method of arriving at the ceiling rates for cess.

12.1. Joint Secretary (TRU) explained the rationale behind the various ceiling rates. He stated that the proposed ceiling rate for Pan Masala (135%) was arrived at by summing up the existing rate of Central Excise and the highest existing rate of VAT, subtracting from it the GST rate of 28% and then adding to it an additional 25% as a cushion. He stated that for Tobacco products, the ceiling rate (Rs. 4,170 per thousand sticks or 290% *ad valorem* or a combination thereof) was arrived at by taking into account the highest prevailing specific rate and the *ad valorem* rate and subtracting from each the GST rate of 28%. He added that as the rates were already very high, no

cushion had been kept while proposing the ceiling rate of cess on Tobacco products. He stated that for coal, lignite etc. the existing rate of clean energy cess of Rs. 400 per tonne had been retained because this rate was already quite high and any further increase would have negative effect on other sectors of the economy. He stated that for aerated waters containing added sugar, there was a large dispersion of VAT rates and for calculating the ceiling rate of cess, the average of the highest and the second highest rate of VAT was taken and this was added to the existing rate of Central Excise and then, like in other cases, 28% of GST rate was subtracted and an additional 25% was added as a cushion and the resultant rate of 13% was rounded off to arrive at the ceiling rate of 15%. He stated that for motor cars, the proposed ceiling rate (15% *ad valorem*) was arrived at by summing up the existing rate of Central Excise and the highest existing rate of VAT, subtracting from it the GST rate of 28% and then adding to it an additional 25% as a cushion. He stated that another residuary category of 15% ceiling rate was kept for all other supplies which would also include supply of services. The proposed amendments to the Goods and Services Tax (Compensation to the States) Bill, 2017 and the Schedule of the proposed ceiling rates for cess is at **Annexure-6** of the Minutes.

12.2. Starting the discussion on this agenda item, the Hon'ble Minister from West Bengal stated that the decision of the Council in its 4th Meeting (held on 3 and 4 November, 2016) was to levy cess on cigarette and chewing tobacco, but now the product indicated in the Schedule was tobacco and manufactured tobacco substitute, including tobacco products and that this would also include 'Bidi'. He suggested that 'Bidi' should not be subject to cess. The Hon'ble Chief Minister of Puducherry supported the suggestion of the Hon'ble Minister from West Bengal. He observed that lakhs of workers were employed in the 'Bidi' industry and only poor people smoked 'Bidi'. The Hon'ble Minister from Rajasthan stated that in his State, 'Bidi' was taxed at a rate of 65%. He observed that for 'sin' goods, there should be no special categorisation for poor people and that it was, in fact, more harmful for the poor people. The Hon'ble Chief Minister of Puducherry stated that the issue of employment was equally important. The Hon'ble Minister from Madhya Pradesh stated that he did not support the view of the Hon'ble Minister from Rajasthan. He observed that as 'Bidi' was a handmade product, it was a source of employment for a large number of people and that it was also smoked by the poor people. The Hon'ble Minister from Bihar stated that no cess be levied on 'Bidi' as it was a source of employment and also that it was smoked by poor people. The Hon'ble Minister from West Bengal pointed out that the Hon'ble Minister from Kerala had written a letter to the Hon'ble Chairperson pointing out that cess on 'Bidi' would affect about 3 crore 'Bidi' and 'Tendu Leaf' collectors and pointed out that his State also had about 10 lakh persons working in the 'Bidi' industry. The Hon'ble Minister from Maharashtra stated that in his

State, 'Tendu' leaves were used by the tribal community and therefore, he did not support levy of cess on 'Bidi'.

12.3. The Hon'ble Minister from Karnataka stated that his State had a large number of tobacco leaf growers and that the Mysuru region produced some of the finest quality of tobacco leaves. He further stated that the farmers' income from this crop was so high that they were unwilling to shift to growing some other crop despite the State Government's effort in this direction. He stated that by this logic, in order to protect the livelihood of the farmers growing tobacco leaves, no cess should be imposed on cigarettes too. He further stated that his State had banned 'Pan Masala' as it posed a health hazard though such a ban went against the livelihood interests of the areca nut farmers. He observed that it was wrong to give a favourable treatment to 'Bidi' *vis-à-vis* cigarettes on the ground that it was a poor man's 'puff' as it caused greater harm than cigarettes. He observed that if a poor man got cancer due to his 'Bidi' smoking habit, his family would be ruined as there was no social health care system for the poorer sections of the society whereas a cigarette smoker, being relatively better off, could still afford medical treatment for cancer. He warned that a huge burden was being cast on the poor man by allowing him his 'puff' and that this burden finally fell on the society. He therefore suggested that the existing schedule covering both cigarette and 'Bidi' should be retained.

12.4. Shri P. Mara Pandiyan, Additional Chief Secretary, Kerala stated that the Hon'ble Minister from Kerala had written a letter dated 16 March, 2017 to the Hon'ble Chairperson stressing that 'Bidi' should be exempted from cess on tobacco. He stated that about 60 lakh workers were involved in the 'Bidi' industry and a large number of them were women and their earnings were quite meagre. He stated that imposing cess on 'Bidi' would harm their interest and, therefore, requested that no cess be imposed on 'Bidi'. Shri Sanjeev Kaushal, Additional Chief Secretary, Haryana stated that the present proposal before the Council was only to fix the maximum rate of cess which could be kept as proposed and that it could be decided later whether cess should be imposed on 'Bidi'. The Hon'ble Minister from Assam also suggested to keep the provision of cess on tobacco products in its present form.

12.5. The Hon'ble Chief Minister of Puducherry stated that 'Bidi' was less harmful than cigarettes. The Hon'ble Minister from Karnataka disagreed with this observation and stated that 'Bidi' was actually tobacco wrapped in tobacco leaf and therefore it was doubly harmful. The Hon'ble Chairperson informed that the Central Government had power to levy Central Excise duty on 'Bidi' but due to considerations like large number of tobacco growers and workers involved in the 'Bidi' trade, during the last 8 to 9 years, it had refrained from imposing Central Excise duty on 'Bidi', though the Union Ministry of Health and the cigarette lobby had always argued for parity

in the treatment of cigarette and 'Bidi' as the latter was equally harmful. He further stated that the decision to levy cess on 'Bidi' could be kept with the Council. The Hon'ble Minister from Assam stated that the enabling provision to levy cess on 'Bidi' should be retained in the law. The Hon'ble Minister from West Bengal reiterated that in the 4th Meeting of the Council (held on 3 and 4 November, 2016), it was decided to levy cess only on cigarette and chewing tobacco and therefore 'Bidi' should be left out of the scope of cess. He further stated that most States did not charge VAT on 'Bidi' though society was aware of the health issues. He requested that this meeting itself should decide not to levy cess on 'Bidi' instead of postponing the decision to a later date. The Hon'ble Chairperson observed that if such a decision was taken in this meeting, it would be commented upon adversely by the civil society organisations and health organisations. He stated that the potential health cost due to 'Bidi' smoking could also be high. He suggested that the decision whether or not to levy cess on 'Bidi' could be taken by the Council at a later date. The Hon'ble Deputy Chief Minister of Delhi suggested to keep this issue open at this stage.

12.6. The Hon'ble Deputy Chief Minister of Gujarat stated that States imposed tax on 'Bidi' in the range of 25% to 30% and wondered whether States could be given flexibility to keep different rates of tax on 'Bidi' in the GST regime. The Secretary observed that presently, the rate of Central Excise duty on 'Bidi' was Rs. 28 per thousand which translated to an *ad valorem* rate of 5% to 6% and that different States charged varying rates of VAT like Rajasthan (65%), Himachal Pradesh and Gujarat (22.5%), Tamil Nadu and Uttar Pradesh (14.5%) and Haryana (12.5%). He stated that the rate of tax on 'Bidi' and the issue of imposing cess on it could be addressed at a later date. The Hon'ble Minister from West Bengal suggested that the Council could take a decision to keep 'Bidi' in the Schedule of cess but not impose any cess on it. The Hon'ble Minister from Karnataka stated that the Council should not arrive at any conclusion regarding leviability of cess on 'Bidi' at this stage. He stated that both awareness and the stick of taxation was required to combat the scourge of cancer. He observed that livelihood of one person could not be at the cost of life of another person. The Hon'ble Minister from West Bengal stated that all views expressed during the meeting should be clearly recorded. The Hon'ble Chairperson stated the all views would be recorded to convey the deep concern of both sides and that the issue of leviability of cess on 'Bidi' could be considered by the Council at a later date. The Council agreed to this suggestion.

12.7. The Hon'ble Minister from Assam stated that Entry at Serial No. 4 of the Schedule of cess conveyed an impression that cess would be levied even on normal water. The Secretary stated that under this Entry, cess would be levied only on water which had added sugar. The Hon'ble Deputy Chief Minister of Delhi stated that 'sherbet' was also water with added sugar but no cess should be imposed on it. The Hon'ble Minister from West Bengal stated that adopting the description of

relevant Harmonised System of Nomenclature (HSN) Code created some confusion and suggested that the Entry should be limited to aerated water with added sugar. The Secretary stated that cess could be limited to aerated water with added sugar and no cess be put on packaged water as people should be encouraged to drink clean water. Shri Arvind Subramanian, Chief Economic Advisor, Government of India suggested that cess should also be charged on mineral water but the Hon'ble Minister from West Bengal disagreed with this suggestion.

12.8. The Secretary suggested that in order not to levy cess on lemonade which was covered under the description of the 6-digit HSN Code of 22012, the description under the relevant 8-digit HSN Code, namely 22021010 could be adopted which covered only aerated water. The Hon'ble Minister from West Bengal stated that no cess should be levied on soda water. The Hon'ble Deputy Chief Minister of Gujarat supported this suggestion and observed that soda water was also consumed to relieve gastric trouble. The Secretary stated that the 8-digit Code 22021010 covered only aerated water containing added sugar or other sweetening matter and that the Entry in the Schedule for levying cess could be limited to this 8-digit Code. The Council agreed to this suggestion.

12.9. Shri C. Chandramouli, Additional Chief Secretary, Tamil Nadu suggested that Serial No. 6 of the Schedule for cess covered all other supplies at the rate of 15% *ad valorem* and, therefore, Entries relating to water and motor car at Serial No. 4 and 5 respectively could be deleted. The Hon'ble Chairperson stated that presently items covered under Serial No. 4 and 5 of the Schedule were taxed at a higher rate, and that these Entries should be retained. The Secretary stated that retaining the Entries at Serial No. 4 and 5 would convey a message to the public at large of the Council's intention to levy cess on the goods covered under these two Serial Numbers. The Council agreed not to delete the Entries at Serial No. 4 and 5 of the Schedule of rate for Cess.

12.10. The Hon'ble Deputy Chief Minister of Delhi observed that Entry at Serial No. 6 of the Schedule was a residuary Entry excluding the products covered under Serial No. 1 to 5 and, therefore, a more appropriate description for Entry under Serial No. 6 would be 'Any other supplies' instead of the existing description 'All other supplies'. The Council agreed to the suggestion to change the description for Entry under Serial No. 6.

13. For **agenda item 4.2**, the Council approved certain additional changes to Goods and Services Tax (Compensation to the States) Bill, 2017 which was earlier approved by the Council in its 10th Meeting (held on 18 February 2017) and also the Schedule of the rates of Cess to be part of the Goods and Services Tax (Compensation to the States) Bill, 2017. These approved changes are shown in **Annexure-6** of the Minutes, subject to further modifications as recorded below:

13.1. In Serial No. 4 of the Schedule, in column number (3), to replace the existing 6-digit HSN Code 220210 of Central Excise Tariff with the 8-digit Code 22021010 and to replace the description in column number (2) for Serial No. 4 corresponding to that in the 8-digit Code 22021010, namely 'aerated water'.

13.2. To substitute the description for Entry under Serial No. 6 of the Schedule of Cess, namely 'All other supplies' with the description 'Any other supplies'.

Agenda Item 4.3: Approval for constitution of a Task Force to suggest measures for creating an eco-system for seamless freight movement (Based on agenda note received from MoRTH)

14. Introducing this agenda item, the Secretary stated that under GST, the check post of the VAT Departments was proposed to be done away with but the Ministry of Road Transport and Highways (MoRTH) had identified several other Departments of the Central and the State Governments which maintained check posts. He stated that MoRTH had requested to take up this agenda in order to work towards a complete, seamless and barrier free freight transport system across the country. He recalled that in the 11th Meeting of the Council (held on 4 March, 2017), Ms. Sujata Chaturvedi, CCT, Bihar had also suggested to consult with MoRTH while developing the e-Way Bill System in the GST regime. He stated that this agenda item was only to seek the approval of the Council to set up a Task Force of officers from the State Government Departments like Indirect Tax, Road Transport, State Excise and the Union Ministry of Road Transport and Highways and the Department of Revenue. This Task Force of officers, after their deliberations, could make a presentation to the Council suggesting measures to achieve seamless transport connectivity across the country. He added that subsequently, if required, there could be a joint meeting of the Hon'ble Ministers of Taxation and Transport to deliberate on this issue. He stated that those States which wanted to be represented in this Task Force should send a formal communication to the Council. The Council agreed to this suggestion.

15. The Council approved the proposal under **agenda item 4.3** to set up a Task Force of officers from the State Government Departments like Indirect Tax, Road Transport, State Excise and the Union Ministry of Road Transport and Highways and the Department of Revenue, which after its deliberation, shall make a presentation to the Council suggesting measures to achieve seamless transport connectivity across the country.

Agenda Item 5: Any other agenda item with the permission of the Chairperson

16. The Hon'ble Deputy Chief Minister of Delhi stated that presently, tax exemptions were given to certain types of cinemas. He observed that educational cinemas needed support to keep their

cost low to encourage viewership. He stated that there was a need to discuss in the Council the ways to provide a mechanism for granting tax exemption to certain kinds of cinemas like educational cinema.

Agenda Item 6: Date of the next meeting of the GST Council

17. The Hon'ble Chairperson observed with satisfaction that the five primary legislations, namely the CGST Law, the Model SGST Law, the IGST Law, the UTGST Law and the Compensation Law had been approved by the Council and that the next item of work would be to approve the GST Rules. The Secretary stated that earlier, five GST Rules were approved relating to Registration, Return, Payment, Refund and Invoice but due to changes made in the CGST, SGST and IGST Laws, these would require some amendments. He further stated that in addition, Rules on Input Tax Credit, Valuation, Composition and Transitional Provisions were being framed by the Law Committee of officers. On an enquiry by the Hon'ble Chairperson regarding the likely date for completing this task, CCT, Gujarat stated that these Rules were likely to be completed by 25 March, 2017. The Secretary stated that it was important that all GST Laws and Rules should be known to the trade at least three months before the implementation of the GST. He suggested that a short meeting could be called before the end of March, 2017. After deliberation, the Council agreed to hold its next meeting on 31 March 2017 in New Delhi.

18. The meeting ended with a vote of thanks to the Chair.

Annexure 1

List of Ministers who attended the 12th GST Council Meeting on 16 March 2017

<u>S No</u>	<u>State/Centre</u>	<u>Name of the Minister</u>	<u>Charge</u>
1	Govt. of India	Shri Arun Jaitley	Finance Minister
2	Govt. of India	Shri Santosh Kumar Gangwar	Ministry of State, Finance
3	Puducherry	Shri V. Narayanasamy	Chief Minister
4	Delhi	Shri Manish Sisodia	Deputy Chief Minister
5	Gujarat	Shri Nitinbhai Patel	Deputy Chief Minister
6	Assam	Dr. Himanta Biswa Sarma	Finance Minister
7	Bihar	Shri Bijendra Prasad Yadav	Minister - Commercial Taxes
8	Chhattisgarh	Shri Mahesh Gadha	Minister - Forest, Law & Legislative Affairs
9	Jammu & Kashmir	Dr. Haseeb A. Drabu	Finance Minister
10	Jharkhand	Shri C.P. Singh	Minister - Urban Development & Housing
11	Karnataka	Shri Krishna Byregowda	Minister - Agriculture
12	Madhya Pradesh	Shri Jayant Malaiya	Finance Minister
13	Maharashtra	Shri Deepak Kesarkar	Minister of State - Finance
14	Nagaland	Shri Y. Vikheho Swu	Minister - Roads & Bridges
15	Odisha	Shri Pradip Kumar Amat	Finance Minister
16	Rajasthan	Shri Rajpal Singh Shekhawat	Minister - Industries
17	West Bengal	Dr. Amit Mitra	Finance Minister

Annexure 2

List of officers who attended the 12th GST Council Meeting on 16 March 2017

<u>S No</u>	<u>State/Centre</u>	<u>Name of the Officer</u>	<u>Charge</u>
1	Govt. of India	Dr. Hasmukh Adhia	Revenue Secretary
2	Govt. of India	Shri Arvind Subramanian	Chief Economic Adviser
3	Ministry of Law	Shri Suresh Chandra	Secretary, Legal Affairs
4	Ministry of Law	Dr. G. Narayana Raju	Secretary, Legislative Department
5	Govt. of India	Shri Najib Shah	Chairman, CBEC
6	Govt. of India	Ms. Vanaja N. Sarna	Member (P&V), CBEC
7	Govt. of India	Shri Ram Tirath	Member (GST), CBEC
8	Ministry of Home Affairs	Shri Satish Kumar Singh	Under Secretary (UTL)
9	Ministry of Home Affairs	Shri Vijay Shankar Tiwari	Section Officer (UTL)
10	Chandigarh	Shri Parimal Rai	Adviser to Administrator
11	Daman & Diu and Dadra Nagar Haveli	Shri Umesh Kumar Tyagi	Development Commissioner
12	Andaman & Nicobar	Shri Sanjeev Khirwar	Commissioner & Secretary
13	Chandigarh	Shri Munish Nayyar	Excise & Taxation Officer
14	Chandigarh	Shri Ajit Balaji Joshi	Deputy Commissioner
15	Ministry of Law	Dr. Reeta Vasishta	Additional Secretary, Legislative Department
16	Ministry of Law	Shri R. Sreenivas	Additional Legislative Counsel
17	Ministry of Law	Dr. R.J.R. Kasibhatla	Deputy Legal Adviser
18	Ministry of Commerce & Industry	Shri Alok Chaturvedi	Additional Secretary, SEZ
19	Ministry of Commerce & Industry	Shri T.V. Ravi	Director, SEZ
20	Ministry of Road Transport & Highways	Shri Abhay Damle	Joint Secretary
21	Govt. of India	Shri Mahender Singh	Director General, DG-GST, CBEC
22	Govt. of India	Shri P.K. Jain	Principal Commissioner, (AR), CESTAT, CBEC
23	Govt. of India	Shri P.K. Mohanty	Advisor (GST), CBEC
24	Govt. of India	Shri D.S. Malik	ADG, Press, Ministry of Finance
25	Govt. of India	Shri Alok Shukla	Joint Secretary (TRU), Dept. of Revenue

S No	State/Centre	Name of the Officer	Charge
26	Govt. of India	Shri Upender Gupta	Commissioner (GST), CBEC
27	Govt. of India	Shri Udai Singh Kumawat	Joint Secretary, Dept. of Revenue
28	Govt. of India	Shri Amitabh Kumar	Joint Secretary (TRU), Dept. of Revenue
29	Govt. of India	Shri G.D. Lohani	Commissioner, CBEC
30	Govt. of India	Shri Hemant Jain	Advisor to MoS (Finance)
31	Govt. of India	Ms. Aarti Saxena	Deputy Secretary, Dept. of Revenue
32	Govt. of India	Shri Vishal Pratap Singh	Deputy Commissioner, GST Policy
33	Govt. of India	Shri Paras Sankhla	OSD to FM
34	Govt. of India	Shri Siddharth Jain	Assistant Commissioner, GST Policy
35	Govt. of India	Shri Vipin Kumar Singh	Assistant Director, Press
36	GST Council	Shri Arun Goyal	Additional Secretary
37	GST Council	Shri Shashank Priya	Commissioner
38	GST Council	Shri Manish K. Sinha	Commissioner
39	GST Council	Shri G.S. Sinha	Joint Commissioner
40	GST Council	Ms. Himani Bhayana	Joint Commissioner
41	GST Council	Ms. Thari Sitkil	Deputy Commissioner
42	GST Council	Shri Rakesh Agarwal	Assistant Commissioner
43	GST Council	Shri Kaushik TG	Assistant Commissioner
44	GST Council	Shri Shekhar Khansili	Superintendent
45	GST Council	Shri Manoj Kumar	Superintendent
46	GST Council	Shri Sandeep Bhutani	Superintendent
47	GST Council	Shri Amit Soni	Inspector
48	GST Council	Shri Anis Alam	Inspector
49	GST Council	Shri Ashish Tomar	Inspector
50	GST Council	Shri Alok Bharti	Inspector
51	GST Council	Shri Sharad Verma	Tax Assistant
52	GST Council	Shri Sher Singh Meena	Tax Assistant

S No	State/Centre	Name of the Officer	Charge
53	Andhra Pradesh	Shri J. Syamala Rao	Commissioner, Commercial Taxes
54	Andhra Pradesh	Shri T. Ramesh Babu	Additional Commissioner, Commercial Taxes
55	Andhra Pradesh	Shri D.Venkateswara Rao	OSD, Revenue
56	Arunachal Pradesh	Shri Nakut Padung	Superintendent, VAT
57	Assam	Shri Anurag Goel	Commissioner, Commercial Taxes
58	Bihar	Ms. Sujata Chaturvedi	Principal Secretary & Commissioner, Commercial Taxes
59	Bihar	Shri Arun Kr. Mishra	Addl. Secretary, Commercial Taxes
60	Chhattisgarh	Ms. Sangeetha P	Commissioner, Commercial Taxes
61	Delhi	Shri H. Rajesh Prasad	Commissioner, VAT
62	Delhi	Shri Anand Kumar Tiwari	Additional Commissioner, GST
63	Goa	Shri Daulat Hawaldar	Finance Secretary
64	Goa	Shri Dipak Bandekar	Commissioner, Commercial Taxes
65	Gujarat	Dr. P.D. Vaghela	Commissioner, Commercial Taxes
66	Gujarat	Ms. Mona Khandhar	Secretary (Economic Affairs)
67	Gujarat	Shri Riddhesh Rawal	Deputy Commissioner, Commercial Taxes
68	Haryana	Shri Sanjeev Kaushal	Additional Chief Secretary
69	Haryana	Shri Shyamal Misra	Commissioner, Excise & Taxation
70	Haryana	Shri Vidya Sagar	Joint Commissioner, Excise & Taxation
71	Haryana	Shri Rajeev Chaudhary	Deputy Commissioner, Excise & Taxation
72	Himachal Pradesh	Shri Pushpendra Rajput	Commissioner, Commercial Taxes
73	Jammu & Kashmir	Shri Navin Choudhary	Commissioner Secretary, Finance
74	Jammu & Kashmir	Shri P.I. Khateeb	Commissioner, Commercial Taxes
75	Jammu & Kashmir	Shri P.K. Bhat	Additional Commissioner, Commercial Taxes
76	Jharkhand	Shri Sanjay Kr. Prasad	Joint Commissioner (HQ)
77	Jharkhand	Shri G.S. Kapardar	Assistant Commissioner
78	Karnataka	Dr. M.P. Ravi Prasad	Joint Commissioner, Commercial Taxes
79	Kerala	Shri P. Mara Pandiyan	Additional Chief Secretary (Taxes)

S No	State/Centre	Name of the Officer	Charge
80	Kerala	Dr. Rajan Khobragade	Commissioner, Commercial Taxes
81	Madhya Pradesh	Shri Manoj Shrivastav	Principal Secretary, Commercial Taxes
82	Madhya Pradesh	Shri Raghwendra Kumar Singh	Commissioner, Commercial Taxes
83	Madhya Pradesh	Shri Sudip Gupta	Deputy Commissioner
84	Maharashtra	Shri Dhananjay Akhade	Joint Commissioner, Sales Tax
85	Manipur	Shri R.K. Khurkishor Singh	Assistant Commissioner, Commercial Taxes
86	Manipur	Shri Y. Indrakumar Singh	Superintendent, Commercial Taxes
87	Mizoram	Shri L.H. Rosanga	Commissioner, Taxes
88	Mizoram	Shri R. Zosiamliana	Deputy Commissioner, Taxes
89	Nagaland	Shri Asangba Chuba Ao	Commissioner, Commercial Taxes
90	Odisha	Shri Tuhin Kanta Pandey	Principal Secretary (Finance)
91	Odisha	Shri Saswat Mishra	Commissioner, Commercial Taxes
92	Odisha	Shri Sahadev Sahu	Joint Commissioner, Commercial Taxes
93	Puducherry	Dr. V. Candavelou	Secretary (Finance)
94	Puducherry	Shri G. Srinivas	Commissioner, Commercial Taxes
95	Punjab	Shri Rajeev Gupta	Advisor (GST), Govt. of Punjab
96	Punjab	Shri Pawan Garg	Deputy Commissioner, Commercial Taxes
97	Rajasthan	Shri Praveen Gupta	Secretary, Finance
98	Rajasthan	Shri Alok Gupta	Commissioner, Commercial Taxes
99	Rajasthan	Shri Ketan Sharma	Deputy Commissioner, Commercial Taxes
100	Sikkim	Shri Manoj Rai	Joint Commissioner, Commercial Taxes
101	Tamil Nadu	Shri C. Chandramouli	Additional Chief Secretary
102	Tamil Nadu	Shri K. Gnanasekaran	Additional Commissioner, Commercial Taxes
103	Telangana	Shri Somesh Kumar	Principal Secretary (Revenue)
104	Telangana	Shri Anil Kumar	Commissioner, Commercial Taxes
105	Telangana	Shri Laxminarayan Jannu	Joint Commissioner, Commercial Taxes
106	Tripura	Shri Debapriya Bardhan	Commissioner, Commercial Taxes

<u>S No</u>	<u>State/Centre</u>	<u>Name of the Officer</u>	<u>Charge</u>
107	Uttarakhand	Shri Ranveer Singh Chauhan	Commissioner, Commercial Taxes
108	Uttarakhand	Shri Amit Singh Negi	Secretary, Finance
109	Uttarakhand	Shri Piyush Kumar	Addl. Commissioner, Commercial Taxes
110	Uttarakhand	Shri Yashpal Singh	Deputy Commissioner, Commercial Taxes
111	Uttar Pradesh	Shri R.K.Tiwari	Additional Chief Secretary
112	Uttar Pradesh	Shri Mukesh Kumar Meshram	Commissioner, Commercial Taxes
113	Uttar Pradesh	Shri Vivek Kumar	Additional Commissioner, Commercial Taxes
114	Uttar Pradesh	Shri Niraj Kumar Maurya	Assistant Commissioner, Commercial Taxes
115	West Bengal	Ms. Smaraki Mahapatra	Commissioner, Commercial Taxes
116	West Bengal	Shri Khalid A. Anwar	Senior Joint Commissioner, Commercial Tax
117	GSTN	Shri Navin Kumar	Chairman
118	GSTN	Shri Prakash Kumar	CEO
119	GSTN	Shri Jagmal Singh	Vice President

Annexure 3

Amendments suggested to the circulated draft SGST Law in the 12th Meeting of the GST Council
(All suggested changes indicated in ‘bold’, ‘italics’ and in ‘strikethrough’ mode):

	Section 2 (4) “adjudicating authority” means any authority, appointed or authorised competent to pass any order or decision under this Act, but does not include the Commissioner, Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority and the Appellate Tribunal;	
	Section 2 (24) “Commissioner” means the Commissioner of State tax appointed under section 3 <i>and includes the Principal/Chief Commissioner of State tax appointed under section 3;</i>	
	Section 2 (48) “existing law” means any law, notification, order, rule or regulation relating to levy and collection of duty or tax or cess on goods or services or both passed or made before the commencement of this Act by <i>the Legislature or any authority or person having the power</i> to make such law, notification, order, rule or regulation;	
	Section 2 (95) “regulations” means the regulations made by the Commissioner <i>Government</i> under this Act on the recommendations of the Council; Similar change to be carried out in sections 165 and 166 <u>Reason for change:</u> Power to lie with the Government and not the Commissioner	
	Section 2 (119) “works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (<i>whether as goods or in some other form</i>) is involved in the execution of such contract; <u>Reason for change:</u> To align with the wording in the Constitution	
	Section 3 The Government shall, by notification, specify <i>appoint</i> the following classes of officers for the purposes of this Act, namely:— <u>Reason for change:</u> To align with section 2(24) of this Act	Officers under this Act.
	Section 11(4)	

	<p>(4) Any notification issued by the Central Government under sub-section (1) of section 11 or order issued under sub-section (2) of the said section of the Central Goods and Services Tax Act shall be deemed to be a notification or, as the case may be, an order issued under this Act.</p> <p><u>Reason for change:</u> Above changes have been suggested to ensure uniformity in exemptions issued under various enactment if the same have been recommended by the Council</p>	
	<p>Section 22(4) Notwithstanding anything contained in sub-sections (1) and (3), in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, de-merger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, the transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.</p>	
	<p>Section 24 Notwithstanding anything contained in sub-section (1) of section 22, the following categories of <i>persons undertaking taxable supplies</i> shall be required to be registered under this Act, -</p> <p><u>Reason for change:</u> Persons making TDS and acting as ISD are not making taxable supplies</p>	Compulsory registration in certain cases.
	<p>Section 71(1) (1) Any officer under this Act, authorised by the proper officer not below the rank of Joint Commissioner, shall have access to any place of business of a registered person to inspect books of account, documents, computers, computer programs, computer software whether installed in a computer or otherwise and such other things as he may require and which may be available at such place, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.</p>	Access to business premises.
	<p>Section 140(3) A registered person, who was not liable to be registered under the existing law or who was engaged in the sale of exempted goods [or tax free goods <i>or goods which have suffered tax at the first point of their sale in the State and the subsequent sales of which are not subject to tax in the State</i>] under the existing law but which are liable to tax under this Act [or where the person was entitled to the credit of input tax at the time of sale of goods], shall be entitled to take, in his electronic credit ledger, credit of the value added tax [and entry tax] in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions namely: —</p>	

	<u>Reason for change:</u> To address the concern of the State of Punjab where approximately 70% of the goods are sold under this scheme	
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Note:

Any corresponding changes required in CGST Act may be permitted to be made

Annexure-4

Amendments suggested to circulated draft UTGST Law in the 12th Meeting of the GST Council (All suggested changes indicated in 'bold', 'italics' and in 'strikethrough' mode):

	<p>Section 8</p> <p>(4) Any notification issued by the Central Government under sub-section (1) of section 11 <i>or order issued under sub-section (2) of the said section</i> of the Central Goods and Services Tax Act shall be deemed to be a notification <i>or, as the case may be, an order</i> issued under this Act.</p> <p><u>Reason for change:</u> Above changes have been suggested to ensure uniformity in exemptions issued under various enactment if the same have been recommended by the Council</p>	
	<i>Note: Similar change to be carried out in section 11(4) of the SGST Act</i>	
	CHAPTER - IV PAYMENT OF TAX	
	<p><i>8A The amount of input tax credit available in the electronic credit ledger of the registered person on account of, —</i></p> <p><i>(1) integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax, or as the case may be, Union territory tax, in that order;</i></p>	
	<i>(2) the Union territory tax shall first be utilized towards payment of Union territory tax and the amount remaining, if any, may be utilized towards payment of integrated tax;</i>	
	<p><i>(3) the Union territory tax shall not be utilized towards payment of central tax.</i></p> <p><u>Reason for change:</u> This provision being a substantive provision, needs to be incorporated in the law itself instead of only referencing it from CGST Law</p>	
	<p>9. On utilisation of input tax credit of Union territory tax for payment of tax dues under the Integrated Goods and Services Tax Act in accordance with the provisions of sub-section (5) of section 49 of the Central Goods and Services Tax Act, <i>as reflected in the valid return furnished under sub-section (1) of section 39 of the Central Goods and Services Tax Act</i>, the amount collected as Union territory tax shall stand reduced by an amount equal to such credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the Union territory tax account to the integrated tax account in such manner and within such time as may be prescribed.</p> <p><u>Reasons for change:</u> Alignment of language with that in the CGST Law</p>	Transfer of input tax credit.
	CHAPTER VI DEMANDS AND RECOVERY	

	<p>10A.(1) A registered person who has paid the central tax and the Union territory tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.</p>	<p>Tax wrongfully collected and paid to Central Government or State Government.</p>
	<p>(2) A registered person who has paid integrated tax on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall not be required to pay any interest on the amount of the central tax and the Union territory tax payable.</p> <p><u>Reasons for change:</u> This provision being a substantive provision, needs to be incorporated in the law itself instead of only referencing it from the CGST Law</p>	
	<p style="text-align: center;">CHAPTER IX MISCELLANEOUS PROVISIONS</p>	
	<p>18. (1) Subject to the provisions of this Act and the rules made thereunder, the provisions of the Central Goods and Services Tax Act, relating to, –</p> <ol style="list-style-type: none"> i. scope of supply; ii. composition levy; iii. composite supply and mixed supply; iv. time and value of supply; v. input tax credit; vi. registration; vii. tax invoice, credit and debit notes; viii. accounts and records; ix. returns; x. payment of tax; xi. tax deduction at source; xii. collection of tax at source; xiii. assessment; xiv. refunds; xv. audit; xvi. inspection, search, seizure and arrest; xvii. demands and recovery; xviii. liability to pay in certain cases; xix. advance ruling; xx. appeals and revision; xxi. presumption as to documents; xxii. offences and penalties; xxiii. job work; xxiv. electronic commerce; xxv. settlement of funds; xxvi. transitional provisions; and xxvii. miscellaneous provisions including the provisions relating to the imposition of interest and penalty, <p>shall, <i>mutatis mutandis</i>, apply,-</p> <p>(a) so far as may be, in relation to Union territory tax as they apply in relation to central tax as if they were enacted under this Act;</p>	<p>Application of provisions of Central Goods and Services Tax Act.</p>

	(b) subject to the following modifications and alterations which the Central Government considers necessary and desirable to adapt those provisions to the circumstances, namely, -	
	<p>(a) references to “ this Act” shall be deemed to be references to “the Union Territory Goods and Services Tax Act, 2017”;</p> <p>(b) references to “Commissioner” shall be deemed to be references to Commissioner” of Union territory tax as defined in sub-section (3) of section 2 of this Act;</p> <p>(c) references to “officers of central tax” shall be deemed to be references to “officers of Union territory tax”;</p> <p>(d) reference to “central tax” shall be deemed to be reference to “Union territory tax” <i>and vice-versa.</i></p> <p>(e) references to “Commissioner of State tax or Commissioner of Union territory tax” shall be deemed to be references to “Commissioner of central tax”.</p> <p>(f) references to “State Goods and Services tax Act or Union Territory Goods and Services tax Act” shall be deemed to be references to “Central Goods and Services tax Act”.</p> <p>(g) <i>reference to “State tax or Union territory tax” shall be deemed to be reference to “Central tax”.</i></p> <p><u>Reasons for change:</u> To complete the referencing of all taxes and authorities</p>	

Annexure-5

Further amendments suggested to the IGST Law approved in the 11th Meeting of the GST Council held on 4 March, 2017

(All suggested changes indicated in 'bold', 'italics' and in 'strikethrough' mode):

	CHAPTER VII ZERO RATED SUPPLY	
	Section 16 of IGST Act: (1) "zero rated supply" means any of the following taxable supplies of goods or services or both, namely: - (a) export of goods or services or both; or (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.	Zero rated supply.
	(2) Subject to provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply other than non-taxable supply . <u>Reason for change:</u> In order to allow refund of input taxes paid (GST) on export of non-GST goods to prevent export of taxes and maintain export competitiveness	
	(3) A registered person making zero rated supply-exporting goods or services or both shall be eligible to claim refund under either of the following options, namely: - (a) he may export supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or (b) he may export supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods and services or both supplied exported , in accordance with provisions of section 54 of the Central Goods and Services Tax Act or the rules made there under.	
	(4) The Special Economic Zone developer or a Special Economic Zone unit receiving zero rated supply specified in clause (b) of sub-section (1) shall be eligible to claim refund of integrated tax paid by the registered person on such supply, subject to such conditions, safeguards and procedure as may be prescribed. <u>Reason for change:</u> Proposed to bring supplies to SEZ and physical exports at par in order to avoid blocking of high amounts of working capital in supplies to SEZ	
	CHAPTER –IX MISCELLANEOUS PROVISIONS	

	<p>20. Subject to the provisions of this Act and the rules made thereunder, the provisions of Central Goods and Services Tax Act, relating to, –</p> <ol style="list-style-type: none"> i. <i>scope of supply;</i> ii. composite supply and mixed supply; iii. time and value of supply; iv. input tax credit; v. registration; vi. tax invoice, credit and debit notes; vii. accounts and records; viii. returns, other than late fee; ix. payment of tax; x. tax deduction at source; xi. collection of tax at source; xii. assessment; xiii. refunds; xiv. audit; xv. inspection, search, seizure and arrest; xvi. demands and recovery; xvii. liability to pay in certain cases; xviii. advance ruling; xix. appeals and revision; xx. presumption as to documents; xxi. offences and penalties; xxii. job work; xxiii. electronic commerce; xxiv. transitional provisions; and xxv. miscellaneous provisions including the provisions relating to the imposition of interest and penalty, <p>shall apply so far as may be, in relation to integrated tax as they apply in relation to central tax as if they are enacted under this Act:</p> <p><u>Reason for change:</u> Inadvertent omission now being corrected</p>	<p>Application of provisions of Central Goods and Services Tax Act.</p>
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Annexure -6

Further Amendments suggested to Goods and Services Tax (Compensation to the States) Bill, 2016
approved in the 10th Meeting of the GST Council held on 18 February, 2017
(All suggested changes indicated in 'bold', 'italics' and in 'strikethrough' mode):

Section 2(l) "State" shall include –

- (i) for the purposes of sections 3, 4, 5, 6 and 7 the States *as defined under the Central Goods and Services Tax Act*; ~~and the Union territories with Legislature mentioned in the First Schedule to the Constitution~~; and
- (ii) for the purposes of sections 8, 9, 10, ~~and 11~~ , **12, 13 and 14** the States as defined under the Central Goods and Services Tax Act, and Union territories defined under the Union Territories Goods and Services Tax Act;

Section 7. CALCULATION AND RELEASE OF COMPENSATION.

(3)(b) the actual revenue collected by a State in any financial year during the transition period would be the actual revenue from State tax collected by the State and net of refunds given by the said State under Chapters XI and XX ~~VII~~ of the State Goods and Services Tax Act, the integrated goods and services tax apportioned to that State, and any collection of taxes on account of the taxes levied by the respective State under the Acts specified in sub-section (4) of section 5, net of refunds of such taxes, as certified by the Comptroller and Auditor General of India;

the actual revenue collected by a State till the end of relevant two months period in any financial year during the transition period would be the actual revenue from State tax collected by the State, net of refunds given by the State under Chapters XI and XX ~~VII~~ of the State Goods and Services Tax Act, the integrated goods and services tax apportioned to that State, as certified by the Principal Chief Controller of Accounts of the Central Board of Excise and Customs, and any collection of taxes on account of the taxes levied by the respective State under the Acts specified in sub-section (4) of section 5, net of refunds of such taxes;

Section 8. LEVY AND COLLECTION OF CESS.

- (1) There shall be levied a cess on such intra-State supplies of goods or services or both, as provided for in section ~~9 7~~ of the Central Goods and Services Tax Act, and such inter-State supplies of goods or services or both as provided for in section 5 of the Integrated Goods and Services Tax Act, and collected in such manner as may be prescribed, on the recommendations of the Council, for the purposes of providing compensation to the States for loss of revenue arising on account of implementation of the goods and services tax with effect from the date from which the provisions of Central Goods and Services Tax Act is brought into force, for a period of five years or for such period as may be prescribed on the recommendation of the Council:

Provided that no such cess shall be leviable on supplies made by a taxable person who has decided to opt for composition levy under section ~~10 8~~ of the Central Goods and Services Tax Act.

- (2) The cess shall be levied *on such supplies of goods or services as are specified in column (2) of the Schedule to this Act*, on the basis of value, quantity or on such basis as may be recommended by

the Council, at such rate not exceeding *the rate set forth in the corresponding entry in column (4) of the Schedule* ~~per cent as may be notified by~~ as the Central Government *may by notification in the Official Gazette specify:*

Provided that where the cess is chargeable on any supply of goods or services or both with reference to their value, for each such supply the value shall be determined under section 15 of the Central Goods and Services Tax Act for all intra-State and inter-State supply of goods or services or both: Provided further that the cess on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962, on a value determined under the Customs Tariff Act, 1975.

Section 10. CREDITING PROCEEDS OF CESS TO FUND.

The proceeds of the cess leviable under section 8 and such other ~~revenues~~ *amounts* as may be recommended by the Council, shall be credited to a non-lapsable Fund known as the Goods and Services Tax Compensation Fund, which shall form part of the public account of India and shall be utilized for purposes specified in the said section

THE SCHEDULE

Notes

1. In this Schedule, reference to a “tariff item”, “heading”, “sub-heading” and “Chapter”, wherever they occur, shall mean respectively a tariff item, heading, sub-heading and Chapter in the First Schedule to the Customs Tariff Act, 1975 (Act No.51 of 1975)
2. The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (Act No.51 of 1975), the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this Schedule.

S No.	Description of supply of goods or services	Tariff item, heading, sub-heading, Chapter, or supply of goods or services, as the case may be	The maximum rate at which GST Compensation Cess may be collected
(1)	(2)	(3)	(4)
1.	Pan Masala	2106 90 20	135% <i>ad valorem</i>
2.	Tobacco and manufactured tobacco substitutes, including tobacco products	24	Rs. 4170 per thousand sticks or 290% <i>ad valorem</i> or a combination thereof
3.	Coal; briquettes, ovoids and similar solid fuels manufactured from coal; Lignite, whether or not agglomerated, excluding jet; Peat (including peat litter), whether or not agglomerated	2701,2702 or 2703	Rs. 400 per tonne
4.	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured	2202 10	15% <i>ad valorem</i>
5.	Motor cars and other motor vehicles principally designed for the transport of persons (other than motor vehicles for the transport of ten or more persons, including the driver), including station wagons and racing cars	8703	15% <i>ad valorem</i>
6.	All other supplies		15% <i>ad valorem</i>

DRAFT
GOODS AND SERVICES TAX -
INVOICE RULES, 2017

(March, 2017)

Chapter-
TAX INVOICE, CREDIT AND DEBIT NOTES

1. Particulars to be included in Tax invoice

Subject to rule 7, a tax invoice referred to in section 31 shall be issued by the supplier containing the following particulars:-

- (a) name, address and GSTIN of the supplier;
- (b) a consecutive serial number containing alphabets or numerals or special characters ~~--back slash, dollar, dot, hash,~~ hyphen or dash, and slash ~~and underscore~~ symbolised as ~~\, \$, ., #, -, "~~ and "/", ~~and~~ — respectively, and any combination thereof, unique for a financial year;
- (c) date of its issue;
- (d) name, address and GSTIN ~~or~~ UIN, if registered, of the recipient;
- (e) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered and where the value of taxable supply is fifty thousand rupees or more;
- (f) HSN code of goods or Accounting Code of services;
- (g) description of goods or services;
- (h) quantity in case of goods and unit or Unique Quantity Code thereof;
- (i) total value of supply of goods or services or both;
- (j) taxable value of supply of goods or services or both taking into account discount or abatement, if any;
- (k) rate of tax (~~CGST~~ central tax, ~~SGST~~ State tax, ~~or IGST~~ integrated tax, Union territory tax or Cess);
- (l) amount of tax charged in respect of taxable goods or services (central tax, State tax, or integrated tax, Union territory tax or cess)(~~CGST, SGST, or IGST or Cess~~);
- (m) place of supply along with the name of State, in case of a supply in the course of inter-State trade or commerce;
- (n) address of delivery where the same is different from the place of supply;
- (o) whether the tax is payable on reverse charge **basis**; and
- (p) signature or digital signature of the supplier or his authorized representative:

Provided that a supplier may, at his option, choose to issue invoices in multiple series:

Provided further that the Commissioner may, by notification, specify -

- (i) the number of digits of HSN code for goods or the Accounting Code for services, that a class of registered persons shall be required to mention, for such period as may be specified in the said notification, and
- (ii) the class of registered persons that would not be required to mention the HSN code for goods or the Accounting Code for services, for such period as may be specified in the said notification:

Provided also that in case of exports of goods or services, the invoice shall carry an endorsement "SUPPLY MEANT FOR EXPORT ON PAYMENT OF IGST" or "SUPPLY MEANT FOR EXPORT

UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF IGST”, as the case may be, and shall, in lieu of the details specified in clause (e), contain the following details:

- (i) name and address of the recipient;
- (ii) address of delivery;
- (iii) name of the country of destination; and
- (iv) number and date of application for removal of goods for export ~~[ARE-1]~~:

~~(2) The invoice referred to in sub-rule (1), in case of taxable supply of services, shall be issued within a period of thirty days from the date of supply of service:~~

~~Provided that in case of continuous supply of services, the invoice shall be issued within a period of thirty days from the date when each event specified in the contract, which requires the recipient to make any payment to the supplier of services, is completed:~~

~~Provided further that where the supplier of service is a banking company or a financial institution including a non-banking financial company, the period within which the invoice is to be issued shall be forty five days from the date of supply of service.~~

Provided also that the registered person may not issue a tax invoice for a supply to un-registered persons or customers if the value of supply of the goods or services or both supplied is less than two hundred rupees except where the recipient of the goods or services or both requires such invoice:

Provided also that a consolidated tax invoice for the supplies shall be prepared by the registered person at the close of each day in respect of all such supplies where the tax invoice for the said supplies has not been issued in accordance with the fourth proviso.

2. Time limit for issuing tax invoice

The invoice referred to in rule 1, in case of taxable supply of services, shall be issued within a period of thirty days from the date of supply of service:

Provided that where the supplier of services is an insurer or a banking company or a financial institution, including a non-banking financial company, the period within which the invoice or any document in lieu thereof is to be issued shall be forty five days from the date of supply of service:

Provided further that where the supplier of services is an insurer or a banking company or a financial institution, including a non-banking financial company, or a telecom operator, or any other class of supplier of services as may be notified by the Government on the recommendations of the Council, making taxable supplies of services between distinct persons as specified in section 25 as referred to in Entry 2 of Schedule I, may issue the invoice before or at the time such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.

3. Manner of issuing invoice

- (1) The invoice shall be prepared in triplicate, in case of supply of goods, in the following manner:–
 - (a) the original copy being marked as ORIGINAL FOR RECIPIENT;
 - (b) the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and
 - (c) the triplicate copy being marked as TRIPLICATE FOR SUPPLIER.
- (2) The invoice shall be prepared in duplicate, in case of supply of services, in the following manner:–
 - (a) the original copy being marked as ORIGINAL FOR RECIPIENT; and
 - (b) the duplicate copy being marked as DUPLICATE FOR SUPPLIER.

(3) The serial number of invoices issued during a tax period shall be furnished electronically through the Common Portal in **FORM GSTR-1**.

~~(4) A registered person may obtain an Invoice Reference Number from the Common Portal by uploading, on the said Portal, a tax invoice issued by him in FORM GST INV-1, and produce the same for verification by the proper officer as required under section 80 in lieu of the tax invoice.~~

~~(5) The Invoice Reference Number shall be valid for a period of 30 days from the date of uploading.~~

Note:

~~Sub-rules (4) and (5) to be shifted to the rules relating to issuance of e-way Bills and if it is actually shifted then the proviso to sub-rule (1) is to be deleted.~~

4. Bill of supply

A bill of supply referred to in clause (c) of sub-section (3) of section 31~~the second proviso to section 23~~ shall be issued by the supplier containing the following details:-

- (a) name, address and GSTIN of the supplier;
- (b) a consecutive serial number containing alphabets or numerals or special characters -~~hyphen or dash and slash symbolised as “-” and “/” respectively, back slash, dollar, dot, hash, hyphen or dash, slash and underscore symbolised as \, \$, ., #, -, /, and _ respectively,~~ and any combination thereof, unique for a financial year;
- (c) date of its issue;
- (d) name, address and GSTIN **or** UIN, if registered, of the recipient;
- (e) HSN Code of goods or Accounting Code for services;
- (f) description of goods or services or both;
- (g) value of supply of goods or services or both taking into account discount or abatement, if any; and
- (h) signature or digital signature of the supplier or his authorized representative;

Provided that the provisos to rule 1 shall ~~apply~~, *mutatis mutandis*, apply to the bill of supply issued under this rule:

~~Provided further that the registered person may not issue a bill of supply if the value of the goods or services supplied is less than two hundred rupees except where the recipient of the goods or services requires such bill:~~

~~Provided also that a consolidated bill of supply shall be prepared by the registered person at the close of each day in respect of all such supplies where the bill of supply has not been issued in terms of the second proviso.~~

5. Receipt voucher

A receipt voucher referred to in clause (d) of sub-section (3) of section 31 shall contain the following particulars:

- (a) name, address and GSTIN of the supplier;
- (b) a consecutive serial number containing alphabets or numerals or special characters - hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year
- (c) date of its issue;
- (d) name, address and GSTIN or UIN, if registered, of the recipient;

- (e) description of goods or services;
- (f) amount of advance taken;
- (g) rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- (h) amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- (i) place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce;
- (j) whether the tax is payable on reverse charge basis; and
- (k) signature or digital signature of the supplier or his authorized representative.

6. Supplementary tax invoice and Credit or debit notes ~~Revised tax invoice and credit or debit note~~

(1) A revised tax invoice referred to in section 31 and credit or debit note referred to in section 34 shall contain the following particulars ~~A supplementary tax invoice under section 23 and a credit or debit note under section 24 shall contain the following details -~~

- ~~(a) name, address and GSTIN of the supplier;~~
- ~~(b) nature of the document;~~
- ~~(c) a consecutive serial number containing only alphabets and/or numerals, unique for a financial year;~~
- ~~(d) date of issue of the document;~~
- ~~(e) name, address and GSTIN/ Unique ID Number, if registered, of the recipient;~~
- ~~(f) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is unregistered;~~
- ~~(g) serial number and date of the corresponding tax invoice or, as the case may be, bill of supply;~~
- ~~(h) taxable value of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient; and~~
- ~~(i) signature or digital signature of the supplier or his authorized representative.~~
- (a) the word “Revised Invoice”, wherever applicable, indicated prominently;
- (b) name, address and GSTIN of the supplier;
- (c) nature of the document;
- (d) a consecutive serial number containing alphabets or numerals or special characters -hyphen or dash and slash symbolised as “-” and “/”respectively,, and any combination thereof, unique for a financial year;
- (e) date of issue of the document;
- (f) name, address and GSTIN or UIN, if registered, of the recipient;
- (g) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;
- (h) serial number and date of the corresponding tax invoice or, as the case may be, bill of supply along with value of particular invoice and the amount of addition or reduction related to such invoice;
- (i) value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient; and
- (j) signature or digital signature of the supplier or his authorized representative;

Provided that any invoice or debit note issued in pursuance of any tax payable in accordance with the provisions of section 74 or section 129 or section 130 shall prominently contain the words “INPUT TAX CREDIT NOT ADMISSIBLE”.

(2) Every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue revised tax invoices in respect of taxable

supplies effected during the period starting from the effective date of registration till the date of issuance of certificate of registration:

Provided that the registered person may issue a consolidated revised tax invoice in respect of all taxable supplies made to a recipient who is not registered under the Act during such period:

Provided further that in case of inter-State supplies, where the value of a supply does not exceed two ~~hundred lakh~~ and fifty thousand rupees, a consolidated revised invoice may be issued separately in respect of all recipients located in a State, who are not registered under the Act.

7. Tax Invoice in special cases

(1) ~~An tax invoice~~ISD invoice or, as the case may be, an ISD credit note issued by an Input Service Distributor shall contain the following details:-

- (a) name, address and GSTIN of the Input Service Distributor;
- (b) a consecutive serial number containing alphabets or numerals or special characters hyphen ~~or~~ dash and slash symbolised as , "-", "/", respectively, and any combination thereof, unique for a financial year;
- (c) date of its issue;
- (d) name, address and GSTIN of the recipient to whom the credit is distributed;
- (e) amount of the credit distributed; and
- (f) signature or digital signature of the Input Service Distributor or his authorized representative:

Provided that where the Input Service Distributor is an office of a banking company or a financial institution, including a non-banking financial company, a tax invoice shall include any document in lieu thereof, by whatever name called, whether or not serially numbered but containing the information as prescribed above.

(2) Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company, the said supplier shall issue a tax invoice or any other document in lieu thereof, by whatever name called, whether or not serially numbered, and whether or not containing the address of the recipient of taxable service but containing other information as prescribed under rule 1.

(3) Where the supplier of taxable service is a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage, the said supplier shall issue a tax invoice or any other document in lieu thereof, by whatever name called, containing the gross weight of the consignment, name of the consignor and the consignee, registration number of goods carriage in which the goods are transported, details of goods transported, details of place of origin and destination, GSTIN of the person liable for paying tax whether as consignor, consignee or goods transport agency, and also ~~contains~~containing other information as prescribed under rule 1.

(4) Where the supplier of taxable service is supplying passenger transportation service, a tax invoice shall include ticket in any form, by whatever name called, whether or not serially numbered, and whether or not containing the address of the recipient of service but containing other information as prescribed under rule 1.

8. Transportation of goods without issue of invoice

(1) For the purposes of

- (a) supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,**
- (b) transportation of goods for job work,**
- (c) transportation of goods for reasons other than by way of supply, or**

(d) such other supplies as may be notified by the Board,

the consigner may issue a delivery challan, serially numbered, in lieu of invoice at the time of removal of goods for transportation, containing following details:

(i) date and number of the delivery challan

(ii) name, address and GSTIN of the consigner, if registered,

(iii) name, address and GSTIN or UIN of the consignee, if registered,

(iv) description of goods,

(v) quantity (provisional, where the exact quantity being supplied is not known),

(vi) taxable value,

(vii) tax rate and tax amount – central tax, State tax, ~~or~~ integrated tax, Union territory tax or cess, where the transportation is for supply to the consignee,

(viii) place of supply, in case of inter-State movement, and

(ix) signature

(2) The delivery challan shall be prepared in triplicate, in case of supply of goods, in the following manner:–

(a) the original copy being marked as ORIGINAL FOR CONSIGNEE;

(b) the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and

(c) the triplicate copy being marked as TRIPLICATE FOR CONSIGNER.

(3) Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared in FORM [WAYBILL] (waybill to have a column for this declaration).

(4) Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.

(5) Where the goods are being transported in a semi knocked down or completely knocked down condition,

(a) the supplier shall issue the complete invoice before dispatch of the first consignment;

(b) the supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;

(c) each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice; and

(d) the original copy of the invoice shall be sent along with the last consignment.

DRAFT
GOODS AND SERVICES TAX -
PAYMENT RULES, 2017
(March, 2017)

Chapter- -- PAYMENT OF TAX

1. Electronic Tax Liability Register

- (1) The electronic tax liability register specified under sub-section (7) of section 49 shall be maintained in **FORM GST PMT-01** for each person liable to pay tax, interest, penalty, late fee or any other amount on the Common Portal and all amounts payable by him shall be debited to the said register.
- (2) The electronic tax liability register of the person shall be debited by:-
 - (a) the amount payable towards tax, interest, late fee or any other amount payable as per the return furnished by the said person;
 - (b) the amount of tax, interest, penalty or any other amount payable as determined by a proper officer in pursuance of any proceedings under the Act or as ascertained by the said person;
 - (c) the amount of tax and interest payable as a result of mismatch under section 42 or section 43 or section 50; or
 - (d) any amount of interest that may accrue from time to time.
- (3) Subject to the provisions of section 49, payment of every liability by a registered person as per his return shall be made by debiting the electronic credit ledger maintained as per rule 2 or the electronic cash ledger maintained as per rule 3 and the electronic tax liability register shall be credited accordingly.
- (4) The amount deducted under section 51, or the amount collected under section 52, or the amount payable under sub-section (3) or sub-section (4) of section 9, or the amount payable under section 10, or sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Act or sub-section (3) or sub-section (4) of section 7 of the Union Territory Goods and Services Tax Act any amount payable towards interest, penalty, fee or any other amount under the Act or the Integrated Goods and Services Act shall be paid by debiting the electronic cash ledger maintained as per rule 3 and the electronic tax liability register shall be credited accordingly.
- (5) Any amount of demand debited in the electronic tax liability register shall stand reduced to the extent of relief given by the appellate authority or Appellate Tribunal or court and the electronic tax liability register shall be credited accordingly.
- (6) The amount of penalty imposed or liable to be imposed shall stand reduced partly or fully, as the case may be, if the taxable person makes the payment of tax, interest and penalty specified in the show cause notice or demand order, and the electronic tax liability register shall be credited accordingly.

2. Electronic Credit Ledger

- (1) The electronic credit ledger shall be maintained in **FORM GST PMT-02** for each registered person eligible for input tax credit under the Act on the Common Portal and every claim of input tax credit under the Act shall be credited to the said Ledger.
- (2) The electronic credit ledger shall be debited to the extent of discharge of any liability in accordance with section 49.

(3) Where a registered person has claimed refund of any unutilized amount from the electronic credit ledger in accordance with the provisions of ~~terms~~ section 54, the amount to the extent of the claim shall be debited in the said ledger.

(4) If the refund so filed is rejected, either fully or partly, the amount debited under sub-rule (3), to the extent of rejection, shall be re-credited to the electronic credit ledger by the proper officer by an order made in **FORM GST PMT-03**.

(5) Save as provided in these rules, no entry shall be made directly in the electronic credit ledger under any circumstance.

(6) A registered person shall, upon noticing any discrepancy in his electronic credit ledger, communicate the same to the officer exercising jurisdiction in the matter, through the Common Portal in FORM GST ITC -1.

Explanation.– For the purpose of this rule, a refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking ~~in writing~~ to the proper officer that he shall not file an appeal.

3. Electronic Cash Ledger

(1) The electronic cash ledger under sub-section (1) of section 49 shall be maintained in **FORM GST PMT-04** for each person, liable to pay tax, interest, penalty, late fee or any other amount, on the Common Portal for crediting the amount deposited and debiting the payment therefrom towards tax, interest, penalty, fee or any other amount.

(2) Any person, or a person on his behalf, shall generate a challan in **FORM GST PMT-05** on the Common Portal and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount.

(3) The deposit under sub-rule (2) shall be made through any of the following modes:

- (i) Internet Banking through authorized banks;
- (ii) Credit card or Debit card ~~after registering the same with the Common Portal~~ through the authorised bank;
- (iii) National Electronic Fund Transfer (NeFT) or Real Time Gross Settlement (RTGS) from any bank;
- (iv) Over the Counter payment (OTC) through authorized banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft:

Provided that the restriction for deposit up to ten thousand rupees per challan in case of an Over the Counter (OTC) payment shall not apply to deposit to be made by –

- (a) Government Departments or any other deposit to be made by persons as may be notified by the Commissioner in this behalf;
- (b) Proper officer or any other officer authorised to recover outstanding dues from any person, whether registered or not, including recovery made through attachment or sale of movable or immovable properties;
- (c) Proper officer or any other officer authorized for the amounts collected by way of cash, cheque or demand draft during any investigation or enforcement activity or any *ad hoc* deposit:

Provided further that the challan in **FORM GST PMT-05** generated at the Common Portal shall be valid for a period of fifteen days.

Explanation.– For making payment of any amount indicated in the challan, the commission, if any, payable in respect of such payment shall be borne by the person making such payment.

(4) Any payment required to be made by a person who is not registered under the Act, shall be made on the basis of a temporary identification number generated through the Common Portal.

(5) Where the payment is made by way of NeFT or RTGS mode from any bank, the mandate form shall be generated along with the challan on the Common Portal and the same shall be submitted to the bank from where the payment is to be made:

Provided that the mandate form shall be valid for a period of fifteen days from the date of generation of challan.

(6) On successful credit of the amount to the concerned government account maintained in the authorised bank, a Challan Identification Number (CIN) will be generated by the collecting Bank and the same shall be indicated in the challan.

(7) On receipt of CIN from the authorized Bank, the said amount shall be credited to the electronic cash ledger of the person on whose behalf the deposit has been made and the Common Portal shall make available a receipt to this effect:-

~~*Provided that where the bank account of the person concerned, or the person making the deposit on his behalf, is debited but no Challan Identification Number (CIN) is generated or generated but not communicated to the Common Portal, the said person may represent electronically in FORM GST PMT-06 through the Common Portal to the Bank or electronic gateway through which the deposit was initiated.*~~

(8) Where the bank account of the person concerned, or the person making the deposit on his behalf, is debited but no Challan Identification Number (CIN) is generated or generated but not communicated to the Common Portal, the said person may represent electronically in FORM GST PMT-06 through the Common Portal to the Bank or electronic gateway through which the deposit was initiated.

(89) Any amount deducted under section 51 or collected under section 52 and claimed in **FORM GSTR-02** by the registered taxable person from whom the said amount was deducted or, as the case may be, collected shall be credited to his electronic cash ledger ~~*as per*~~ *in accordance with the provisions of* rule Return.2.

~~(910)~~ Where a person has claimed refund of any amount from the electronic cash ledger, the said amount shall be debited to the electronic cash ledger.

~~(1110)~~ If the refund so ~~*filed-claimed*~~ is rejected, either fully or partly, the amount debited under sub-rule ~~(910)~~, to the extent of rejection, shall be credited to the electronic cash ledger by the proper officer by an order made in **FORM GST PMT-03**.

Explanation.- For the purposes of this rule, a refund shall be deemed to be rejected if the appeal is finally rejected or if the claimant gives an undertaking to the proper officer that he shall not file an appeal.

4. Identification number for each transaction

- (1) A unique identification number shall be generated at the Common Portal for each debit or credit to the electronic cash or credit ledger, as the case may be.
- (2) The unique identification number relating to discharge of any liability shall be indicated in the corresponding entry in the electronic tax liability register.
- (3) A unique identification number shall be generated at the Common Portal for each credit in the electronic tax liability register for reasons other than those covered under sub-rule (2).

DRAFT
GOODS AND SERVICES TAX -
REFUND RULES, 2017

(March, 2017)

Chapter- REFUND

1. Application for refund of tax, interest, penalty, fees or any other amount

(1) Any person, except the persons covered by notification issued under ~~section 55, clause (d) of sub-section (6) of section 38~~, claiming refund of any tax, interest, penalty, fees or any other amount paid by him, may file an application in **FORM GST RFD-01** electronically through the Common Portal either directly or through a Facilitation Centre notified by the Commissioner:

Provided that any claim for refund relating to balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section ~~35-49~~ may also be made through the return furnished for the relevant tax period in **FORM GSTR-3, FORM GSTR-4 or FORM GSTR-7**, as the case may be:

Provided further that in case of export of goods, application for refund shall be filed only after the export manifest or an export report, as the case may be, is delivered under section 41 of the Customs Act, 1962 in respect of such goods:

Provided also that in respect of supplies to a Special Economic Zone unit or a Special Economic Zone developer, the application for refund shall be filed by the supplier of goods after such goods have been admitted in full in the Special Economic Zone for authorized operations, as endorsed by the specified officer of the Zone:

Provided also that in respect of ~~supplies made to an SEZ unit or a developer, or~~ supplies regarded as deemed exports, the application shall be filed by ~~the said unit or the developer or~~ the recipient of deemed export supplies:

Provided also that refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him under section 27 at the time of registration, shall be claimed either in the last return required to be furnished by him or only after furnishing of the said last return.

(2) The application under sub-rule (1) shall be accompanied by any of the following documentary evidences, as applicable, to establish that a refund is due to the applicant:

(a) the reference number of the order and a copy of the order passed by the proper officer or an appellate authority or *Appellate Tribunal or any competent* court resulting in such refund or reference number of the payment of *the amount specified in sub-section (6) of section 107 and sub-section (8) of section 112 pre-deposit under chapter XVIII* claimed as refund;

(b) a statement containing the number and date of shipping bills or bills of export and the number and date of relevant export invoices, in a case where the refund is on account of export of goods;

(c) a statement containing the number and date of invoices and the relevant Bank Realization Certificates or Foreign Inward Remittance Certificates, as the case may be, in a case where the refund is on account of export of services;

(d) a statement containing the number and date of invoices as prescribed in rule-- *of Invoice Rules* in case of supply of goods made to a Special Economic Zone unit or a Special Economic Zone developer;

(e) a statement containing the number and date of invoices and the details of payment, along with proof thereof, made by the ~~claimant-recipient~~ to the supplier for authorized operations as defined under the Special Economic Zone Act, 2005, in a case where the refund is on account of supply of services made to a Special Economic Zone unit or a Special Economic Zone developer;

Provided also that in respect of supplies to a Special Economic Zone unit or a Special Economic Zone developer, the application for refund shall be filed by the supplier of services along with such evidence regarding receipt of services for authorized operations as may be notified by the Central Government on the recommendations of the Council:

(f) a statement containing the number and date of invoices, in a case where the refund is on account of deemed exports;

(g) a statement in **Annex 1** of **FORM GST RFD-01** containing the number and date of invoices received and issued during a tax period in a case where the claim pertains to refund of any unutilized input tax credit under sub-section (3) of section 54 where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies, other than nil-rated or fully exempt supplies;

(h) the reference number of the final assessment order and a copy of the said order in a case where the refund arises on account of finalisation of provisional assessment;

(i) a declaration to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed does not exceed two lakh rupees:

Provided that a declaration is not required to be furnished in respect of cases covered under clause (a) or clause (b) or clause (c) or clause (d) of sub-section (8) of section 54;

(j) a Certificate in **Annex 2** of **FORM GST RFD-01** issued by a chartered accountant or a cost accountant to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund claimed exceeds two lakh rupees:

Provided that a certificate is not required to be furnished in respect of cases covered under clause (a) or clause (b) or clause (c) or clause (d) of sub-section (8) of section 54;

Explanation 1.— For the purposes of this rule,

(i) *in case of refunds referred to in clause (c) of sub-section (8) of section 54*, “invoice” means invoice conforming to the provisions contained in section ~~23A31~~ *in case of refunds referred to in clause (c) of sub-section (6) of section 38*;

Explanation 2.—(ii) ~~Where~~ where the amount of tax has been recovered from the recipient, it shall be deemed that the incidence of tax has been passed on to the ultimate consumer.

(3) Where the application relates to refund of input tax credit, the electronic credit ledger shall be debited by the applicant in an amount equal to the refund so claimed.

(4) *In case of zero-rated supply of goods or services or both* ~~Where any taxable goods or services are exported~~ without payment of tax under bond or letter of undertaking ~~under in accordance with the provisions of sub-section (3) of section 16~~ of the *Integrated Goods and Services Tax Act-IGST Act, 2017*, refund of input tax credit shall be granted as per the following formula:

Refund Amount = ~~(Export+Turnover of zero-rated supply of goods + Export+Turnover of zero-rated supply of services)~~ *x Net ITC ÷ Adjusted Total Turnover*

Where,-

- (A) "Refund amount" means the maximum refund that is admissible;
- (B) "Net ITC" means input tax credit availed on inputs and input services during the relevant period;
- (C) "~~Export~~ turnover of zero-rated supply of goods" means the value of ~~taxable-zero-rated supply of~~ goods exported-made during the relevant period without payment of tax under bond or letter of undertaking;
- (D) "~~Export~~ turnover of zero-rated supply of services" means the value of zero-rated supply of taxable services exported-made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-
- Export turnover Zero-rated supply of services = is the aggregate of the payments received during the relevant period for export-zero-rated supply of services + and zero-rated supply of export services whose where supply has been completed for which payment had been received in advance in any period prior to the relevant period -reduced by advances received for zero-rated supply of export services for which the supply of services has not been completed during the relevant period;
- (E) "Adjusted Total turnover" means the turnover in a State or a Union territory, as defined under sub-section (~~107-112~~) of section 2, excluding the value of exempt supplies other than zero-rated supplies, during the relevant period;
- (F) "Relevant period" means the period for which the claim has been filed.

~~Provided that no refund of input tax credit shall be allowed if the supplier of goods and / or services avails of drawback allowed under the applicable Drawback Rules or claims rebate of tax paid under the Act or the IGST Act, 2011 in respect of such tax.~~

~~(5) The application for refund of any amount, after adjusting the tax payable by the applicant out of the advance tax deposited by him under section 19A at the time of registration, shall be claimed either in the last return required to be filed by him or only after filing of the said last return.~~

2. Acknowledgement

(~~61~~) Where the application relates to a claim for refund from the electronic cash ledger, an acknowledgement in **FORM GST RFD-02** shall be made available to the applicant through the Common Portal electronically, clearly indicating the date of filing of the claim for refund.

(~~72~~) The application for refund, other than claim for refund from electronic cash ledger, shall be forwarded to the proper officer who shall, within fifteen days of filing of the said application, scrutinize the application for its completeness and where the application is found to be complete in terms of sub-rule (2), (3) and (4) of rule 1, an acknowledgement in **FORM GST RFD-02** shall be made available to the applicant through the Common Portal electronically, clearly indicating the date of filing of the claim for refund.

(~~83~~) Where any deficiencies are noticed, the proper officer shall communicate the deficiencies to the applicant in **FORM GST RFD-03** through the Common Portal electronically, requiring him to file a refund application after rectification of such deficiencies.

(~~94~~) Where deficiencies have been communicated in **FORM GST RFD-03** under the GST Rules of the State, the same shall also deemed to have been communicated under this Rule along with deficiencies communicated under sub-rule (~~83~~).

[CGST Rules]

(94) Where deficiencies have been communicated in **FORM GST RFD-03** under the CGST Rules, the same shall also be deemed to have been communicated under this Rule along with deficiencies communicated under sub-rule (83).

[SGST Rules]

3. Grant of provisional refund

(1) The provisional refund under sub-section (6) of section 54 shall be granted subject to the following conditions -

- (a) the person claiming refund has, during any period of five years immediately preceding the tax period to which the claim for refund relates, not been prosecuted for any offence under the Act or under an existing law where the amount of tax evaded exceeds two hundred and fifty lakh rupees;
- (b) the GST compliance rating, where available, of the applicant is not less than five on a scale of ten;
- (c) no proceedings of any appeal, review or revision is pending on any of the issues which form the basis of the refund and if pending, the same has not been stayed by the appropriate authority or court.

(2) The proper officer, after scrutiny of the claim and the evidence submitted in support thereof and on being prima facie satisfied that the amount claimed as refund under sub-rule (1) is due to the applicant in accordance with the provisions of sub-section (6) of section 54, shall make an order in **FORM GST RFD-04**, sanctioning the amount of refund due to the said applicant on a provisional basis within a period not exceeding seven days from the date of acknowledgement under sub-rule ~~(1) or sub-rule (2) of rule 2 (7) of rule 1.~~

(3) The proper officer shall issue a payment advice in **FORM GST RFD-0805**, for the amount sanctioned under sub-rule (2) ~~to be and the same shall be~~ electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.

4. Order sanctioning refund

(1) Where, upon examination of the application, the proper officer is satisfied that a refund under sub-section (5) of section 54 is due and payable to the applicant, he shall make an order in **FORM GST RFD-0506**, sanctioning the amount of refund to which the applicant is entitled, mentioning therein, the amount, if any, refunded to him on a provisional basis under sub-section (6) of section 54, amount adjusted against any outstanding demand under the Act or under any ~~earlier existing~~ law and the balance amount refundable:

Provided that in cases where the amount of refund is completely adjusted against any outstanding demand under the Act or under any ~~existing earlier~~ law, an order giving details of the adjustment may be issued in **FORM GST RFD-0607**.

(2) Where the proper officer is satisfied, for reasons to be recorded in writing, that the whole or any part of the amount claimed as refund is not admissible or is not payable to the applicant, he shall issue a notice in **FORM GST RFD-0708** to the applicant, requiring him to furnish a reply ~~in FORM GST RFD-09~~ within fifteen days of the receipt of such notice and after considering the reply, make an order in **FORM GST RFD-0506**, sanctioning the amount of refund in whole or part, or rejecting the said refund claim and the said order shall be made available to the applicant electronically and the provision of sub-rule (1) shall, ~~apply mutatis mutandis.~~ **apply** to the extent refund is allowed:

Provided that no application for refund shall be rejected without giving the applicant a reasonable opportunity of being heard.

(3) Where the proper officer is satisfied that the amount refundable under sub-rule (1) or (2) is payable to the applicant under sub-section (8) of section 48, he shall make an order in **FORM GST RFD-06 5** and issue a payment advice in **FORM GST RFD-0805**, for the amount of refund ~~to and the same shall~~ be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.

(4) Where the proper officer is satisfied that the amount refundable under sub-rule (1) or ~~sub-rule~~ (2) is not payable to the applicant under sub-section (8) of section 54, he shall make an order in **FORM GST RFD-05-06** and issue an advice in **FORM GST RFD-0805**, for the amount of refund to be credited to the Consumer Welfare Fund.

5. Credit of the amount of rejected refund claim

(1) Where any deficiencies have been communicated under sub-rule (~~83~~) of rule ~~12~~, the amount debited under sub-rule (3) of rule 1 shall be re-credited to the electronic credit ledger.

(2) Where any amount claimed as refund is rejected under rule ~~34~~, either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in **FORM GST PMT-2A03**.

Explanation.— For the purposes of this rule, a refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking in writing to the proper officer that he shall not file an appeal.

6. Order sanctioning interest on delayed refunds

Where any interest is due and payable to the applicant under section 56, the proper officer shall make an order ~~along with and~~ a payment advice in **FORM GST RFD-0905**, specifying therein the amount of refund which is delayed, the period of delay for which interest is payable and the amount of interest payable, and such amount of interest shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.

7. Refund of tax to certain persons

(1) Any person eligible to claim refund of tax paid by him on his inward supplies as per notification issued ~~under clause (d) of sub-section (6) of~~ section ~~38-55~~ shall apply for refund in **FORM GST RFD-10** once in every quarter, electronically on the Common Portal, either directly or from a Facilitation Centre, notified by the Commissioner, along with a statement of inward supplies of goods or services ~~or both~~ in **FORM GSTR-11**, prepared on the basis of statement of outward supplies furnished by corresponding suppliers in **FORM GSTR-1**.

(2) An acknowledgement for receipt of the application for ~~claiming~~ refund shall be issued in **FORM GST RFD-02**.

(3) Refund of tax paid by the applicant shall be available if-

- (a) the inward supplies of goods ~~and/or~~ or services or both were received from a registered person against a tax invoice and the price of the supply covered under a single tax invoice exceeds five thousand rupees, excluding tax paid, if any;
- (b) name and GSTIN ~~or~~ UIN of the applicant is mentioned ~~on~~ the tax invoice; and
- (c) such other restrictions or conditions as may be specified in the notification are satisfied.

(4) The provisions of rule ~~3-4~~ shall ~~apply~~, *mutatis mutandis*, apply for the sanction and payment of refund under this rule.

(5) Where an express provision in a treaty or other international agreement, to which the President or the Government of India is a party, is inconsistent with the provisions of these rules, such treaty or international agreement shall prevail.

7. Consumer Welfare Fund

(1) All credits to the Consumer Welfare Fund shall be made under sub-rule (4) of rule 4.

(2) Any amount, having been credited to the Fund, ordered or directed as payable to any claimant by orders of the proper officer, appellate authority or Appellate Tribunal or court, shall be paid from the Fund.

(3) Any utilisation of amount from the Consumer Welfare Fund under sub-section (1) of section 58 shall be made by debiting the Consumer Welfare Fund account and crediting the account to which the amount is transferred for utilisation.

(4) The [Central/State] Government shall, by an order, constitute a Standing Committee with a Chairman, a Vice-Chairman, a Member Secretary and such other members as it may deem fit and the Committee shall make recommendations for proper utilisation of the money credited to the Consumer Welfare Fund for welfare of the consumers.

(5) The Committee shall meet as and when necessary, but not less than once in three months.

(6) Any agency or organisation engaged in consumer welfare activities for a period of three years registered under the Companies Act, 2013 (18 of 2013) or under any other law for the time being in force, including village or mandal or samiti level co-operatives of consumers especially Women, Scheduled Castes and Scheduled Tribes, or any industry as defined in the Industrial Disputes Act, 1947 (14 of 1947) recommended by the Bureau of Indian Standards to be engaged for a period of five years in viable and useful research activity which has made, or is likely to make, significant contribution in formulation of standard mark of the products of mass consumption, the Central Government or the State Government may make an application for a grant from the Consumer Welfare Fund:

Provided that a consumer may make application for reimbursement of legal expenses incurred by him as a complainant in a consumer dispute, after its final adjudication.

(7) All applications for grant from the Consumer Welfare Fund shall be made by the applicant Member Secretary, but the Committee shall not consider an application, unless it has been inquired into, in material details and recommended for consideration accordingly, by the Member Secretary.

(8) The Committee shall have powers -

(a) to require any applicant to produce before it, or before a duly authorised Officer of the Government such books, accounts, documents, instruments, or commodities in custody and control of the applicant, as may be necessary for proper evaluation of the application;

(b) to require any applicant to allow entry and inspection of any premises, from which activities claimed to be for the welfare of consumers are stated to be carried on, to a duly authorised officer of the Central Government or, as the case may be, State Government;

(c) to get the accounts of the applicants audited, for ensuring proper utilisation of the grant;

(d) to require any applicant, in case of any default, or suppression of material information on his part, to refund in lump-sum, the sanctioned grant to the Committee, and to be subject to prosecution under the Act;

- (e) to recover any sum due from any applicant in accordance with the provisions of the Act;
- (f) to require any applicant, or class of applicants to submit a periodical report, indicating proper utilisation of the grant;
- (g) to reject an application placed before it on account of factual inconsistency, or inaccuracy in material particulars;
- (h) to recommend minimum financial assistance, by way of grant to an applicant, having regard to his financial status, and importance and utility of nature of activity under pursuit, after ensuring that the financial assistance provided shall not be misutilised;
- (i) to identify beneficial and safe sectors, where investments out of Consumer Welfare Fund may be made and make recommendations, accordingly.
- (j) to relax the conditions required for the period of engagement in consumer welfare activities of an applicant;
- (k) to make guidelines for the management, administration and audit of the Consumer Welfare Fund.
- (9) The Central Consumer Protection Council and the Bureau of Indian Standards shall recommend to the GST Council, the broad guidelines for considering the projects or proposals for the purpose of incurring expenditure from the Consumer Welfare Fund.

DRAFT GOODS AND SERVICES TAX - REGISTRATION RULES, 2017

(March, 2017)

Chapter- REGISTRATION

1. Application for registration

- (1) ~~(1)~~ Every person, ~~(other than a non-resident taxable person,~~ a person supplying online information and data base access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 of the Integrated Goods and Services Tax Act, a person required to deduct tax at source under section 51 and a person required to collect tax at source under section 52), who is liable to be registered under sub-section (1) of section 25 and every person seeking registration under sub-section (3) of section 25 (hereinafter referred to in this Chapter as “the applicant”) shall, before applying for registration, declare his Permanent Account Number (PAN), mobile number, e-mail address, State or Union territory in **Part A** of **FORM GST REG-01** on the Common Portal either directly or through a Facilitation Centre notified by the Commissioner.
- Provided that a Special Economic Zone unit or Special Economic Zone developer shall make a separate application for registration as a business vertical distinct from its other units located outside Special Economic Zone.
- (2) (a) The PAN shall be validated online by the Common Portal from the database maintained by the Central Board of Direct Taxes constituted under the Central Board~~s~~ of Revenue Act, 1963 (54 of 1963)~~);~~ ;
- (b) The mobile number declared under sub-rule (1) shall be verified through a one-time password sent to the said mobile number~~;~~ and
- (c) The e-mail address declared under sub-rule (1) shall be verified through a separate one-time password sent to the said e-mail address.
- (3) On successful verification of the PAN, mobile number and e-mail address, a temporary reference number shall be generated and communicated to the applicant on the said mobile number and e-mail address.
- (4) Using the reference number generated under sub-rule (3), the applicant shall electronically submit an application in **Part B** of **FORM GST REG-01**, duly signed, along with documents specified in the said Form, at the Common Portal either directly or through a Facilitation Centre notified by the Commissioner.
- (5) On receipt of an application under sub-rule (4), an acknowledgement shall be issued electronically to the applicant in **FORM GST REG-02**.
- (6) A person applying for registration as a casual taxable person shall be given a temporary ~~identification-reference~~ number by the Common Portal for making advance deposit of tax in

accordance with the provisions of ~~under~~ section 27 and the acknowledgement under sub-rule (5) shall be issued electronically ~~only after the said deposit in the electronic cash ledger thereafter.~~

(7) ~~The person applying for registration under sub-rule (6) shall apply for registration at least five days before commencement of business and make an advance deposit of tax in an amount equivalent to the estimated tax liability during the period for which registration is sought, as specified in section 24.~~

2. Verification of the application

(1) The application shall be forwarded to the proper officer who shall examine the application and the accompanying documents and if the same are found to be in order, approve the grant of registration to the applicant within three common working days from the date of submission of application.

(2) Where the application submitted under rule 1 is found to be deficient, either in terms of any information or any document required to be furnished under the said rule, or where the proper officer requires any clarification with regard to any information provided in the application or documents furnished therewith, he may ~~so intimate~~ issue a notice to the applicant electronically in **FORM GST REG-03** within three common working days from the date of submission of application and the applicant shall furnish such clarification, information or documents sought electronically, in **FORM GST REG-04**, within seven common working days from the date of receipt of such intimation.

Explanation,- The clarification includes modification or correction of particulars declared in the application for registration, other than PAN, State, mobile number and e-mail address declared in **Part A of FORM GST REG-01**.

(3) Where a clarification under sub-rule (2) of the SGST Rules of the concerned State has been sought prior to any clarification, information or document being sought under sub-rule (2), the clarification, information or document furnished by the applicant shall be forwarded to the proper officer under said Rules for appropriate action.

(CGST Rules)

(3) Where a clarification under sub-rule (2) of the CGST Rules has been sought prior to any clarification, information or document being sought under the sub-rule (2), the clarification, information or document furnished by the applicant shall be forwarded to the proper officer under the said Rules for appropriate action.

(SGST Rules)

(4) Where the proper officer, referred to in sub-rule (3), is satisfied with the clarification, information or documents furnished by the applicant, he may approve the grant of registration to the applicant within seven common working days from the date of receipt of such clarification or information or documents.

(5) Where no reply is furnished by the applicant in response to the notice issued under sub-rule (2) within the prescribed period or where the proper officer is not satisfied with the clarification, information or documents furnished, he shall, for reasons to be recorded in writing, reject such application and inform the applicant electronically in **FORM GST REG-05**.

(6) If the proper officer fails to take any action -

(a) within three common working days from the date of submission of application, or

(b) within seven common working days from the date of receipt of clarification, information or documents furnished by the applicant under sub-rule (2),

the application for grant of registration shall be deemed to have been approved.

3. Issue of registration certificate

(1) Subject to the provisions of sub-section (12) of section 25, where the application for grant of registration has been approved under rule 2, a certificate of registration in **FORM GST REG-06** ~~showing the for the~~ principal place of business and ~~for every~~ additional place(s) of business shall be made available to the applicant on the Common Portal.

(2) The registration shall be effective from the date on which the person becomes liable to registration where the application for registration has been submitted within thirty days from such date.

(3) Where an application for registration has been submitted by the applicant after thirty days from the date of his becoming liable to registration, the effective date of registration shall be the date of grant of registration under sub-rule (1) or sub-rule (4) or sub-rule (6) of rule 2.

(4) Every certificate of registration made available on the Common Portal shall be digitally signed by the proper officer under the Act.

(5) Where the registration has been granted under sub-rule (6) of rule 2, the applicant shall be communicated the registration number and the certificate of registration under sub-rule (1), duly signed, shall be made available to the applicant on the common portal.

4. Separate registration for multiple business verticals within a State or a Union territory

(1) Any person having multiple business verticals within a State or a Union territory, requiring a separate registration for any of its business verticals under sub-section (2) of section ~~19-25~~ shall be granted separate registration in respect of each of the verticals subject to the following conditions:

(a) Such person has more than one business vertical as defined ~~under sub-section in~~ caluse (18) of section 2 of the Act;

(b) No business vertical of a taxable person shall be granted registration to pay tax under section 10 if any one of the other business verticals of the same person is paying tax under section 9.

Explanation.- Where any business vertical of a registered person that has been granted a separate registration becomes ineligible to pay tax under section ~~810~~, all other business verticals of the said person shall become ineligible to pay tax under the said section.

(c) All separately registered business verticals of such person shall pay tax under this Act on supply of goods or services or both made to another registered business vertical of such person and issue a tax invoice for such supply.

(2) A registered person eligible to obtain separate registration for business verticals may submit a separate application in **FORM GST REG-01** in respect of each such vertical.

(3) The provisions of rule 1 and rule 2 relating to verification and grant of registration shall, ~~apply~~ *mutatis mutandis*, apply to an application submitted under this rule.

5. Grant of registration to persons required to deduct tax at source or to collect tax at source

(1) Any person required to deduct tax ~~under-in accordance with the provisions of sub-section (1) of~~ section 51 or a person required to collect tax at source ~~in accordance with the provisions of under~~ section 52 shall electronically submit an application, duly signed, in **FORM GST REG-07** for grant of registration, through the Common Portal, either directly or from a Facilitation Centre notified by the Commissioner.

(2) The proper officer may grant registration after due verification and issue a certificate of registration in **FORM GST REG-06** within three common working days from the date of submission of application.

(3) Where, upon an enquiry or pursuant to any other proceeding under the Act, the proper officer is satisfied that a person to whom a certificate of registration in **FORM GST REG-06** has been issued is no longer liable to deduct tax at source under section 51 or collect tax at source under section 52, the said officer may cancel the registration issued under sub-rule (2) and such cancellation shall be communicated to the said person in **FORM GST REG-08**:

Provided that the proper officer shall not cancel the *follow the procedure prescribed in rule 14 before cancellation of registration registration without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.*

86. Grant of registration to non-resident taxable person

(1) A non-resident taxable person shall electronically submit an application, *alongwith a valid passport,* for registration, duly signed, in **FORM GST REG-09**, at least five days prior to *the* commencement of ~~the~~ business at the Common Portal either directly or through a Facilitation Centre notified by the Commissioner.

(2) A person applying for registration as a non-resident taxable person shall be given a temporary *reference identification* number by the Common Portal for making an advance deposit of tax under section 27 and the acknowledgement under sub-rule (5) of rule 1 shall be issued thereafter.

(3) The person applying for registration under sub-rule (1) shall make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person *during for* the period for which registration is sought, as specified in section 27.

(4) The provisions of rule 1 and rule 2 relating to verification and grant of registration shall ~~apply~~ *mutatis mutandis, apply* to an application *submitted made* under this rule.

Explanation. – The application for registration made by a non-resident taxable person shall be signed by his authorized signatory who shall be a person resident in India having a valid PAN.

6A. Grant of registration to a person supplying online information and data base access or retrieval services from a place outside India to a non-taxable online recipient

(1) Any person supplying online information and data base access or retrieval services from a place outside India to a non-taxable online recipient shall electronically submit an application for registration, duly signed, in FORM GST REG-09A, at the Common Portal.

(2) The applicant referred to in sub-rule (1) shall be granted registration, in FORM GST REG-06, subject to such conditions and restrictions and by such officer as may be notified by the Central Government on the recommendations of the Council.

167. Extension in period of operation by casual taxable person and non-resident taxable person

(1) Where a registered casual taxable person or a non-resident taxable person intends to extend the period of registration indicated in his application of registration, an application in **FORM GST REG-25-10** shall be furnished electronically through the Common Portal, either directly or through a Facilitation Centre notified by the Commissioner, by such person before the end of the validity of registration granted to him.

(2) The application under sub-rule (1) shall be acknowledged only on payment of the amount specified in sub-section (2) of section ~~19A~~27.

108. Suo moto registration

(1) Where, ~~pursuant to~~during the course of any survey, enquiry, inspection, search or any other proceedings under the Act, the proper officer finds that a person liable to registration under the Act has failed to apply for such registration, such officer may register the said person on a temporary basis and issue an order in **FORM GST REG-13**~~11~~.

(2) The registration ~~granted~~ issued under sub-rule (1) shall be effective from the date of order granting of registration.

(3) Every person to whom a temporary registration has been granted under sub-rule (1) shall, within ~~ninety thirty~~ days from the date of the grant of such registration ~~under the said sub-rule~~, submit file an application for registration in the form and manner provided in rule 1 unless the said person has filed an appeal against the grant of temporary registration, in which case the application for registration shall be submitted within ~~applied for~~ thirty days from the after-date of issuance of order upholding the liability to registration register by the Appellate Authority.

(4) The provisions of rule 2 and rule 3 relating to verification and issue of certificate of registration shall, ~~apply mutatis mutandis~~, apply to an application submitted under sub-rule (3).

(5) The Registration Number (GSTIN) assigned pursuant to verification under sub-rule (4) shall be effective from the date of order granting registration under sub-rule (1).

69. Assignment of unique identity number to certain special entities

(1) The proper officer shall, on the recommendation of the Ministry of External Affairs, Government of India, grant a unique identity number to the entities mentioned in clause (a) or, as the case may be, the entities mentioned in clause (b) of sub-section (9) of section 25 and a certificate of registration shall be made available to such entities on the Common Portal in FORM GST REG-06.

~~(2)~~ Every person required to obtain a unique identity number under sub-section (6) of section 19 may submit an application, electronically in FORM GST REG-09, duly verified in the manner specified in rule 1, at the Common Portal either directly or through a Facilitation Centre, notified by the Board or Commissioner. Every person required to obtain a unique identity number under clause (b) of sub-section (9) of section 25 may submit an application, electronically in FORM GST REG-12, duly verified in the manner specified in rule 1, at the Common Portal either directly or through a Facilitation Centre notified by the Commissioner.

(3) The proper officer shall, upon submission of an application under sub-rule (2),- assign a unique identity number to the said person and a certificate in FORM GST REG-06 shall be made available to the applicant on the Common Portal within three common working days from the date of submission of application. The proper officer may, upon submission of an application in FORM GST REG-9 or after filling up the said form, assign a Unique Identity Number to the said person and issue a certificate in FORM GST REG-06, within three common working days from the date of submission of application.

(4) Where, upon an enquiry or pursuant to any other proceedings under the Act, the proper officer is satisfied that a person to whom a certificate of registration in FORM GST REG-06 has been issued is no longer required to be registered, the said officer may cancel the registration granted under sub-rule (1) or sub-rule (3) and such cancellation shall be communicated to the said person electronically in FORM GST REG-08.

710. Display of registration certificate and GSTIN ~~in-on~~ the name board

- (1) Every registered person shall display his certificate of registration in a prominent location at his principal place of business and at every additional place or places of business.
- (2) Every registered person shall display his GSTIN ~~in-on~~ the name board exhibited at the entry of his principal place of business and at every additional place or places of business.

911. Amendment of registration

(1) Where there is any change in any of the particulars furnished in the application for registration in **FORM GST REG-01, or FORM GST REG-07, or FORM GST REG-09 or FORM GST REG-09A or FORM GST-REG-1012**, as the case may be, either at the time of obtaining registration or as amended from time to time, the registered person shall, within fifteen days of such change, submit an application ~~electronically~~, duly signed, electronically in **FORM GST REG-1113** ~~electronically~~, along with documents relating to such change at the Common Portal either directly or through a Facilitation Centre notified by the Commissioner.

(2) ~~(a) Where the change relates to the Name of Business, Principal Place of Business, and details of partners or directors, karta, Managing Committee, Board of Trustees, Chief Executive Officer or equivalent, responsible for day to day affairs of the business which does not warrant cancellation of registration under section 21, the proper officer shall approve the amendment within fifteen common working days from the date of receipt of application in FORM GST REG-11 after due verification and on being satisfied about the need to make amendment and issue an order in FORM GST REG-12 electronically and such amendment shall take effect from the date of occurrence of the event warranting amendment.~~

(a) Where the change relates to-

(i) legal name of business;

(ii) address of the principal place of business or any additional place of business; or

(iii) addition, deletion or retirement of partners or directors, Karta, Managing Committee, Board of Trustees, Chief Executive Officer or equivalent, responsible for day to day affairs of the business,-

which does not warrant cancellation of registration under section 29, the proper officer shall approve the amendment within fifteen common working days from the date of receipt of application in FORM GST REG-13 after due verification and issue an order in FORM GST REG- 14 electronically and such amendment shall take effect from the date of occurrence of the event warranting amendment.

(b) The change relating to sub-clause (i) and sub-clause (iii) of clause (a) shall be applicable for all registrations of the registered person obtained on the same PAN, whether in the same State or Union territory or any other State or Union territory.

~~(bc)~~ Where the change relates to any particulars other than those specified in clause (a), the certificate of registration shall stand amended upon submission of the application in **FORM GST REG-1113** on the Common Portal:

Provided that any change in the mobile number or e-mail address of the authorised signatory submitted under rule 1, as amended from time to time, shall be carried out only after online verification through the Common Portal in the manner provided under the said rule-1.

~~(ed)~~ Where a change in the constitution of any business results in change of the Permanent Account Number (PAN) of a registered person, the said person shall apply for fresh registration in **FORM GST REG-01**.

(3) Where the proper officer is of the opinion that the amendment sought under clause (a) of sub-rule (2) is either not warranted or the documents furnished therewith ~~is-are~~ incomplete or incorrect, he may, ~~by a notice in FORM GST REG-03,~~ within fifteen common working days from the date of receipt of the application in **FORM GST REG-1113**, serve a notice in FORM GST REG-03, require requiring the registered ~~taxable~~ person to show cause, within seven common working days of the service of the ~~FORM GST REG-03 said notice~~, as to why the application submitted under sub-rule (1) shall not be rejected.

(4) The taxable person ~~seeking amendment~~ shall furnish a file reply to the notice to show cause, issued under sub-rule 3, in **FORM GST REG-04** within seven common working days from the date of the service of the receipt of the said notice.

(5) Where the reply furnished under sub-rule (4) is found to be not satisfactory or where no reply is furnished in response to the notice issued under sub-rule (3) within the period prescribed in sub-rule (4), the proper officer shall reject the application submitted under sub-rule (1) and pass an order in FORM GST REG -05.

~~(56)~~ Where a notice to show cause has already been issued by the proper officer under the [SGST Rules of the State/CGST Rules], no notice shall be issued under sub-rule (3) by the proper officer.

~~(67)~~ If the proper officer fails to take any action-

(a) within fifteen common working days from the date of submission of application, or

(b) within seven common working days from the date of receipt of reply to the notice to show cause under sub-rule (4) the clarification, information or documents furnished by the applicant under sub-rule (3),

the certificate of registration shall stand amended to the extent applied for and the amended certificate shall be made available to the registered person on the Common Portal.

1112. Application for cancellation of registration

~~(1)~~ A registered person, other than a person to whom a unique identification number has been granted under rule 9 or a person to whom registration has been granted under rule 5, seeking cancellation of his registration under sub-section (1) of section ~~26-29~~ shall electronically submit an application in **FORM GST REG-1514**, including therein the details of inputs held in stock or inputs contained in semi-finished or finished goods held in stock and of capital goods held in stock on the date from which cancellation of registration is sought, closing stock and liability thereon, details of the payment, if any, made against such liability and may furnish, along with the application, relevant documents in support thereof at the Common Portal within thirty days of occurrence of event warranting cancellation, either directly or through a Facilitation Centre notified by the Commissioner.

~~Provided that no application for cancellation of registration shall be considered in case of a taxable person, who has registered voluntarily, before the expiry of a period of one year from the effective date of registration.~~

~~(2) Every registered person, seeking cancellation of registration under sub-rule (1) shall furnish a final return prescribed under rule Return--.~~

13. Registration to be cancelled in certain cases

The registration granted to a person is liable to be cancelled if the said person—

(a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of the Act or the rules made thereunder, with the intention to evade tax;

(b) issues any invoice or bill without supply of goods or services in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilization of input tax credit or refund of tax;

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

(d) collects any amount as representing the tax but fails to pay the same to the Central/State Government beyond a period of three months from the date on which such payment becomes due; or

(e) fails to pay any amount of tax, interest or penalty to the account of the Central/State Government beyond a period of three months from the date on which such payment becomes due—

and the amount of tax not paid or evaded, interest or penalty not paid, or the input tax credit availed or utilized or refund obtained under clause (a) or clause (b) or clause (c) or clause (d) or clause (e) exceeds ten lakh rupees.

1214. Cancellation of registration

(1) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29, he ~~shall~~may issue a notice to such person in **FORM GST REG-1516**, requiring him to show cause within seven common working days from the date of service of such notice as to why his registration should not be cancelled:

Provided that where a notice for cancellation has been issued under [SGST rules of the State/CGST Rules], no notice shall be issued under sub-rule (1).

(2) The reply to the show cause notice issued under sub-rule (1) shall be furnished in FORM REG – 17 within the period prescribed in the said sub-rule.

~~(23) Where the proper officer is satisfied that a taxable person who has submitted an application for cancellation of his registration is no longer liable to be registered or his registration is liable to be cancelled under section 21, he the proper officer may shall~~ issue ~~of~~ an order in **FORM GST REG-1618**, ~~to be passed~~ within thirty days from the date of application submitted under sub-rule (1) of rule ~~1112 or, as the case may be, the date of reply to the show cause issued under sub-rule (1), cancel the registration, with effect from a date to be determined by him and notify the taxable person, directing to pay arrears of any tax, interest or penalty including the amount liable to be paid under sub-section(7) of section 21.~~

(4) Where the reply furnished under sub-rule (2) is not found to be satisfactory or the registered person has not furnished any reply to the show cause notice issued under sub-rule (1) within the prescribed period, the proper officer may cancel the registration, with effect from a date to be determined by him and notify such person in FORM GST REG-18, directing him to pay arrears of any tax, cess, interest or penalty including the amount liable to be paid under sub-section (5) of section 29.

(5) Where the reply furnished under sub-rule (2) is found to be satisfactory, the proper officer shall drop the proceeding and pass an order in FORM GST REG –19.

~~(36)~~ The provisions of sub-rule ~~(13)~~ shall, ~~apply mutatis mutandis,~~ apply to the legal heirs of a deceased proprietor, as if the application had been submitted by the proprietor himself.

1315. Revocation of cancellation of registration

(1) A ~~registered taxable~~ person, whose registration is cancelled by the proper officer on his own motion, may submit an application for revocation of cancellation of registration, in **FORM GST REG-20**, to such proper officer, within thirty days from the date of service of the order of cancellation of registration at the Common Portal either directly or through a Facilitation Centre notified by the ~~Board~~ **or** Commissioner:

~~Provided that no application for revocation shall be filed if the registration has been cancelled for the failure of the taxable person to furnish returns, unless such returns are filed and any amount due as tax, in terms of such returns has been paid along with any amount payable towards interest, penalties and late fee payable in respect of the said returns.~~

(2)(a) Where the proper officer is satisfied, for reasons to be recorded in writing, that there are sufficient grounds for revocation of cancellation of registration, he shall revoke the cancellation of registration by an order in **FORM GST REG-21** within thirty days from the date of receipt of ~~such~~ the application and communicate the same to the applicant.÷

~~Provided that cancellation of registration for failure on the part of the registered person to furnish returns shall be revoked if such returns are furnished and the amount of tax, interest, penalties and late fee in respect of the said returns has been paid:~~

~~Provided further that cancellation of registration under rule 13 shall be revoked if the amount of tax, interest or penalty referred to in clause (a) or clause (b) or clause (c) or clause (d) or clause (e) has been paid.~~

(b) The proper officer may, for reasons to be recorded in writing, under circumstances other than those specified in clause (a), by an order in **FORM GST REG-05**, reject the application for revocation of cancellation of registration and communicate the same to the applicant.

(3) The proper officer ~~may require the applicant to furnish, within three common working days of the filing of the application, such additional information or clarification as, in his opinion, may be required for verifying the particulars furnished in the said application, in FORM GST REG-03 and the applicant shall furnish the information or the clarification within seven common working days from the date of the service of notice in FORM GST REG-04 shall, before passing the order referred to in clause (b) of sub-rule (2), issue a notice in FORM GST REG-22 requiring the applicant to show cause as to why the application submitted for revocation under sub-rule (1) should not be rejected and the applicant shall furnish the reply within seven common working days from the date of the service of notice in FORM GST REG- 23.~~

(4) Upon receipt of the information or clarification in **FORM GST REG-0423**, the proper officer may proceed to dispose of the application in the manner specified in sub-rule (2) within thirty days from the date of receipt of such information or clarification from the applicant.÷

~~Provided that the application shall not be rejected without affording the applicant an opportunity of being heard by issue of a notice in FORM GST REG-19 within thirty days from the date of receipt of such application.~~

1416. Migration of persons registered under existing earlier law

(1) (a) Every person, other than a person deducting tax at source or an Input Service Distributor, registered under an existing earlier law and having a Permanent Account Number issued under the Income-tax Act, 1961 (Act 43 of 1961) shall ~~be granted registration on a provisional basis and a certificate of registration in FORM GST REG21, incorporating the Goods and Services Tax Identification Number (GSTIN) therein, shall be made available on the Common Portal enrol on the~~

~~Common Portal~~ by validating his e-mail address and mobile number and furnish information in FORM GST REG-24, either directly or through a Facilitation Centre notified by the Commissioner.

(b) Upon enrolment under clause (a), the said person shall be granted registration on a provisional basis and a certificate of registration in FORM GST REG-25, incorporating the Goods and Services Tax Identification Number (GSTIN) therein, shall be made available to him on the Common Portal:

Provided that a taxable person who has been granted multiple registrations under the existing law on the basis of a single PAN shall be granted only one provisional registration under the Act:

Provided further that a person having centralized registration under Chapter V of the Finance Act, 1994 shall be granted only one provisional registration in the State or Union territory in which he is registered under the existing law.

(2)(a) Every person who has been granted a provisional registration under sub-rule (1) shall submit an application electronically in **FORM GST REG-2024**, duly signed, along with the information and documents specified in the said application, on the Common Portal either directly or through a Facilitation Centre notified by the ~~Board or~~ Commissioner.

(b) The information asked for in clause (a) shall be furnished within ~~the a~~ period ~~specified in section 142 of three months~~ or within such further period as may be extended by ~~the Board or Commissioner~~ in this behalf.

(c) If the information and the particulars furnished in the application are found, by the proper officer, to be correct and complete, a certificate of registration in **FORM GST REG-06** shall be made available to the registered ~~taxable~~-person electronically on the Common Portal.

(3) Where the particulars ~~and/~~ or information specified in sub-rule (2) have either not been furnished or not found to be correct or complete, the proper officer shall cancel the provisional registration granted under sub-rule (1) and issue an order in **FORM GST REG-2226**:

Provided that no provisional registration shall be cancelled as aforesaid without serving a notice to show cause in **FORM GST REG-23-27** and without affording the person concerned a reasonable opportunity of being heard:

Provided further that the show cause notice issued in FORM GST REG-27 can be vacated by issuing an order in FORM GST REG-19, if it is found, after affording the person an opportunity of being heard, that no such cause exists for which the notice was issued.

(4) Every person registered under any of the ~~earlier-existing~~ laws, who is not liable to be registered under the Act may, within thirty days from the appointed day, at his option, ~~file-electronically~~ submit an application electronically in **FORM GST REG-24-28** at the Common Portal for cancellation of the registration ~~provisionally~~ granted to him and the proper officer shall, after conducting such enquiry as deemed fit, cancel the said ~~provisional~~ registration.

17. Physical verification of business premises in certain cases

Where the proper officer is satisfied that the physical verification of the place of business of a ~~registered taxable~~ person is required after grant of registration, he may get such verification done and ~~upload~~ the verification report along with other documents, including photographs, shall be uploaded in FORM GST REG-26-29 on the Common Portal within three working days following the date of such verification.

18. Method of authentication

(1) All applications, including reply, if any, to the notices, returns, appeals or any other document required to be submitted under these rules shall be so submitted filed electronically at the Common Portal with digital signature certificate or through e-signature as specified under the Information Technology Act, 2000 (21 of 2000) or through any other mode of signature notified by the Board/~~Commissioner~~ in this behalf.

(2) Each document including the return furnished filed online shall be signed ~~by~~-

(a) in the case of an individual, by the individual himself or by some other person duly authorised by him in this behalf, and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) in the case of a Hindu Undivided Family, by a Karta and where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family or by the authorised signatory of such Karta;

(c) in the case of a company, by the chief executive officer or authorised signatory thereof;

(d) in the case of a Government or any Governmental agency or local authority, by an officer authorised in this behalf;

(e) in the case of a firm, by any partner thereof, not being a minor or authorised signatory;

(f) in the case of any other association, by any member of the association or persons or authorised signatory;

(g) in the case of a trust, by the trustee or any trustee or authorised signatory; and

(h) in the case of any other person, by some person competent to act on his behalf.

(3) Any application, return, reply or any other document signed by a person who is not authorised under sub-rule (2), shall be treated as if no application, return, reply or any other document has been filed.

(24) All notices, certificates and orders ~~and notices~~ under these Rules this Chapter shall be issued electronically by the proper officer or any other officer authorised to issue any notice or order, through digital signature certificate specified under the Information Technology Act, 2000 (21 of 2000).

DRAFT
GOODS AND SERVICES TAX -
RETURN RULES, 2017

(March, 2017)

Chapter - RETURNS

1. Form and manner of furnishing details of outward supplies

~~(1) Every registered taxable person required to furnish the details:~~

~~(a) of outward supplies of goods and/or services effected during a tax period under sub-section (1) of section 32 **25**; and~~

~~(b) of outward supplies of goods and/or services effected during an earlier tax period under sub-section (2) of section **25**~~

~~shall furnish such details in FORM GSTR-1 electronically through the Common Portal either directly or from a Facilitation Centre notified by the Board or Commissioner.~~

~~(1) Every registered person required to furnish the details of outward supplies of goods or services or both effected during a tax period under section 37, shall furnish such details in FORM GSTR-1 electronically through the Common Portal either directly or through a Facilitation Centre notified by Commissioner.~~

~~(2) The details of outward supplies of goods or services or both furnished in FORM GSTR-1 shall include -~~

- ~~(a) invoice wise inter-State and intra-State outward supplies made to registered persons having GSTIN or UIN indicating therein the place of supply if the same is different from the location of the recipient, supplies on which tax is payable on reverse charge basis;~~
- ~~(b) invoice wise inter-State supplies made to un-registered persons having invoice value of more than two lakh and fifty thousand rupees, place of supply if the same is different from location of recipient;~~
- ~~(c) State wise inter-State supplies made to un-registered persons having invoice value upto two lakh and fifty thousand rupees;~~
- ~~(d) intra-State supplies made to un-registered persons;~~
- ~~(e) supplies on which tax is paid on provisional basis and GSTIN of e-commerce operator for supplies made through such operator;~~
- ~~(f) exports (including deemed exports);~~
- ~~(g) tax payable on payments received before issue of invoice if invoice for a supply is issued in the subsequent tax period(s);~~
- ~~(h) tax payable on payments received before issue of invoice if invoice is issued in the same month but payment received is more than the value of supply covered by the invoice;~~
- ~~(i) debit and credit notes and refund vouchers issued to the recipients;~~
- ~~(j) inter-State and intra-State exempted supplies made in a consolidated form, if not covered above;~~
- ~~(k) goods including capital goods sent for job work and return thereof to the place of business;~~
- ~~(l) adjustment of tax paid already on payments received before issue of invoice;~~
- ~~(m) summary of invoices issued; and~~
- ~~(n) HSN/SAC wise summary of supplies made.~~

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(23) The details of outward supplies furnished by the supplier shall be made available electronically to ~~each of the concerned~~ registered ~~taxable~~ persons (recipients) in **Part A** of **FORM GSTR-2A**, ~~in FORM GSTR-4A and in FORM GSTR-6A~~ through the Common Portal after the due date of filing of **FORM GSTR-1**.

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(34) The details of inward supplies added, corrected or deleted by the recipient in his **FORM GSTR-2** under ~~sub-section (1) of section 26, 38~~ or **FORM GSTR-4** under section ~~27-39~~ shall be made available to the supplier electronically in **FORM GSTR-1A** through the Common Portal and such supplier may either accept or reject the modifications made by the recipient and **FORM GSTR-1** furnished ~~earlier~~ by the supplier shall stand amended to the extent of modifications accepted by him.

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2. Form and manner of furnishing details of inward supplies

(1) Every registered ~~taxable~~ person required to furnish the details of inward supplies of goods ~~and/or~~ services ~~or both~~ received during a tax period under sub-section (2) of section ~~26 38~~ shall, on the basis of details contained in **Part A**, ~~Part B, Part C and Part D~~ of **FORM GSTR-2A**, prepare such details ~~in the manner as~~ specified in sub-section (1) of the said section and furnish the same in **FORM GSTR-2** electronically through the Common Portal, either directly or from a Facilitation Centre notified by the ~~Board or~~ Commissioner, after including therein details of such other inward supplies, if any, required to be furnished under sub-section (2) of section ~~26 38~~.

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(2) Every registered ~~taxable~~ person shall furnish the details, if any, required under sub-section ~~(3) of section 26(5) of section 38~~ electronically in **FORM GSTR-2**.

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(3) The ~~recipient of goods and/or services~~ ~~registered person~~ shall specify the inward supplies in respect of which he is not eligible, either fully or partially, for input tax credit in **FORM GSTR-2** where such eligibility can be determined at the invoice level.

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(4) The ~~registered person~~ ~~recipient of goods and/or services~~ shall declare the quantum of ineligible input tax credit on inward supplies which is relatable to non-taxable supplies or for purposes other than business and cannot be determined at the invoice level in **FORM GSTR-2**.

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(5) The details of invoices furnished by an Input Service Distributor in his return in **FORM GSTR-6** under rule 7 shall be made available to the recipient of credit in **Part B** of **FORM GSTR 2A** electronically through the Common Portal and the said recipient may include the same in **FORM GSTR-2**.

(6) The details of tax deducted at source ~~furnished~~ by the deductor under ~~sub-section (3) of section 39 37 furnished~~ in **FORM GSTR-7** shall be made available to the deductee in **Part C** of **FORM GSTR-2A** electronically through the Common Portal and the said deductee may include the same in **FORM GSTR-2**.

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(7) The details of tax collected at source ~~furnished~~ by an e-commerce operator under section ~~52 43C furnished~~ in **FORM GSTR-8** shall be made available to the concerned ~~taxable~~ person in **Part D** of **FORM GSTR 2A** electronically through the Common Portal and such taxable person may include the same in **FORM GSTR-2**.

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(8) The details of inward supplies of goods or services or both furnished in Form GSTR-2 shall include-

- (a) invoice wise inter-State and intra-State inward supplies received from registered persons and invoices of inward supplies received from un-registered persons;
- (b) import of goods and services made;
- (c) tax payable on reverse charge basis on payments made before issue of invoice if invoice for a supply is issued in the subsequent tax period(s);
- (d) tax payable on reverse charge basis on payments made before issue of invoice if invoice is issued in the same month and payment made is more than the value of supply covered by the invoice;
- (e) debit and credit notes received from supplier;
- (f) inter-State and intra-State supplies received from unregistered persons and composition taxpayers and other exempt supplies received, in a consolidated form, if not covered above;
- (g) adjustment of tax paid on reverse charge basis on payments made before issue of invoice;
- (h) credit received from Input Service Distributor for eligible and ineligible input tax credit;
- (i) receipt of tax deducted at source and tax collected at source;
- (j) reversal of input tax credit availed earlier;
- (k) invoices for which payment has not been made to the supplier within six months of date of issue of invoice;
- (l) invoices for which payment has been made to the supplier after six months of date of invoice; and
- (m) HSN/SAC wise summary of supplies received.

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3. Form and manner of submission of monthly return

(1) Every registered ~~taxable~~ person, other than ~~an Input Service Distributor or a non-resident taxable person or a taxable~~ person paying tax under section ~~8 10 or section 51 or, as the case may be, under section 52~~ shall furnish a return ~~specified~~ under sub-section (1) of section ~~39 27~~ in **FORM GSTR-3** electronically through the Common Portal either directly or ~~through from~~ a Facilitation Centre notified by the ~~Board or~~ Commissioner.

(2) **Part A** of the return under sub-rule (1) shall be electronically generated on the basis of information furnished through ~~returns in FORM GSTR-1, FORM GSTR-2 and based on other liabilities of preceding tax periods. -electronic credit ledger, electronic cash ledger and electronic tax liability register of the taxable person-~~

(3) Every registered ~~taxable~~ person furnishing the return under sub-rule (1) shall, subject to the provisions of section ~~49 35~~, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the Act or these rules by debiting the electronic cash ledger ~~and/~~ or electronic credit ledger ~~and include the as-per-the~~ details ~~contained~~ in **Part B** of the return in **FORM GSTR-3**.

(4) A registered ~~taxable~~ person, claiming refund of any balance in the electronic cash ledger ~~in accordance with the provisions of as-per~~ sub-section (6) of section ~~49 35~~, may claim

such refund in **Part B** of the return in **FORM GSTR-3** and such return shall be deemed to be an application filed under section ~~54~~ **38**.

(5) Where the time limit for furnishing ~~of details in FORM GSTR-1 under sub-section (1) of section 37 25 and in FORM GSTR-2 under sub-section (2) of section 38 26~~ has been extended, return in **FORM GSTR-3B, in lieu of FORM GSTR-3**, may be furnished in such manner as may be notified by the Commissioner ~~/Board~~.

4. Form and manner of submission of quarterly return by the composition supplier

(1) Every registered ~~taxable~~ person paying tax under section ~~10 8~~ shall, after adding, correcting or deleting the details ~~contained in FORM GSTR-4A~~, furnish a quarterly return in **FORM GSTR-4** electronically through the Common Portal, either directly or ~~through from~~ a Facilitation Centre notified by the ~~Board or~~ Commissioner.

(2) Every registered ~~taxable~~ person furnishing the return under sub-rule (1) shall discharge his liability towards tax, interest, penalty, fees or any other amount payable under the Act or these rules by debiting the electronic cash ledger.

(3) The return furnished under sub-rule (1) shall include:

- (a) invoice wise inter-State and intra-State inward supplies received from registered and un-registered persons;*
- (b) import of goods and services made;*
- (c) outward supplies made;*
- (d) tax payable under reverse charge on payments made before issue of invoice if invoice for a supply is issued in the subsequent tax period(s);*
- (e) tax payable under reverse charge on payments made before issue of invoice if invoice is issued in the same month and payment made is more than the value of supply covered by the invoice;*
- (f) debit and credit notes issued and received;*
- (g) TDS credit received;*
- (h) adjustment of tax paid on reverse charge basis for payments made before issue of invoice; and*
- (i) tax payable on outward supplies and tax payable on inward supplies on reverse charge basis.*

(4) A registered person who has opted to pay tax under section 10 from the beginning of a financial year, shall furnish the details of outward and inward supplies and return under rule 1, rule 2 and rule 3 relating to the period during which the person was liable to furnish such details and returns till the due date of furnishing the return for the month of September of the succeeding financial year or furnishing of annual return of the preceding financial year, whichever is earlier.

~~Similar provision is required for the persons opting out of the composition scheme to allow to file missing invoices, if any, while he was a composition taxpayer.~~

5. Form and manner of submission of return by non-resident taxable person

Every registered non-resident taxable person shall furnish a return in **FORM GSTR-5** electronically through the Common Portal, either directly or ~~through from~~ a Facilitation Centre notified by the ~~Board or~~ Commissioner, including therein the details of outward supplies and inward supplies and shall pay the tax, interest, penalty, fees or any other amount payable under

the Act or these rules within twenty days after the end of a tax period or within seven days after the last day of the validity period of registration, whichever is earlier.

6. Form and manner of submission of return by an Input Service Distributor

Every Input Service Distributor shall, after adding, correcting or deleting the details contained in **FORM GSTR-6A**, furnish electronically a return in **FORM GSTR-6**, containing the details of tax invoices on which credit has been received and those issued under section ~~20 47~~, through the Common Portal either directly or from a Facilitation Centre notified by the ~~Board or~~ Commissioner.

7. Form and manner of submission of return by a person required to deduct tax at source

(1) Every registered ~~taxable~~ person required to deduct tax at source under section ~~51 37~~ shall furnish a return in **FORM GSTR-7** electronically through the Common Portal either directly or from a Facilitation Centre notified by the ~~Board or~~ Commissioner.

(2) The details furnished by the ~~operator deductor~~ under sub-rule (1) shall be made available electronically to each of the suppliers in **Part C** of **FORM GSTR-2A** on the Common Portal after the due date of filing of **FORM GSTR-7**.

(3) The certificate referred to in sub-section (3) of section ~~51 37~~ shall be made available electronically to the deductee on the Common Portal in **FORM GSTR-7A** on the basis of the return ~~filed furnished~~ under sub-rule (1).

8. Form and manner of submission of statement of supplies ~~effected through by an e-commerce operator~~

(1) Every ~~e-electronic C~~ commerce operator required to collect tax at source under section ~~52 43C~~ shall furnish a statement in **FORM GSTR-8** electronically through the Common Portal, either directly or from a Facilitation Centre notified by the ~~Board or~~ Commissioner, containing details of supplies effected through such operator and the amount of tax collected as required under sub-section (1) of section ~~52 43C~~.

(2) The details furnished by the operator under sub-rule (1) shall be made available electronically to each of the suppliers in **Part D** of **FORM GSTR-2A** on the Common Portal after the due date of filing of **FORM GSTR-8**.

9. Notice to non-filers of returns

A notice in **FORM GSTR-3A** shall be issued, electronically, to a registered ~~taxable~~ person who fails to furnish return under section ~~39 27~~ and section ~~45 34~~.

10. Matching of claim of input tax credit

The following details relating to the claim of input tax credit on inward supplies including imports, provisionally allowed under section ~~41 28~~, shall be matched under section ~~42 29~~ after the due date for furnishing the return in **FORM GSTR-3**

- (a) GSTIN of the supplier;
- (b) GSTIN of the recipient;
- (c) ~~Invoice/ or debit note date number;~~
- (d) ~~Invoice/ or debit note date number;~~
- (e) ~~taxable value-tax rate; and.~~

(f) tax amount:

Provided that where the time limit for furnishing **FORM GSTR-1 specified** under ~~sub-section (1) of~~ section ~~37 25~~ and **FORM GSTR-2 specified** under ~~sub-section (2) of~~ section ~~38 26~~ has been extended, the date of matching relating to claim of input tax credit shall **also** be extended ~~accordingly. to such date as may be notified by the Board/Commissioner.~~

Explanation 1.- (1) The claim of input tax credit in respect of invoices and debit notes in **FORM GSTR-2** that were accepted by the recipient ~~in on the basis of~~ **FORM GSTR-2A** without amendment shall be treated as matched if the corresponding supplier has furnished a valid return.

~~(2)~~ **Explanation 2. -** The claim of input tax credit shall be considered as matched, where the amount of input tax credit claimed is equal to or less than the output tax paid on such tax invoice or ~~D debit N note, as the case may be,~~ by the corresponding supplier.

11. Final acceptance of input tax credit and communication thereof

(1) The final acceptance of claim of input tax credit in respect of any tax period, specified in sub-section (2) of section ~~42 29~~, shall be made available electronically to the registered ~~taxable~~ person making such claim in **FORM GST MIS ITC-1** through the Common Portal.

(2) The claim of input tax credit in respect of any tax period which had been communicated as mismatched but is found to be matched after rectification by the supplier ~~and/~~ or recipient shall be finally accepted and made available electronically to the ~~taxable~~ person making such claim in **FORM GST MIS ITC-1** through the Common Portal.

12. Communication and rectification of discrepancy in claim of input tax credit and reversal of claim of input tax credit

(1) Any discrepancy in the claim of input tax credit in respect of any tax period, specified in sub-section (3) of section ~~42 29~~ and the details of output tax liable to be added under sub-section (5) of the said section on account of continuation of such discrepancy shall be made available to the registered ~~taxable~~ person making such claim **electronically in FORM GST MIS ITC-1 and to the supplier electronically in FORM GST MIS-2** through the Common Portal on or before the last date of the month in which the matching has been carried out.

(2) A supplier to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of outward supplies to be furnished for the month in which the discrepancy is made available.

(3) A recipient to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of inward supplies to be furnished for the month in which the discrepancy is made available.

(4) Where the discrepancy is not rectified under sub-rule (2) or sub-rule (3), an amount to the extent of discrepancy shall be added to the output tax liability of the recipient in his return **to be furnished** in **FORM GSTR-3** for the month succeeding the month in which the discrepancy is made available.

Explanation 1. (1) Rectification by a supplier means adding or correcting the details of an outward supply in his valid return so as to match the details of corresponding inward supply declared by the recipient.

Explanation:-~~(1)-(2)~~ 2. - Rectification by the recipient means deleting or correcting the details of an inward supply so as to match the details of corresponding outward supply declared by the supplier.

13. Claim of input tax credit on the same invoice more than once

Duplication of claims of input tax credit in the details of inward supplies shall be communicated to the registered ~~taxable~~ person in **FORM GST MIS ~~ITC-1~~** electronically through the Common Portal.

14. Matching of claim of reduction in the output tax liability

The following details relating to the claim of reduction in output tax liability shall be matched under section ~~43 29A~~ after the due date for furnishing the return in **FORM GSTR-3 -**

- (a) GSTIN of the supplier;
- (b) GSTIN of the recipient;
- (c) credit note ~~date number~~;
- (d) credit note ~~date number~~;
- (e) ~~taxable-value tax rate~~; and
- (f) tax amount:

Provided that where the time limit for furnishing **FORM GSTR-1** under ~~sub-section (1) of~~ section ~~37 25~~ and **FORM GSTR-2** under ~~sub-section (2) of~~ section ~~38 26~~ has been extended, the date of matching of claim of reduction in the output tax liability shall be extended ~~accordingly to such date as may be notified by the Board/Commissioner~~.

Explanation 1.- ~~(1)~~ The claim of reduction ~~in of~~ output tax liability due to issuance of credit notes in **FORM GSTR-1** that were accepted by the recipient in **FORM GSTR-2 ~~A~~** without amendment shall be treated as matched if the corresponding recipient has furnished a valid return.

Explanation 2. - ~~(2)~~ The claim of reduction in the output tax liability shall be considered as matched, where the amount of reduction claimed is equal to or less than the claim of reduction ~~in of~~ input tax credit admitted and discharged on such credit note by the corresponding recipient in his valid return.

15. Final acceptance of reduction ~~in of~~ output tax liability and communication thereof

(1) The final acceptance of claim of reduction in output tax liability in respect of any tax period, specified in sub-section (2) of section ~~43 29A~~, shall be made available electronically to the ~~taxable~~ person making such claim in **FORM GST MIS ~~ITC- 3~~** through the Common Portal.

(2) The claim of reduction in output tax liability in respect of any tax period which had been communicated as mis-matched but is found to be matched after rectification by the supplier ~~and/~~ or recipient shall be finally accepted and made available electronically to the ~~taxable~~ person making such claim in **FORM GST MIS ~~ITC- 3~~** through the Common Portal.

16. Communication and rectification of discrepancy in reduction in output tax liability and reversal of claim of reduction

(1) Any discrepancy in claim of reduction in output tax liability, specified in sub-section (3) of section ~~43 29A~~, and the details of output tax liability to be added under sub-section (5) of the said section on account of continuation of such discrepancy shall be made available to the registered ~~taxable~~ person making such claim ~~and the recipient~~ electronically in **FORM GST MIS ~~ITC- 3~~ 4** and the recipient electronically in **FORM GST MIS-4** through the Common Portal on or before the last date of the month in which the matching has been carried out.

(2) A supplier to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of outward supplies to be furnished for the month in which the discrepancy is made available.

(3) A recipient to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of inward supplies to be furnished for the month in which the discrepancy is made available.

(4) Where the discrepancy is not rectified under sub-rule (2) or sub-rule (3), an amount to the extent of discrepancy shall be added to the output tax liability of the supplier ~~and debited to tax liability register and also shown~~ in his return in **FORM GSTR-3** for the month succeeding the month in which the discrepancy is made available.

Explanation 1.- ~~(1)~~ Rectification by a supplier means deleting or correcting the details of an outward supply in his valid return so as to match the details of corresponding inward supply declared by the recipient.

Explanation 2.- ~~(2)~~ Rectification by the recipient means adding or correcting the details of an inward supply so as to match the details of corresponding outward supply declared by the supplier.

17. Claim of reduction in output tax liability more than once

Duplication of claims for reduction in output tax liability in the details of outward supplies shall be communicated to the registered ~~taxable~~ person in **FORM GST MIS ~~ITC- 3~~ 4** electronically through the Common Portal.

18. Refund of interest paid on reclaim of reversals

The interest to be refunded under sub-section (9) of section ~~42 29~~ or sub-section (9) of section ~~43 29A~~ shall be claimed by the ~~taxable registered~~ person in his return in **FORM GSTR-3** and shall be credited to his electronic cash ledger in **FORM GST PMT-3** and the amount credited shall be available for payment of any future liability ~~towards of~~ interest or the taxable person may claim refund of the amount under section ~~54 38~~.

19. Matching of details furnished by the e-Commerce operator with the details furnished by the supplier

The following details relating to the supplies made through an e-Commerce operator, as declared in **FORM GSTR-8**, shall be matched with the corresponding details declared by the supplier in **FORM GSTR-1**-

- (a) GSTIN of the supplier;
- (b) GSTIN ~~or~~ UIN of the recipient, if the recipient is a registered ~~taxable~~ person;
- (c) State of place of supply;

- (d) ~~date of~~ invoice ~~number~~ of the supplier;
- (e) ~~date of~~ invoice ~~number~~ of the supplier;
- (f) tax rate;
- (g) taxable value; **and**
- (h) tax amount:

Provided that for all supplies where the supplier is not required to furnish the details separately for each supply, the following details relating to such supplies made through an e-Commerce operator, as declared in **FORM GSTR-8**, shall be matched with the corresponding details declared by the supplier in **FORM GSTR-1**-

- (a) GSTIN of the supplier;
- (b) State of place of supply;
- (c) tax rate ;
- (d) total taxable value of all supplies made in the *State through e-commerce portal*; and
- (e) tax amount on all supplies made in the State:

Provided further that where the time limit for furnishing **FORM GSTR-1** under ~~sub-section (1) of~~ section **37 25** has been extended, the date of matching of the above mentioned details shall be extended ~~accordingly to such date as may be notified by the Board/Commissioner.~~

20. Communication and rectification of discrepancy in details furnished by the e-commerce operator and the supplier

- (1) Any discrepancy in the details furnished by the operator and those declared by the supplier shall be made available to *the supplier electronically in GST MIS-5 and to the e-commerce portal both* electronically in **FORM GST MIS-6 ITC-1** through the Common Portal on or before the last date of the month in which the matching has been carried out.
- (2) A supplier to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement of outward supplies to be furnished for the month in which the discrepancy is made available.
- (3) An operator to whom any discrepancy is made available under sub-rule (1) may make suitable rectifications in the statement to be furnished for the month in which the discrepancy is made available.
- (4) Where the discrepancy is not rectified under sub-rule (2) or sub-rule (3), an amount to the extent of discrepancy shall be added to the output tax liability of the supplier in his return in **FORM GSTR-3** for the month succeeding the month in which the details of discrepancy are made available and such addition to the output tax liability and interest payable thereon shall be made available to the supplier electronically on the Common Portal in **FORM GST MIS -5 ITC-1**.

21. Annual return

- (1) Every registered ~~taxable~~ 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 30** electronically in **FORM GSTR-9** through the Common Portal either directly or ~~through from~~ a Facilitation Centre notified by the ~~Board or~~ Commissioner:

Provided that a ~~taxable~~ person paying tax under section ~~10 &~~ shall furnish the annual return in **FORM GSTR-9A**.

(2) Every registered ~~taxable~~ person whose aggregate turnover during a financial year exceeds one crore rupees shall get his accounts audited *as specified* under sub-section (~~4 5~~) of section ~~35 42~~ and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in **FORM GSTR-9B**, electronically through the Common Portal either directly or ~~through from~~ a Facilitation Centre notified by the ~~Board or~~ Commissioner.

22. Final return

Every registered ~~taxable~~ person required to furnish a final return under section ~~45 31~~, shall furnish such return electronically in **FORM GSTR-10** through the Common Portal either directly or ~~through from~~ a Facilitation Centre notified by the ~~Board or~~ Commissioner.

23. Details of inward supplies of persons having Unique Identity Number

(1) Every person, who has been issued a Unique Identity Number and claims refund of the taxes paid on his inward supplies, shall furnish the details of such supplies of taxable goods ~~and/~~ or services ~~or both~~ in **FORM GSTR-11 along with application for such refund claim** either directly or ~~through from~~ a Facilitation Centre, notified by the ~~Board or~~ Commissioner.

(2) Every person, who has been issued a Unique Identity Number for purposes other than refund of the taxes paid, shall furnish the details of inward supplies of taxable goods ~~and/~~ or services ~~or both~~ as may be required by the proper officer in **FORM GSTR-11**.

24. Provisions relating to a ~~Tax Return Preparer goods and services tax practitioner~~

(1) ~~(a)~~ An application in **FORM GST TRP PCT-1** may be made to the officer authorised in this behalf for enrolment as *goods and services tax practitioner* ~~Tax Return Preparer~~ by any person who ~~satisfies any of the conditions specified below, namely:~~

- (a)*
- (i) ~~he~~ is a citizen of India;
 - (ii) ~~he~~ is a person of sound mind;
 - (iii) ~~he~~ is not adjudicated as insolvent;
 - (iv) ~~he~~ has not been convicted by a competent court for an offence with imprisonment not less than two years,-

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and satisfies any of the following conditions: -

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(b) that he is a retired officer of the Commercial Tax Department of any State Government or of the Central Board of Excise and Customs, Department of Revenue, Government of India, who, during his service under the Government, had worked in a post not lower in rank than that of a Group-B gazetted officer for a period of not less than two years; or

(c) he has passed:

- (i) a graduate or postgraduate degree or its equivalent examination having a degree in Commerce, Law, Banking including Higher Auditing, or Business Administration or Business Management from any Indian University established by any law for the time being in force; or

- (ii) a degree examination of any Foreign University recognized by any Indian University as equivalent to the degree examination mentioned in *sub-clause (i)*; or
- (iii) any other examination notified by the Government for this purpose; or
- (iv) any degree examination of an Indian University or of any Foreign University recognized by any Indian University as equivalent of the degree examination and has also passed any of the following examinations, namely.-
 - (a) final examination of the Institute of Chartered Accountants of India; or
 - (b) final examination of the Institute of Cost Accountants of India; or
 - (c) final examination of the Institute of Company Secretaries of India.

(2) On receipt of the application referred to in sub-rule (1), the authorised officer shall, after making such enquiry as he considers necessary, either enroll the applicant as a *goods and services tax practitioner Tax-Return-Preparer* and issue a certificate to that effect in **FORM GST PCT TRP-2** or reject his application where it is found that the applicant is not qualified to be enrolled as a *goods and services tax practitioner Tax-Return-Preparer*.

(3) The enrolment made under sub-rule (2) shall be valid until it is cancelled.

(4) If any *goods and services tax practitioner Tax-Return-Preparer* is found guilty of misconduct in connection with any proceedings under the Act, the authorised officer may, by order, in **FORM GST PCT TRP-4** direct that he shall henceforth be disqualified under section **34 48**, after giving him a notice to show cause in **FORM GST PCT TRP-3** against such disqualification and after giving him a reasonable opportunity of being heard.

(5) Any person against whom an order under sub-rule (4) is made may, within thirty days from the date of the order under sub-rule (4), appeal to the Commissioner against such order.

(6) A list of *goods and services tax practitioner Tax-Return-Preparer* enrolled under sub-rule (1) shall be maintained on the Common Portal in **FORM GST PCT TRP-5** and the authorised officer may make such amendments to the list as may be necessary from time to time, by reason of any change of address or death or disqualification of any *goods and services tax practitioner Tax-Return-Preparer*.

(7) Any *taxable registered* person may, at his option, authorise a *goods and services tax practitioner Tax-Return-Preparer* on the Common Portal in **FORM GST PCT TRP-6** or, at any time, withdraw such authorisation in **FORM GST PCT TRP-7** and the *goods and services tax practitioner Tax-Return-Preparer* so authorised shall be allowed to undertake such tasks as indicated in **FORM GST PCT TRP-6** during the period of authorisation.

(8) Where a statement required to be furnished by a *taxable registered* person has been furnished by the *goods and services tax practitioner Tax-Return-Preparer* authorised by him, a confirmation shall be sought from the *taxable registered* person over email or SMS and the

statement furnished by the tax return preparer shall be made available to the *taxable registered* person on the Common Portal:

Provided that where the taxable person fails to respond to the request for confirmation till the last date of furnishing of such statement, it shall be deemed that he has confirmed the statements furnished by the Tax Return Preparer.

(9) *A goods and services tax practitioner ~~Tax Return Preparer~~* can undertake any or all of the following activities on behalf of a *taxable registered* person, if so authorised by the *taxable registered* person to:

- (a) furnish details of outward and inward supplies;
- (b) furnish monthly, quarterly, annual or final return;
- (c) make ~~payments deposit~~ for credit into the electronic cash ledger;
- (d) file a claim for refund; and
- (e) file an application for amendment or cancellation of registration.

(10) Any *taxable registered* person opting to furnish his return through a *goods and services tax practitioner ~~Tax Return Preparer~~* shall-

- (a) give his consent in **FORM GST PCT TRP-6** to any *goods and services tax practitioner ~~Tax Return Preparer~~* to prepare and furnish his return; and
- (b) before confirming submission of any statement prepared by the *goods and services tax practitioner ~~Tax Return Preparer~~*, ensure that the facts mentioned in the return are true and correct *before signature*.

(11) The *goods and services tax practitioner ~~Tax Return Preparer~~* shall-

- (a) prepare the statements with due diligence; and
- (b) affix his digital signature on the statements prepared by him or electronically verify using his credentials.

25. Conditions for purposes of appearance

(1) No person shall be eligible to attend before any authority, as a *goods and services tax practitioner ~~Tax Return Preparer~~*, in connection with any proceedings under the Act on behalf of any *taxable registered* person or *un-registered* person unless his name has been entered in the list maintained under sub-rule (6) of rule ~~24 20~~.

(2) An Accountant or a *goods and services tax practitioner ~~Tax Return Preparer~~* attending on behalf of a *taxable registered* person or *an un-registered* person in any proceedings under the Act before any authority shall produce before such authority, if required, a copy of the authorisation given by the taxable person or person in **Form GST PCT TRP-6**.

DRAFT GOODS AND SERVICES TAX – COMPOSITION RULES, 2017

(March, 2017)

Chapter ---

COMPOSITION RULES

1. Intimation for composition Levy

(1) Any person who has been granted registration on a provisional basis under sub-rule (1) of rule -- of **Registration.16 Rules** and who opts to pay tax under section 10, shall electronically file an intimation in **FORM GST CMP-01**, duly signed, on the Common Portal, either directly or through a Facilitation Centre notified by the Commissioner, within thirty days prior to the appointed day, but not later than thirty days after the said day, or such further period as may be extended by the Commissioner in this behalf.

(2) Any person who applies for registration under rule 1 of **Registration Rules** may give an option to pay tax under section 10 in Part B of **FORM GST REG-01**, which shall be considered as an intimation to pay tax under the said section.

(3) Any registered person who opts to pay tax under section 10 shall electronically file an intimation in **FORM GST CMP-02**, duly signed, on the Common Portal, either directly or through a Facilitation Centre notified by the Commissioner prior to the commencement of the financial year for which the option to pay tax under the aforesaid section is exercised.

(4) Any person who files an intimation under sub-rule (1), or sub-rule (2) to pay tax under section 10 shall furnish the details of stock, including the inward supply of goods received from unregistered persons, held by him on the day preceding the date from which he opts to pay tax under the said section, electronically, in **FORM GST CMP-03**, on the Common Portal, either directly or through a Facilitation Centre notified by the Commissioner, within ninety days of the date from which the option for composition is exercised or within such further period as may be extended by the Commissioner in this behalf.

(5) Any intimation under sub-rule (1) or sub-rule (3) in respect of any place of business in any State or Union territory shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.

2. Effective date for Composition Levy

(1) The option to pay tax under section 10 shall be effective from the beginning of the financial year, where the intimation is filed under sub-rule (3) of rule 1 and the appointed date where intimation is filed under sub-rule (1) of the said rule.

(2) The intimation under sub-rule (2) of rule 1 shall be considered only after grant of registration to the applicant and his option to pay tax under section 10 shall be effective from the date fixed under sub-rule (2) or (3) of rule 3 of **Registration Rules**.

3. Conditions and restrictions for composition levy

(1) The person exercising the option to pay tax under section 10 shall comply with the following conditions:

- (a) he is neither a casual taxable person nor a non-resident taxable person;
- (b) the goods held in stock by him on the appointed day have not been purchased in the course of inter-State trade or commerce or imported from a place outside India or received from his branch situated outside the State or from his agent or principal outside the State;
- (c) the goods held in stock by him have been purchased from a person who is not registered and on which tax has been paid by the recipient under sub-section (4) of section 9;
- (d) he shall pay tax under sub-section (3) or sub-section (4) of section 9 on inward supply of goods or services or both received from un-registered persons;
- (e) he was not engaged in the manufacture of goods as notified under clause (e) of the first proviso to sub-section (1) of section 10, during the preceding financial year;
- (f) he shall mention the words “composition taxable person, not eligible to collect tax on supplies” at the top of the bill of supply issued by him; and
- (g) he shall mention the words “composition taxable person” on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business.

(2) The registered person paying tax under section 10 may not file a fresh intimation every year and he may continue to pay tax under the said section subject to the provisions of the Act and these rules.

4 Validity of composition levy

(1) The option exercised by a registered person to pay tax under section 10 shall remain valid so long as he satisfies all the conditions mentioned in the said section and these rules.

(2) The person referred to in sub-rule (1) shall be liable to pay tax under sub-section (1) of section 9 from the day he ceases to satisfy any of the conditions mentioned in section 10 or these rules and shall issue tax invoice for every taxable supply made thereafter and he shall also file an intimation for withdrawal from the scheme in **FORM GST CMP-04** within seven days of occurrence of such event.

(3) The registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in **FORM GST CMP-04**, duly signed, electronically on the Common Portal.

(4) Where the proper officer has reasons to believe that the registered person was not eligible to pay tax under section 10 or has contravened the provisions of the Act or these rules, he may issue a notice to such person in **FORM GST CMP-05** to show cause within fifteen days of the receipt of such notice as to why option to pay tax under section 10 should not be denied.

(5) Upon receipt of reply to the show cause notice issued under sub-rule (4) from the registered person in **FORM GST CMP-06**, the proper officer shall issue an order in **FORM GST CMP-07** within thirty days of receipt of such reply, either accepting the reply, or denying the option to pay tax under section 10 from the date of option or from the date of the event concerning such contravention, as the case may be.

(6) Every person who has furnished an intimation under sub-rule (2) or filed an application for withdrawal under sub-rule (3) or a person in respect of whom an order of withdrawal of option has been passed in **FORM GST CMP-07** under sub-rule (5), may electronically furnish at the Common Portal, either directly or through a Facilitation Centre notified by the Commissioner, a statement in **FORM GST ITC- --** containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn or denied, within 30 days, from the date from which the option is withdrawn or from the date of order passed in **FORM GST CMP-07**, as the case may be.

(7) Any intimation for withdrawal under sub-rule (2) or (3) or the option is withdrawn under sub-rule (5) in respect of any place of business in any State or Union territory, shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.

5. Rate of tax of the composition levy

The category of registered persons, eligible for composition under section 10 and these rules, specified in column (2) of the Table below shall pay tax under section 10 at the rate specified in column (3) of the said Table:

Sl No.	Category of registered persons	Rate of tax
(1)	(2)	(3)
1	Manufacturers, other than manufacturers of such goods as may be notified by the Government	one per cent.
2	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II	two and a half per cent.
3	Any other supplier eligible for composition under section 10 and these rules	half per cent.

GST Input Tax Credit Rules

1. Documents and accountal of inputs and input services

(1) The input tax credit shall be availed by a registered person, including the Input Service Distributor, on the basis of any of the following documents, namely:-

- (a) an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31;
- (b) a debit note issued by a supplier in accordance with the provisions of section 34;
- (c) a bill of entry;
- (d) an invoice issued in accordance with the provisions of clause (f) of sub-section (3) of section 31;
- (e) a document issued by an Input Service Distributor in accordance with the provisions of *sub-rule (1) of rule invoice.5*;
- (f) a document issued by an Input Service Distributor, as prescribed in clause (g) of sub-rule (1) of rule 4.

(2) No input tax credit shall be availed by a registered person unless all the applicable particulars as prescribed in Chapter ---- (*Invoice Rules*) are contained in the said document, and the relevant information, as contained in the said document, is furnished in **FORM GSTR-2** by **such** person.

(3) No input tax credit shall be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been raised on account of any fraud, willful misstatement or suppression of facts.

2. Reversal of input tax credit in case of non-payment of consideration

(1) A registered person, who has availed of input tax credit on any inward supply of goods or services or both, but fails to pay to the supplier thereof the value of such supply along with the tax payable thereon within the time limit specified in the second proviso to sub-section (2) of section 16, shall furnish the details of such supply and the amount of input tax credit availed of in **FORM GSTR-2** for the month immediately following the period of one hundred and eighty days from the date of issue of invoice.

(2) The amount of input tax credit referred to in sub-rule (1) shall be added to the output tax liability of the registered person for the month in which the details are furnished.

(3) The registered person shall be liable to pay interest at the rate notified under sub-section (1) of section 50 for the period starting from the date of availing credit on such supplies till the date when the amount added to liability, as mentioned in sub-rule (2), is paid.

3. Claim of credit by a banking company or a financial institution

(1) A banking company or a financial institution, including a non-banking financial company, engaged in supply of services by way of accepting deposits or extending loans or advances that chooses not to comply with the provisions of sub-section (2) of section 17, in accordance with the option permitted under sub-section (4) of section 17, shall follow the procedure specified below -

- (a) the said company or institution shall not avail the credit of tax paid on inputs and input services that are used for non-business purposes and the credit attributable to supplies specified in sub-section (5) of section 17, in **FORM GSTR-2**;
- (b) fifty per cent. of the remaining input tax shall be the input tax credit admissible to the company or the institution and shall be furnished in **FORM GSTR-2**;
- (c) the amount referred to in clause (b) shall be credited to the electronic credit ledger of the said person.

4. Procedure for distribution of input tax credit by Input Service Distributor

(1) An Input Service Distributor shall distribute input tax credit in the manner and subject to the conditions specified below-

- (a) the input tax credit available for distribution in a month shall be distributed in the same month and the details thereof shall be furnished in **FORM GSTR-6** in accordance with the provisions of Chapter ---- (*Return Rules*);
- (b) the Input Service Distributor shall, in accordance with the provisions of clause (d), separately distribute the amount in-eligible as input tax credit under the provisions of sub-section (5) of section 17 and the amount eligible as input tax credit,;
- (c) the input tax credit on account of central tax, State tax, Union territory tax and integrated tax shall be distributed separately in accordance with the provisions of clause (d);
- (d) the input tax credit that is required to be distributed in accordance with the provisions of clause (d) and (e) of sub-section (2) of section 20 shall be distributed on *pro-rata* basis to one of the recipients ' R_1 ', whether registered or not, from amongst the total of all the recipients to whom input tax credit is attributable, including the recipient(s) who are engaged in making exempt supply, or are otherwise not registered for any reason, shall be the amount, " C_1 ", to be calculated by applying the following formula:-

$$C_1 = (t_1 \div T) \times C$$

where,

" C " is the amount of credit to be distributed,

" t_1 " is the turnover of person R_1 during the relevant period, and

" T " is the aggregate of the turnover of all recipients during the relevant period;

- (e) the input tax credit on account of integrated tax shall be distributed as input tax credit of integrated tax to every recipient;
- (f) the input tax credit on account of central tax and State tax shall,
 - (i) in respect of a recipient located in the same State in which the Input Service Distributor is located, be distributed as input tax credit of central tax and State tax respectively;

(ii) in respect of a recipient located in a State other than that of the Input Service Distributor, be distributed as integrated tax and the amount to be so distributed shall be equal to the aggregate of the amount of input tax credit of central tax and State tax that qualifies for distribution to such recipient in accordance with clause (d);

(g) The Input Service Distributor shall issue an ISD invoice as prescribed in sub-rule (1) of rule invoice-5 clearly indicating in such invoice that it is issued only for distribution of input tax credit.

(h) The Input Service Distributor shall issue an ISD Credit note as prescribed in sub-rule (1) of rule Invoice-5 for reduction of credit in case the input tax credit already distributed gets reduced for any reason.

(i) Any additional amount of input tax credit on account of issuance of a debit note to an Input Service Distributor by the supplier shall be distributed in the manner and subject to the conditions specified in the clauses (a) to (f) and the amount attributable to any recipient shall be calculated in the manner provided in clause (d) above and such credit shall be distributed in the month in which the debit note has been included in the return in **FORM GSTR-6**.

(j) Any input tax credit required to be reduced on account of issuance of a credit note to the Input Service Distributor by the supplier shall be apportioned to each recipient in the same ratio in which input tax credit contained in the original invoice was distributed in terms of clause (d) above, and the amount so apportioned shall be,-

(i) reduced from the amount to be distributed in the month in which the credit note is included in the return in **FORM GSTR-6**; and

(ii) added to the output tax liability of the recipient and where the amount so apportioned is in the negative by virtue of the amount of credit to be distributed is less than the amount to be adjusted.

(2) If the amount of input tax credit distributed by an Input Service Distributor is reduced later on for any other reason for any of the recipients, including that it was distributed to a wrong recipient by the Input Service Distributor, the process prescribed in clause (j) of sub-rule (1) shall *mutatis mutandis* apply for reduction of credit.

(3) Subject to sub-rule (2), the Input Service Distributor shall, on the basis of the ISD credit note specified in clause (h) of sub-rule (1), issue an ISD Invoice to the recipient entitled to such credit and include the ISD credit Note and the ISD Invoice in the return in **FORM GSTR-6** for the month in which such credit note and invoice was issued.

5. Manner of claiming of credit in special circumstances

(1) Input tax credit claimed in accordance with the provisions of sub-section (1) of section 18 on the inputs lying in stock or inputs contained in semi-finished or finished goods lying in stock, or the credit claimed on capital goods in accordance with the provisions of clauses (c) and (d) of the said sub-section, shall be subject to the following conditions -

(a) The input tax credit on capital goods, in terms of clauses (c) and (d) of sub-section (1) of section 18, shall be claimed after reducing the tax paid on such capital goods by five

percentage points per quarter of a year or part thereof from the date of invoice or such other documents on which the capital goods were received by the taxable person.

(b) The registered person shall within thirty days from the date of his becoming eligible to avail of input tax credit under sub-section (1) of section 18 shall make a declaration, electronically, on the Common Portal in **FORM GST ITC---** to the effect that he is eligible to avail of input tax credit as aforesaid;

(c) The declaration in **FORM GST ITC ---** under clause (b) shall clearly specify the details relating to the inputs lying in stock or inputs contained in semi-finished or finished goods lying in stock, or as the case may be, capital goods—

- (i) on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act, in the case of a claim under clause (a) of sub-section (1) of Section 18,
- (ii) on the day immediately preceding the date of grant of registration, in the case of a claim under clause (b) of sub-section (1) of Section 18,
- (iii) on the day immediately preceding the date from which he becomes liable to pay tax under section 10, in the case of a claim under clause (c) of sub-section (1) of Section 18,
- (iv) on the day immediately preceding the date from which supplies made by the registered person becomes taxable, in the case of a claim under clause (d) of sub-section (1) of Section 18.

(d) The details furnished in the declaration under clause (c) shall be duly certified by a practicing chartered account or cost accountant if the aggregate value of claim on account of central tax, State tax and integrated tax exceeds two lakh rupees.

(e) The input tax credit claimed in accordance with clauses (c) and (d) of sub-section (1) of section 18 shall be verified with the corresponding details furnished by the corresponding supplier in **FORM GSTR-1** or as the case may be, in **FORM GSTR- 4**, on the Common Portal.

6. Transfer of credit on sale, merger, amalgamation, lease or transfer of a business

(1) A registered person shall, on sale, merger, de-merger, amalgamation, lease or transfer or change in ownership of business for any reason, furnish the details of sale, merger, de-merger, amalgamation, lease or transfer of business, in **FORM GST ITC----** electronically on the Common Portal along with a request to transfer the unutilized input tax credit lying in his electronic credit ledger to the transferee:

Provided that in the case of demerger, the input tax credit shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.

(2) The transferor shall also submit a copy of a certificate issued by a practicing chartered account or cost accountant certifying that the sale, merger, de-merger, amalgamation, lease or transfer of business has been done with a specific provision for transfer of liabilities.

(3) The transferee shall, on the Common Portal, accept the details so furnished by the transferor and, upon such acceptance, the un-utilized credit specified in **FORM GST ITC---** shall be credited to his electronic credit ledger.

(4) The inputs and capital goods so transferred shall be duly accounted for by the transferee in his books of account.

7. Manner of determination of input tax credit in certain cases for the purpose of reversal

(1) The input tax credit in respect of inputs or input services, which attract the provisions of sub-sections (1) and (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempted supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-

- (a) total input tax involved on inputs and input services in a tax period, be denoted as 'T';
- (b) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for purposes other than business, be denoted as 'T₁';
- (c) the amount of input tax, out of 'T', attributable to inputs and input services intended to be used exclusively for effecting exempt supplies, be denoted as 'T₂';
- (d) the amount of input tax, out of 'T', in respect of inputs on which credit is not available under sub-section (5) of section 17, be denoted as 'T₃';
- (e) 'T₁', 'T₂' and 'T₃' shall be determined and declared by the registered person at the invoice level in **FORM GSTR-2**;
- (f) the amount of input tax credit credited to the electronic credit ledger of registered person, be denoted as 'C₁' and calculated as:

$$C_1 = T - (T_1 + T_2 + T_3);$$

- (g) the amount of input tax credit attributable to inputs and input services used exclusively in or in relation to taxable supplies including zero rated supplies, be denoted as 'T₄';
- (h) Input tax credit left after attribution of input tax credit under clause (g) shall be called common credit, be denoted as 'C₂' and calculated as:

$$C_2 = C_1 - T_4;$$

- (i) The amount of input tax credit attributable towards exempt supplies, be denoted as 'D₁' and calculated as:

$$D_1 = (E \div F) \times C_2$$

where,

'E' is the aggregate value of exempt supplies, that is, all supplies other than taxable and zero rated supplies, during the tax period, and

'F' is the total turnover of the registered person during the tax period:

Provided that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of 'E/F' shall be calculated by taking values of 'E' and 'F' of the last tax period for which details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated;

Explanation: For the purposes of this clause, the aggregate value of exempt supplies and total turnover shall exclude the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule.

(j) the amount of credit attributable to non-business purposes if common inputs and input services are used partly for business and partly for non-business purposes, be denoted as 'D₂', and shall be equal to five per cent. of C₂; and

(k) the remainder of the common credit shall be the eligible input tax credit attributed to the purposes of business and for effecting taxable supplies including zero rated supplies and shall be denoted as 'C₃', where,-

$$C_3 = C_2 - (D_1 + D_2);$$

(l) The amount 'C₃' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax;

(m) The amount equal to 'D₁' and 'D₂' shall be added to the output tax liability of the registered person:

Provided that if the amount of input tax relating to inputs which have been used partly for purposes other than business and partly for effecting exempt supplies has been identified and segregated at invoice level on the quantity of inputs or input services by the registered person, the same shall be included in 'T₁' and 'T₂' respectively, and the remaining amount of credit on such input or input services shall be included in 'T₄'.

(2) The input tax credit determined under sub-rule (1) shall be calculated finally for the financial year before the due date for filing the return for the month of September following the end of the financial year to which such credit relates, in the manner prescribed in the said sub-rule and,

(a) where the aggregate of the amounts calculated finally in respect of 'D₁' and 'D₂' exceeds the aggregate of the amounts determined under sub-rule (1) in respect of 'D₁' and 'D₂', such excess shall be added to the output tax liability of the registered person for a month not later than the month of September following the end of the financial year to which such credit relates and the said person shall be liable to pay interest on the said excess amount at the rate specified in sub-section (1) of section 50 for the period starting from first day of April of the succeeding financial year till the date of payment; or

(b) where the aggregate of the amounts determined under sub-rule (1) in respect of 'D₁' and 'D₂' exceeds the aggregate of the amounts calculated finally in respect of 'D₁' and 'D₂', such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year to which such credit relates.

8. Manner of determination of input tax credit in respect of capital goods

(1) Subject to the provisions of sub-section (3) of section 16, the input tax credit in respect of capital goods, which attract the provisions of sub-sections (1) and (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-

(a) the amount of input tax in respect of capital goods used or intended to be used exclusively for non-business purposes or used or intended to be used exclusively for

effecting exempt supplies shall be indicated in **FORM GSTR-2** and shall not be credited to his electronic credit ledger;

(b) the amount of input tax in respect of capital goods used or intended to be used exclusively for effecting taxable supplies including zero-rated supplies shall be indicated in **FORM GSTR-2** and shall be credited to the electronic credit ledger;

(c) the amount of input tax in respect of capital goods not covered under clauses (a) and (b), denoted as 'A', shall be credited to the electronic credit ledger and the useful life of such goods shall be taken as five years:

Provided that where any capital goods earlier covered under clause (a) is subsequently covered under this clause, the value of 'A' shall be arrived at by reducing the input tax at the rate of five percentage points for every quarter or part thereof and the amount 'A' shall be credited to the electronic credit ledger;

(d) the aggregate of the amounts of 'A' credited to the electronic credit ledger under clause (c), to be denoted as 'T_c', shall be the common credit in respect of capital goods for a tax period:

Provided that where any capital goods earlier covered under clause (b) is subsequently covered under this clause, the value of 'A' arrived at by reducing the input tax at the rate of five percentage points for every quarter or part thereof shall be added to the aggregate value 'T_c';

(e) the amount of input tax credit attributable to a tax period on common capital goods during their residual life, be denoted as 'T_m' and calculated as:-

$$T_m = T_c \div 60$$

(f) the amount of input tax credit, at the beginning of a tax period, on all common capital goods whose residual life remains during the tax period, be denoted as 'T_r' and shall be the aggregate of 'T_m' for all such capital goods.

(g) the amount of common credit attributable towards exempted supplies, be denoted as 'T_e', and calculated as:

$$T_e = (E \div F) \times T_r$$

where,

'E' is the aggregate value of exempt supplies, that is, all supplies other than taxable and zero rated supplies, during the tax period, and

'F' is the total turnover of the registered person during the tax period:

Provided that where the registered person does not have any turnover during the said tax period or the aforesaid information is not available, the value of 'E/F' calculated by taking values of 'E' and 'F' of the last tax period for which details of such turnover are available, previous to the month during which the said value of 'E/F' is to be calculated;

Explanation: For the purposes of this clause, the aggregate value of exempt supplies and total turnover shall exclude the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule;

(h) the amount T_e along with applicable interest shall, during every tax period of the residual life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit.

(2) The amount T_e shall be computed separately for central tax, State tax, Union territory tax and integrated tax.

9. Manner of reversal of credit under special circumstances

(1) The amount of input tax credit, relating to inputs lying in stock, inputs contained in semi-finished and finished goods lying in stock, and capital goods lying in stock, for the purposes of sub-section (4) of section 18 or sub-section (5) of 29, shall be determined in the following manner namely,-

- (a) For inputs lying in stock, and inputs contained in semi-finished and finished goods lying in stock, the input tax credit shall be calculated proportionately on the basis of corresponding invoices on which credit had been availed by the registered taxable person on such input.
- (b) For capital goods lying in stock the input tax credit involved in the remaining residual life in months shall be computed on pro-rata basis, taking the residual life as five years;

Illustration

Capital goods have been in use for 4 years, 6 month and 15 days.

The residual remaining life in months= 5 months ignoring a part of the month

Input tax credit taken on such capital goods= C

Input tax credit attributable to remaining residual life= C multiplied by $5/60$

(2) The amount, as prescribed in sub-rule (1) shall be determined separately for input tax credit of IGST and CGST.

(3) Where the tax invoices related to the inputs lying in stock are not available, the registered person shall estimate the amount under sub-rule (1) based on the prevailing market price of goods on the effective date of occurrence of any of the events specified in sub-section (4) of section 18 or, as the case may be, sub-section (5) of section 29.

(4) The amount determined under sub-rule (1) shall form part of the output tax liability of the registered person and the details of the amount shall be furnished in **FORM GST ITC---**, where such amount relates to any event specified in sub-section (4) of section 18 and in **FORM GSTR-10**, where such amount relates to cancellation of registration.

10: Conditions and restriction in respect of inputs and capital goods sent to the job worker

(1) The inputs or capital goods shall be sent to the job worker under the cover of a challan issued by the principal, including where the inputs or capital goods are sent directly to job-worker.

(2) The challan issued by the principal to the job worker shall contain the details specified in rule---Invoice.8 Rules :

(3) The details of challans in respect of goods dispatched to a job worker or received from a job worker during a tax period shall be included in **FORM GSTR-1** furnished for that period.

(4) If the inputs or capital goods are not returned to **the** principal within the time stipulated in section 143, the challan issued under sub-rule (1) shall be deemed to be an invoice for the purposes of this Act.

Explanation.- For the purposes of this Chapter,-

(1) “capital goods” shall include “plant and machinery” as defined in the Explanation to section 17;

(2) the value of land and building for determining the value of an exempt supply shall be taken as the same as adopted for the purpose of paying stamp duty; and

(3) the value of security shall be taken as one per cent. of the sale value of such security.

CHAPTER – TRANSITIONAL PROVISIONS

1. Application in respect of tax or duty credit carried forward under any existing law or on goods held in stock on the appointed day

(1) Every registered person entitled to take credit of input tax under section 140 shall, within sixty days of the appointed day, submit an application electronically in **FORM GST TRAN-1**, duly signed, on the Common Portal specifying therein, separately, the amount of tax or duty to the credit of which the said person is entitled under the provisions of the said section:

Provided that where the inputs have been received from an Export Oriented Unit or a unit located in Electronic Hardware Technology Park, the credit shall be allowed to the extent as provided in sub-rule (7) of rule 3 of the CENVAT Credit Rules, 2004:

[this proviso only in CGST rules]

Provided that in the case of a claim under sub-section (1) of section 140, the application shall specify separately—

(i) the value of claims under section 3, sub-section (3) of section 5, sections 6 and 6A and sub-section (8) of section 8 of the Central Sales Tax Act, 1956 made by the applicant during the financial year relating to the relevant return, and

(ii) the serial number and value of declarations in Forms C and/or F and Certificates in Forms E and/or H or Form I specified in rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957 submitted by the applicant in support of the claims referred to in sub-clause (i) above;

(this proviso only in SGST rules)

(2) Every application under sub-rule (1) shall:-

(a) in the case of a claim under sub-section (2) of section 140, specify separately the following particulars in respect of every item of capital goods as on the appointed day-

(i) the amount of tax or duty availed or utilized by way of input tax credit under each of the existing laws till the appointed day, and

(ii) the amount of duty or tax yet to be availed or utilized by way of input tax credit under each of the existing laws till the appointed day;

(b) in the case of a claim under sub-section (3), or the proviso thereto, or clause (b) of sub-section (4), sub-section (6), sub-section (8), sub-section (9) of Section 140 shall specify separately details of stock held on the appointed day;

(c) in the case of a claim under sub-section (5), shall furnish the following details—

(i) the name of the supplier, serial number and date of issue of the invoice by the supplier or any document on the basis of which credit of input tax was admissible under the existing law,

(ii) the description, quantity and value of the goods or services

(iii) the amount of eligible taxes and duties or, as the case may be, the value added tax [or entry tax] charged by the supplier in respect of the goods or services,

(iv) the date on which the receipt of goods or services is entered in the books of account of the recipient.

(3) (a) (i) A registered person, who was not registered under the existing law, availing credit in accordance with the proviso to sub-section (3) of section 140 shall be allowed to avail input tax credit on goods held in stock on the appointed day in respect of which he is not in possession of any document evidencing payment of central excise duty.

(ii) Such credit shall be allowed at the rate of [forty per cent.] of the central tax applicable on supply of such goods after the appointed date and shall be credited after the central tax payable on such supply has been paid.

(iii) The scheme shall be available for six tax periods from the appointed date.

(b) Such credit of central tax shall be availed subject to satisfying the following conditions, namely,-

(i) Such goods were not wholly exempt from duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985 or were not nil rated.

(ii) Document for procurement of such goods is available with the registered person.

(iii) Registered person availing this scheme and having furnished the details of stock held by him in accordance with the provisions of clause (b) of sub-rule (2) of rule 1, submits a statement in **FORM GST TRAN---** at the end of each of the six tax periods during which the scheme is in operation indicating therein the details of supplies of such goods effected during the tax period.

(iv) The amount of credit allowed shall be credited to the electronic credit ledger of the applicant maintained in **FORM GST PMT-2** on the Common Portal.

(v) The stock of goods on which the credit is availed is so stored that it can be easily identified by the registered person.

(In CGST Rules)

(3) (a) (i) A registered person, holding stock of goods which have suffered tax at the first point of their sale in the State and the subsequent sales of which are not subject to tax in the State availing credit in accordance with the proviso to sub-section (3) of section 140 shall be allowed to avail input tax credit on goods held in stock on the appointed day in respect of which he is not in possession of any document evidencing payment of value added tax.

(ii) Such credit shall be allowed at the rate of [----- per cent.] of the central tax applicable on supply of such goods after the appointed date and shall be credited after the central tax payable on such supply has been paid.

(iii) The scheme shall be available for six tax periods from the appointed date.

(b) Such credit of State tax shall be availed subject to satisfying the following conditions, namely,-

(i) Such goods were not wholly exempt from tax under the <Name of the State> Value Added Tax Act,.....

(ii) Document for procurement of such goods is available with the registered person.

(iii) Registered person availing this scheme and having furnished the details of stock held by him in accordance with the provisions of clause (b) of sub-rule (2) of rule 1, submits a statement in FORM GST TRAN--- at the end of each of the six tax periods during which the scheme is in operation indicating therein the details of supplies of such goods effected during the tax period.

(iv) *The amount of credit allowed shall be credited to the electronic credit ledger of the applicant maintained in FORM GST PMT-2 on the Common Portal.*

(v) *The stock of goods on which the credit is availed is so stored that it can be easily identified by the registered person.*

(4) *The amount of credit specified in the application in FORM GST TRAN-1 shall be credited to the electronic credit ledger of the applicant maintained in FORM GST PMT-2 on the Common Portal.*

(In SGST Rules of States offering tax on MRP scheme)

(4) The amount of credit specified in the application in **FORM GST TRAN-1** shall be credited to the electronic credit ledger of the applicant maintained in **FORM GST PMT-2** on the Common Portal.

2. Declaration of stock held by a principal

Every person to whom the provisions of section 141 apply shall, within sixty days of the appointed day, submit an application electronically in **FORM GST TRAN-1**, specifying therein, the stock or, as the case may be, capital goods held by him on the appointed day details of stock or, as the case may be, capital goods held by him as a principal at the place/places of business of his agents/branch, separately agent-wise/branch-wise.

3. Details of goods sent on approval basis

Every person having sent goods on approval under the earlier law and to whom sub-section (12) of section 142 applies shall, within sixty days of the appointed day, submit details of such goods sent on approval in **FORM GST TRAN-1**.

4. Recovery of credit wrongly availed

The amount credited under sub-rule (3) of rule 1 may be verified and proceedings under section 73 or, as the case may be section 74 shall be initiated in respect of any credit wrongly availed, whether wholly or partly.

* * * * *

Note: Form GST TRAN--- (monthly declaration) (with illustration) as follows:

Sl no	Rate of Central tax applicable on such goods.	Value of the opening balance held in stock	Value of the goods sold during the tax period	Credit allowed @ 40% of the tax rate on goods sold	Value of closing balance of the goods.
1	2	3	4	5	6
1	5%	500000	200000	4000	300000
2	12%	500000	300000	14400	200000

GST Valuation (Determination of the Value of Supply of Goods and Services) Rules, 2016

1. Short title, commencement and application

- (1) These rules may be called the Goods and Services Tax Valuation (Determination of Value of Supply of Goods and Services) Rules, 2017.
- (2) These rules shall come into force on the day the Central Goods and Services Tax Act comes into force.

2. Definitions

- (1) In these rules, unless the context otherwise requires:

- (a) "Act" means the Central Goods and Services Tax Act;
- (b) "open market value" of a supply of goods or services or both means the full value in money, excluding the integrated tax, central tax, State tax, Union territory tax and the cess charged under the Goods and Services Tax (Compensation to States) Act, payable by a person in a transaction that is at arm's length (where the supplier and the recipient of the supply are not related) to obtain such supply at the same time when the supply being valued is made.
- (c) "supply of goods or services or both of like kind and quality" means any other supply of goods or services or both made under similar circumstances that, in respect of the characteristics, quality, quantity, functional components, materials, and reputation of the goods or services or both first mentioned, is the same as, or closely or substantially resembles, that supply of goods or services or both.
- (d) Words, expressions and terms not defined in these rules shall have the same meaning as is assigned to them in the Act.

3. Value of supply of goods or services where the consideration is not wholly in money

Where the supply of goods or services is for a consideration not wholly in money, the value of the supply shall,

- (a) be the open market value of such supply;
- (b) if open market value is not available, be the sum total of consideration in money and any such further amount in money as is equivalent to the consideration not in money if such amount is known at the time of supply;
- (c) if the value of supply is not determinable under clause (a) or clause (b), be the value of supply of goods or services or both of like kind and quality;
- (d) if value is not determinable under clause (a) or clause (b) or clause (c), be the sum total of consideration in money and such further amount in money that is equivalent to consideration not in money as determined by application of rule 6 or rule 7 in that order.

Illustration:

- (1) *Where a new phone is supplied for Rs.20000 along with the exchange of an old phone and if the price of the new phone without exchange is Rs.24000, the open market value of the new phone is Rs 24000.*
- (2) *Where a laptop is supplied for Rs.40000 along with a barter of printer that is manufactured by the recipient and the value of the printer known at the time of supply is Rs.4000 but the open market value of the laptop is not known, the value of the supply of laptop is Rs.44000.*

4. Value of supply of goods or services or both between distinct or related persons, other than through an agent

The value of the supply of goods or services or both between distinct persons as specified in sub-section (4) and (5) of section 25 or where the supplier and recipient are related, other than where the supply is made through an agent, shall,-

- (a) be the open market value of such supply;
- (b) if open market value is not available, be the value of supply of goods or services of like kind and quality;
- (c) if value is not determinable under clause (a) or (b), be the value as determined by application of rule 6 or rule 7, in that order:

Provided where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of goods or services.

5. Value of supply of goods made or received through an agent

The value of supply of goods between the principal and his agent shall,-

- (a) be the open market value of the goods being supplied, or at the option of the supplier, be ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person, where the goods are intended for further supply by the said recipient;

Illustration: Where a principal supplies groundnut to his agent and the agent is supplying groundnuts of like kind and quality in subsequent supplies at a price of Rs.5000 per quintal on the day of supply. Another independent supplier is supplying groundnuts of like kind and quality to the said agent at the price of Rs.4550 per quintal. The value of the supply made by the principal shall be Rs.4550 per quintal or where he exercises the option the value shall be 90% of the Rs.5000 i.e. is Rs.4500 per quintal.

- (b) if the value of a supply is not determinable under clause (a), the same shall be determined by application of rule 6 or rule 7 in that order.

6. Value of supply of goods or services or both based on cost

If the value of a supply of goods or services or both is not determinable by any of the preceding rules, the value shall be one hundred and five percent of the cost of production or manufacture or cost of acquisition of such goods or cost of provision of such services.

7. Residual method for determination of value of supply of goods or services or both

Where the value of supply of goods or services or both cannot be determined under rules 3 to 6, the same shall be determined using reasonable means consistent with the principles and general provisions of section 15 and these rules:

Provided that in case of supply of services, the supplier may opt for this rule, disregarding rule 6.

8. Determination of value in respect of certain supplies

(1) Notwithstanding anything contained in the Act or in these rules, the value in respect of supplies specified below shall be determined in the manner provided hereinafter.

(2) The value of supply of services in relation to purchase or sale of foreign currency, including money changing, shall be determined by the supplier of service in the following manner:-

(a) For a currency, when exchanged from, or to, Indian Rupees (INR), the value shall be equal to the difference in the buying rate or the selling rate, as the case may be, and the Reserve Bank of India (RBI) reference rate for that currency at that time, multiplied by the total units of currency:

Provided that in case where the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received, by the person changing the money:

Provided further that in case where neither of the currencies exchanged is Indian Rupee, the value shall be equal to 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into Indian Rupee on that day at the reference rate provided by RBI.

Provided also that a person supplying the services may exercise option to ascertain value in terms of clause (b) for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

(b) At the option of supplier of services, the value in relation to supply of foreign currency, including money changing, shall be deemed to be

- (i) one per cent. of the gross amount of currency exchanged for an amount up to one lakh rupees, subject to a minimum amount of two hundred and fifty rupees;
- (ii) one thousand rupees and half of a per cent. of the gross amount of currency exchanged for an amount exceeding one lakh rupees and up to ten lakh rupees; and
- (iii) five thousand rupees and one tenth of a per cent. of the gross amount of currency exchanged for an amount exceeding ten lakh rupees, subject to maximum amount of sixty thousand rupees.

(3) The value of supply of services in relation to booking of tickets for travel by air provided by an air travel agent, shall be deemed to be an amount calculated at the rate of five percent. of the basic fare in the case of domestic bookings, and at the rate of ten per cent. of the basic fare in the case of international bookings of passage for travel by air.

Explanation - For the purposes of this sub-rule, the expression “basic fare” means that part of the air fare on which commission is normally paid to the air travel agent by the airline.

(4) The value of supply of services in relation to life insurance business shall be:

(a) the gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of the policy holder, if such amount is intimated to the policy holder at the time of supply of service;

(b) in case of single premium annuity policies other than (a) , twelve and a half percent of single premium charged from the policy holder; or

(c) in all other cases, twenty five percent. of the premium charged from the policy holder in the first year and twelve and a half percent of the premium charged from policy holder in subsequent years:

Provided that nothing contained in this sub-rule shall apply where the entire premium paid by the policy holder is only towards the risk cover in life insurance.

(5)(a) The value of supply of lottery tickets including online lotteries shall be deemed to be the amount ascertained at the rate specified in column (2) of the Table given below, subject to the conditions specified in the corresponding entry in column (3) of the said Table or the margin for a draw, whichever is higher:

TABLE

Sr. No.	Rate	Condition
(1)	(2)	(3)
1.	Ten percent. of the aggregate face value of lottery tickets printed by the organizing State for a draw	If the lottery or lottery scheme is one where the guaranteed prize payout is more than 80%
2.	Fifteen percent. of the aggregate face value of lottery tickets printed by the organizing State for a draw	If the lottery or lottery scheme is one where the guaranteed prize payout is less than 80%

Explanation - For the purpose of this sub-rule-

(i) in the case of online lotteries, the aggregate face value of lottery tickets for the purpose of this sub-rule shall be taken as the aggregate value of tickets sold.

(ii) “draw” shall have the meaning assigned to it in clause (d) of the rule 2 of the Lottery (Regulation) Rules, 2010 notified by the Government of India in the Ministry of Home Affairs published in the Gazette of India, Part-II, Section 3, Sub-section (i) vide number G.S.R. 278(E), dated 1st April, 2010;

(iii) “online lottery” shall have the meaning assigned to it in clause (e) of the rule 2 of the Lottery (Regulation) Rules, 2010 notified by the Government of India in the Ministry of Home Affairs published in the Gazette of India, Part-II, Section 3, Sub-section (i) vide number G.S.R. 278(E), dated 1st April, 2010;

(iv) “organising state” shall have the meaning assigned to it in clause (f) of the rule 2 of the Lottery (Regulation) Rules, 2010 notified by the Government of India in the Ministry of Home Affairs published in the Gazette of India, Part-II, Section 3, Sub-section (i) vide number G.S.R. 278(E), dated 1st April, 2010;

(v) “margin for a draw” shall mean the difference between the aggregate of the face value of tickets printed and the aggregate of the prize payout in respect of the draw.

(6) 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 purchase of such goods, the value of supply shall be the difference between the selling price and purchase price and where the value of such supply is negative it shall be ignored.

(7) The value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable against a supply of goods or services or both shall be equal to the money value of the goods or services or both redeemable against such token, voucher, coupon, or stamp.

(8) The value of taxable services provided by such class of service providers as may be notified by the Government on the recommendations of the Council as referred to in Entry 2 of Schedule I between

distinct persons as referred to in section 25, other than those where input tax credit is not available under sub-section (5) of section 17, shall be deemed to be NIL.

9. Value of supply of services in case of pure agent

Notwithstanding anything contained in these rules, the expenditure or costs incurred by the supplier as a pure agent of the recipient of supply of services shall be excluded from the value of supply, if all the following conditions are satisfied, namely:-

- (i) the supplier acts as a pure agent of the recipient of the supply, when he makes payment to the third party for the services procured as the contract for supply made by third party is between third party and the recipient of supply;
- (ii) the recipient of supply uses the services so procured by the supplier service provider in his capacity as pure agent of the recipient of service;
- (iii) the recipient of service is liable to make payment to the third party;
- (iv) the recipient of supply authorises the supplier to make payment on his behalf;
- (v) the recipient of supply knows that the services for which payment has been made by the supplier shall be provided by the third party;
- (vi) the payment made by the supplier on behalf of the recipient of supply has been separately indicated in the invoice issued by the supplier to the recipient of service;
- (vii) the supplier recovers from the recipient of supply only such amount as has been paid by him to the third party; and
- (viii) the services procured by the supplier from the third party as a pure agent of the recipient of supply are in addition to the supply he provides on his own account.

Explanation . - For the purposes of this rule, “pure agent” means a person who -

- (a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- (b) neither intends to hold nor holds any title to the goods or services or both so procured or provided as pure agent of the recipient of supply;
- (c) does not use for his own interest such goods or services so procured; and
- (d) receives only the actual amount incurred to procure such goods or services.

Illustration. Corporate services firm A is engaged to handle the legal work pertaining to the incorporation of Company B. Other than its service fees, A also recovers from B, registration fee and approval fee for the name of the company paid to Registrar of the Companies. The fees charged by the Registrar of the companies registration and approval of the name are compulsorily levied on B. A is merely acting as a pure agent in the payment of those fees. Therefore, A’s recovery of such expenses is a disbursement and not part of the value of supply made by A to B.

10. Rate of exchange of currency, other than Indian rupees, for determination of value

The rate of exchange for determination of value of taxable goods or services or both shall be the applicable reference rate for that currency as determined by the Reserve Bank of India on the date when point of taxation arises in respect of such supply in terms of section 12 or, as the case may be, section 13 of the Act.
