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# COMPENDIUM OF FIRST CENTURIAL GST DOSES

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"The taxpayer: that's someone who works for the Federal Government but doesn't have to take a Civil Service examination."

– *Ronald Reagan*

# Dear Readers and well-wishers

We thank one and all for accepting our daily GST doses and making it a success. The intention when we started initially was to give little by little doses of information about GST on a daily basis. We have tried to make it simple without using many legal jargons and sometimes yes it becomes complicated, because the law is such and how much we try to make this simple it sometimes becomes difficult to understand. Though it is called Goods and Simple Tax, there is no good and no simplicity in this tax.

Today we released our 100<sup>th</sup> dose of Daily GST Dose, and in this journey we have received several suggestions, had many discussions, there were few arguments as well but it was a fun journey and more so a learning experience for all of us. When we try to interpret the law and try to represent to you in a simple language, we need to read the law again and again to ensure our understanding is correct. Wherever there are loose ends in the law, we make it clear to the readers and throw it open for discussion. We have tried to be honest and sincere in this journey. We are sure this is just a beginning and there are many more milestones to be achieved. On the Occasion of our 100<sup>th</sup> Daily GST Dose today, we are releasing a consolidated 100 doses of daily GST dose for ready reference.

Your suggestions are most welcome, it motivates us to improve ourselves and to give our best. We always believe the more we share the knowledge the more knowledge we will gain.

**Once again thank you for  
your support always.**

**CA Chandrasekhar Kutty  
Senior Partner  
Mohan & Chandrasekhar  
Chartered Accountants**



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## **1. GST a Basic Overview**

1. GST introduced from 1st July 2017, has one CGST Act applicable throughout India.
2. 31 SGST acts (each state has one SGST act applicable to that particular state only - there are 28 states +3 union territories with legislature, they are Pondicherry, Delhi & newly formed Jammu & Kashmir, UT with legislature have their own SGST Acts)
3. One UTGST Act (There are 5 Union Territories without legislative assembly and UTGST Act is applicable to them).
4. One IGST Act applicable for interstate supply and for import & export
5. One GST (Compensation to States) Act to pay compensation to states for the loss of revenue if there is a shortfall in collection of tax (Collected in the form of Cess)
6. Apart from that there are respective rules to implement the above acts.

## **2. Credit Flow in GST**

GST is a destination-based consumption tax, that means, by default rule where the consumer is finally consuming the goods or services, that state gets the revenue (SGST portion). The reason being the final consumer is paying the tax. In GST there is a seamless flow of credit, so the taxes paid is taken as credit and GST is passed on to the buyer who in turn passes on to his customer and finally the tax burden is on the final consumer.

Though there are few artificial credit restrictions like input tax paid on Motor vehicles, expenses related to such vehicles, factory buildings, foods & beverages etc are not allowed to be taken as credit which becomes a cost to the recipient, which defeats the very purpose of GST. This creates a situation of double taxation or tax on tax, GST was brought in to avoid such cascading effect. Petroleum products are out of GST at present and this also sometimes restricts free flow of credit.

*Max Baucus: "Tax complexity itself is a kind of tax."*



### **3. 101st Amendment Act, 2016**

17 Indirect taxes were subsumed in GST. Prior to GST, as per constitution sale of goods was taxed by states and provision of services was taxed by centre. Interstate movement of goods was taxed by the centre. The Constitution needed to be amended to bring in GST, where both Centre & States can tax on goods & services. Article 246A was inserted vide Constitution 101st Amendment Act, 2016 to allow such taxation.

All the decisions in GST are taken by the GST council created by Article 279A of our Constitution, which consists of Chairman- Union Finance minister; Vice Chairman- 1 chosen from among the State; Union Minister of State; and 1 Minister of Finance or other Minister of State for each State. 2/3rd of the power vests with the state & 1/3rd by the Centre. The GST council has met 40 times in the last 3 years and recently on 12th June 2020 they had their 40th GST Council meeting via video conferencing.

### **4. What is supply**

Under erstwhile Excise law the goods were taxed on manufacturing, in VAT it was Sale and under Service tax it was provision of services. Under GST the goods or services are taxed on SUPPLY. Either it is called outward supply, inward supply, exempted supply etc.

The irony is supply is not defined in the act and in Section 7 of the CGST Act gives a wide meaning to the word supply and it says supply includes "all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

So, supply includes almost everything under the earth, but it should be for consideration and should be in the course or furtherance of business. There are exceptions when goods or services will be taxed even if no consideration and if it is not in the course or furtherance of business, which we will discuss in coming GST doses

"The hardest thing in the world to understand is the income tax."

**- Albert Einstein**

## **5. Is GST applicable on all Transactions?**

As discussed already, GST is levied on the SUPPLY of goods & services, used in the course or furtherance of business. What is business? Business definition is quite wide as per section 2(17) of the CGST Act. The definition of business starts with includes, meaning a wider meaning.

The definition starts with “business includes any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit.

Business includes any activity or transaction whether there is volume, frequency, continuity or regularity of such transaction. A single transaction of supply is also considered of business. Also, occasional trade or even one time trade constitutes of business.

Provision of facilities by a club, association, society or any such body to its members also is a business.”

## **6. What is consideration under GST?**

As discussed earlier, supply is not defined in the act and in Section 7 of the CGST Act gives an wide meaning to the word supply and it says supply includes “all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a CONSIDERATION by a person in the course or furtherance of business;

Consideration is essential to tax a supply, except in the situations mentioned in Schedule I of the CGST Act.

What is consideration? Consideration is defined under section 2(31) of the CGST Act.

- Consideration does not always mean money. It covers anything which might be possibly done, give or made in exchange for something else
- Consideration need not always flow from the recipient of supply. It can also be made by a third person.
- Any transaction involving supply of goods or services without consideration is not a supply unless circumstances mentioned in Schedule I.
- Consideration does not include any subsidy given by the central or state government, that means even a subsidy or concession given by anyone other than Government will be treated as consideration.

Any deposit taken for a supply will also be treated as a consideration, if applied by the supplier as a consideration.

*Steve Forbes: "The politicians say 'we' can't afford a tax cut. Maybe we can't afford the politicians."*

## 7. Is consideration a must to tax under GST?

In GST, consideration is one of the important factors for an activity to be treated as supply of goods or services. Previously we have discussed that consideration is a must to tax a supply, but there is an exception. Supplies mentioned in Schedule I of the CGST act bring into fold supplies even though there is no consideration paid.

**Schedule I** of the CGST act (section 7) states the following activities shall be treated as supply even though no consideration is paid:

1. When the **business assets are permanently transferred** (or) disposed of and input tax credit is availed on such assets.
2. Any supply made between related (or) distinct persons without consideration is supply. Provided any gift by employer to employee less than Rs. 50000 is exempted.
3. Any supply of goods from the agent to his principal (or) from the principal to his agent.
4. **Import of services** by a person from a related person or from any of his establishments outside India, in the course or furtherance of business.

## 8. IMPORT OF SERVICES

To give a level playing field to domestic service providers, import of services are taxed even though there is no consideration and even though it is imported in the course of furtherance of business.

Under section 7(1)(b), supply includes import of services for a consideration whether or not it is used in course or furtherance of business. This means if you are importing any service with consideration, if it is for the purpose of your business and the service provider is not charging GST, then the recipient has to pay GST under reverse charge, if you are importing services for your personal use, then the service provider outside India should pay GST, either they have register in India or their representative in India should register and comply with law.

Under Schedule I clause 4, supply will include import of services by any person importing services from a related person or from any distinct establishment (own establishment) without consideration if used in the course or furtherance of business. That means if you are importing services from your relative or distinct establishment without if no consideration is paid but you are importing for your business purpose, GST will be levied on the value determined as per rules.

To sum it up, import of services whether or not used for the purpose business will be covered under GST if consideration paid and if no consideration paid then only if used for the purpose of business and imported from related or distinct persons will be covered.

*Only one mantra either perform or perish.*

*- Chandrasekhar Kutty*

## **9. Levy and collection of Tax (Section 9 of CGST Act & Section 5 of IGST Act)**

- If any supply of goods or services is made within the State, then CGST/SGST is charged. (No levy on the supply of alcoholic liquor for human consumption)
- If the supply of goods or services is made between the states or UT's the IGST is charged.

Petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel is not covered under the GST act and they are chargeable to GST when the government gives a notification.

## **10. Activities which are treated neither as supply of goods nor supply of services**

**There are activities which are treated neither as supply of goods nor supply of services. These activities are not chargeable to GST. They are covered under Schedule III of the CGST Act.**

- Services by an employee to the employer in the course of employment.
- Services by any court or tribunal.

Functions performed by the members of Parliament, State Legislature, Panchayat, Municipalities and Local Authorities

*"We are taxed twice as much by our idleness, three times as much by our pride and four times as much by our foolishness."*

### **11. Activities under Schedule III of the CGST Act.**

**There are activities which are treated neither as supply of goods nor supply of services. These activities are not chargeable to GST. They are covered under Schedule III of the CGST Act.**

- Duties performed by any person who holds any post in pursuance of the provisions of the Constitution.
- The duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority.
- Services of funeral, burial, crematorium or mortuary including transportation of the deceased.

### **12. Activities under Schedule III of the CGST Act**

**There are activities which are treated neither as supply of goods nor supply of services. These activities are not chargeable to GST. They are covered under Schedule III of the CGST Act.**

- Supply of building (residential or commercial) (if entire consideration is received after obtaining completion certificate or after its first occupation, whichever is earlier)
- Supply of Land. (Developed plots may also be a supply as per recent AAR rulings)
- Actionable Claims, other from the lottery, betting and gambling.

### **13. Activities under Schedule III of the CGST Act**

- Supply of goods from a place in non- taxable territory to another place in non-taxable territory without such goods entering into India.
- Supply of warehoused goods to any person before clearance for home consumption. (before Customs clearance).
- High sea sales - Supply of goods by consignee to any other person, by endorsement of document of title to the goods, after the goods have been dispatched from the port of the
- origin located outside India but before clearance for home consumption (Supply before Customs clearance).

*"Every advantage has its tax."- Emerson*

## **14. Circumstances where the recipient of goods and or services pays the taxes?**

**Reverse charge** is a mechanism where the recipient of the goods and/or services is liable to pay GST instead of the supplier.

The government may on the recommendation of GST Council notify list of goods and services, supplied by the supplier to a recipient, where the recipient will pay tax.

Reverse Charge Mechanism (RCM) under section 9(3) of the CGST Act has been notified for few goods and services such as GTA services, legal services, Arbitral services, sponsorship services, Government services, services provided by a director, insurance agent services, recovery agent services, copyright service, RBI services, services by direct selling agents, security services.

We will discuss each of these goods & services in detail in the coming doses.

## **15. Reverse Charge for goods (RCM)**

In today's dose we will discuss the types of goods on which reverse charge is applicable (Recipient of goods pays the tax):

The following persons supplying goods to a registered person – registered person will pay tax under reverse charge

- ⊄ An agriculturist supplying cashew nuts, not shelled or peeled.
- ⊄ An agriculturist supplying bidi wrapper leaves.
- ⊄ An agriculturist supplying tobacco leaves.

## **16. Reverse Charge for goods (RCM)**

In today's dose we will discuss the types of goods on which reverse charge is applicable (Recipient of goods pays the tax):

- ⊄ A person who manufactures silk yarn from raw silk or silkworm cocoons and supplies to any registered person (Registered person pays the tax).
- ⊄ An agriculturist supplying raw cotton to any registered person (Registered person pays the tax).
- ⊄ State government / Union Territory / Local Authority supplying lottery tickets to selling agents or distributors (Selling agent or distributor pays the tax).

*"Taxes, are the dues that we pay for the privileges of membership in an organized society."*

## **17. Reverse Charge for goods (RCM)**

In continuation to the dose on the types of goods on which reverse charge is applicable (Recipient of goods or services pays the tax):

The last set of goods on which reverse charge is applicable are:

- ∄ Central/State government or Union Territory or any Local Authority supplying used vehicles, seized and confiscated goods, old and used goods and waste & scrap to any registered person (recipient registered person needs to pay tax).
- ∄ Priority sector lending certificate supplied by a registered person to another registered person (recipient registered person needs to pay tax).
- ∄ An unregistered supplier supplying cement to a promoter (promoter pays the tax).

Capital goods supplied by an unregistered supplier to a promoter (promoter pays the tax).

## **18. Reverse Charge for Services (RCM)**

In the previous few doses, we had discussed about reverse charge applicability on goods. In the next few doses we will discuss the services on which reverse charge is applicable (Recipient of services pays the tax):

- Supply of services by GTA (Goods transport agency) in relation to transportation of goods by road, to factories, societies, co-operative societies, persons registered under GST Act, Body corporate, partnership firm, casual taxable person located in taxable territory. (All the recipients of services mentioned needs to pay GST)
- Services provided by a person located in a non-taxable territory to a person located in a taxable territory other than non-taxable online recipient (importing of services for business purpose attracts reverse charge).

Legal Services provided by advocates to a business entity (business entity will pay GST)

*"There is just one thing I can promise you about the outer-space program -- your tax-dollar will go further."- BRAUN*



## **19. Reverse Charge for Services (RCM)**

In continuation to our discussion on Services on which reverse charge is applicable (Recipient of goods or services pays the tax):

Following are few more services on which reverse charge is applicable:

- Sponsorship services provided by any person to a body corporate or partnership firm.
- Services supplied by the Government to a business excluding renting of immovable property, postal services, agency services, transportation of goods or passenger, aircraft and vessel services.
- Services related to renting of immovable property by the government to persons registered under GST Act.

## **20. Reverse Charge for Services (RCM)**

In today's dose we will continue to discuss the types of services on which reverse charge is applicable (Recipient of goods or services pays the tax):

∄ Transfer services in relation to developmental rights or floor space index to promoter (promoter is liable to pay tax).

∄ Long term lease of land (30 years or more) to a promoter (promoter is liable to pay tax).

Services supplied by a director of a company or a body corporate to the said company or body corporate (company or body corporate liable to pay tax – no liability if the service is provided as per employment contract)

## **21. Reverse Charge for Services (RCM)**

We will continue with the discussion of the types of Services on which reverse charge is applicable (Recipient of goods or services pays the tax):

- Services supplied by an insurance agent to a person carrying on insurance business (Insurance company liable to pay tax).
- Services supplied by a recovery agent to the banks, financial institution or NBFC (Bank, financial institution or NBFC liable to pay tax).
- Supply of services by a music composer, photographer, artist or the like to the music company, producer or the like by way of transfer or permitting the use or enjoyment of a copyright relating to original literary, dramatic, musical or artistic works (Music company, producer liable to pay the tax).

*"The thing generally raised on city land is taxes." - WARNER*



## **22. Power of inspection**

### **When can a proper officer have power to inspect your premises**

The proper officer should have reason to believe that there is a evasion of tax in the following circumstances:

Has suppressed any transaction relating to supply of goods or services or both

Has suppressed stock in hand

Has claimed input tax credit in excess of his entitlement

Has indulged in contravention of any provisions of the GST law or rules (very wide powers)

Next dose we will discuss who are the proper officer and who can come & inspect your premises.

## **23. Power of inspection**

Yesterday we had discussed the circumstances when the proper officer may inspect your premises.

### **Who is proper officer?**

Proper officer should be not below the rank of Joint Commissioner

Officer not below Joint Commissioner can authorise any other officer to conduct the inspection.

Authorisation should be in the form GST INS 01 (Always ask for this authorisation form when officers come for inspection)

Section says the proper officer should have reason to believe, reason to believe is not defined in the Act or rules, so we have to take the cue from Indian Penal Code, which says there should be sufficient cause.

*"No matter how bad a child is, he is still good for a tax deduction."-COBBET*

## **24. Power to Search & Seize**

If the proper officer has a reason to believe pursuant to the inspection under sub section (1) of section 67 (discussed in the last 2 doses), he may confiscate any goods or documents or things, which in his opinion shall be useful for or relevant to any proceedings under the GST law.

If goods are seized, then form GST INS 02 will be issued

If goods cannot be seized because of practical difficulties, then form GST INS 03 will be issued

There are separate provisions for disposing off perishable or hazardous goods

Goods can be released provisionally by executing bond for the value of the goods and furnishing bank guarantee equivalent to the amount of tax, interest and penalty payable.

## **25. Inspection of goods when in movement**

E waybill is required for carrying consignment of goods of value exceeding specified amount (Interstate movement Rs.50,000 & above and intra state movement fixed by each state)

The following prescribed documents to be carried along with the conveyance:

- Tax invoice (Taxable supply) or
- Bill of Supply (Exempted Supply) or
- Delivery challan (If not a supply)
- Copy of E waybill or its number (Now can be mapped in RFID)
- Imported goods – copy of bill of entry shall also be carried

Once inspection and verification are done then no further physical verification is allowed anywhere in India except if there is a tax evasion

If the above documents are proper and there is no evasion of tax, then goods and or conveyance cannot be detained.

In tomorrow's dose we will discuss a particularly important topic of Power to arrest

*"Government lasts as long as the under-taxed can defend themselves against the over-taxed."-BRENSON*

## **26. Power to arrest**

Commissioner has reason to believe that a person has committed any of the below offences, he may authorize any officer to arrest such person:

1. Has supplied goods / services without issue of any invoice with the intent to evade tax
2. Has issued invoice or bill without supply of goods / services leading to wrongful availment or utilization of ITC or refund of tax
3. Has availed ITC fraudulently without invoice / bill
4. Has collected any amount as tax but fails to pay the same to the Government beyond a period of 3 months from the due date of the payment.

Can all the above offences lead to arrest? Is there a minimum limit? what are cognizable and non bailable offence? We will discuss in tomorrow's GST dose, stay tuned

## **27. Power to arrest**

In continuation to yesterday's dose we had mentioned the offences if committed may lead to arrest. With respect to first 3 offences i.e. If the amount of:

1. Tax evaded
2. ITC wrongly availed or utilized
3. Refund wrongly taken
4. Collects amount as tax but fails to remit
5. If the offence is greater than Rs.5 Crores – imprisonment up to 5 years along with fine (Cognizable and Non bailable offence)
6. If the offence is greater than 2 Crores but less than Rs.5 Crores – imprisonment up to 3 years along with fine
7. If the offence is greater than 1 Cr but less than Rs.2 Crores – imprisonment up to 1 year along with fine
8. If you were party or helped in the offence, then imprisonment up to 6 months along with fine
9. Cognizable offence means an offence in which a police officer has the authority to make an arrest without a warrant and to start an investigation with or without the permission of a court.

*"Of all our natural resources, the first one to be exhausted may be the taxpayer."-UNKNOWN*

## **28. Reverse Charge for Services (RCM)**

The remaining important few services on which reverse charge is applicable (Recipient of services pays the tax):

Services provided by an agent of business correspondent to a business correspondent (business correspondent will pay the tax).

- Security services by any person (other than body corporate) provided to a registered person (registered person will pay the tax).
- Services provided in relation to renting of motor vehicles by any person (other than body corporate) to anybody corporate and does not issue invoice charging GST @ 12% (body corporate pays the tax).

## **29. COMPOSITE SUPPLY**

The liability to pay GST arises only when there is a supply of goods or services or both.

Supply can be only of goods or services or combination of goods / services or both.

If the supply involves combination of the above, then the question may arise what is the tax rate to be applied?

For example, if you buy an air conditioner and the cost includes installing the air conditioner, air conditioner tax rate is 28% and installation tax rate is 18%, so can we charge them separately? If not, how the transaction will be taxed?

The above transaction can be a composite supply or a mixed supply which we will explain.

Composite supply means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

Important factor to determine whether it is a composite supply is:

- Supply should be made by a taxable person
- Consisting of two or more taxable supplies
- Which are naturally bundled
- Supplied in conjunction with each other
- In the ordinary course of business
- One of which is a principal supply

We will discuss more on composite supply in tomorrow's dose. Stay tuned

*"Economic development consists of who can give away the taxpayers' money faster."*

### **30. COMPOSITE SUPPLY**

As discussed yesterday, important factor to determine whether it is a composite supply is:

- Supply should be made by a taxable person
- Consisting of two or more taxable supplies (includes exempted supplies also)
- Which are naturally bundled
- Supplied in conjunction with each other
- In the ordinary course of business
- One of which is a principal supply

In a composite supply comprising of two or more supplies, the tax rate applicable on principal supply shall be the rate applicable for the whole transaction.

Few examples of Composite supply,

- Hotel accommodation with breakfast (while booking the hotel it is naturally expected to get breakfast as complimentary, tax rate of hotel will be charged for the whole transaction).
- Purchase of an air conditioner with installation (When we buy an air conditioner, we expect the supplier to install the same, tax rate of A/c will be charged for the whole transaction).
- Goods transported with freight and insurance [When the supplier agrees to deliver the goods to the premises of the customer (suppliers responsibility) and supplier incurs the cost (collected from the customer), then freight cost and insurance cost will be incidental cost and goods are the principal supply and the rate applicable for the goods will be charged for the whole transaction]

The examples above are only illustrative and will depend on the agreement between the parties.

We will discuss what is mixed supply in the next dose, stay tuned

*"The bottom line: Taxpayers will pay about the same."*

### **31. MIXED SUPPLY**

In the previous dose we had discussed when the supply of goods or services shall be treated as a composite supply.

If there is a combination of supply of goods or services or both and if the supply does not fall under composite supply (if they are not naturally bundled), then such supply will be treated as a mixed supply.

The mixed supply is defined under section 2(74) of the CGST Act:

**“Mixed supply”** means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

**Example:** A laptop seller sold laptop to customers along with laptop bag, these two goods are sold together at a single price but are not naturally bundled and bag and laptop can be sold separately also. Therefore, it is NOT composite supply, will be treated as mixed supply.

What is the tax rate to be charged when it is mixed supply?

Goods or services which attracts the highest rate of tax.

Few examples of mixed supply will be discussed in tomorrow's dose, stay tuned

### **32. MIXED SUPPLY**

Yesterday we discussed in brief what is a mixed supply.

If the supply involves combination of goods or services or both for a single price and which are not composite supply will be mixed supply and the rate applicable will be highest tax rate applicable of goods or services supplied in that combination

*The only thing worse than starting something and failing is not starting something.” – Seth Godin*

### **33. COMPOSITION SCHEME - (Sec. 10 of the CGST Act)**

GST though envisaged to be a good & simple tax is a difficult law to comply and to make life easier for small taxpayers, the law has given an option of a scheme called composition scheme.

For a normal taxpayer the compliance procedures related to filing of returns, maintaining records of claiming of input tax credit, output tax etc. is cumbersome and difficult.

Under composition scheme, the registered person needs to pay a fixed percentage of tax on his turnover and the process of filing returns also is simplified. Composition scheme was initially applicable for registered persons (other than service providers) having aggregate turnover of up to Rs.50 Lakhs in the preceding financial year, later it got increased to Rs.75 Lakhs and now existing threshold limit is Rs.1.5 Crs w.e.f 01.04.2019.

Later Government introduced one more option under composition scheme, for the taxpayers who could not meet the criteria of coming under composition scheme (mainly for service providers) whose aggregate turnover is below Rs.50 Lakhs.

Registered person under normal scheme can opt for composition scheme at the beginning of any financial year if he meets all the criteria. Similarly, registered person under composition scheme if he exceeds the threshold limit, then he will be converted as a normal taxpayer.

More on composition scheme in the next dose

### **34. COMPOSITION SCHEME - (Sec. 10)**

- Tax rates under composition scheme are as follows:

1% - in case of manufacturer (except for manufacturers notified by the Government).

5% - in case of persons supplying food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), though restaurants have this option, the normal rate for restaurants is also 5% and opting for normal rate is advisable, since taxes can be collected under normal registration.

1% - in case of other suppliers (such suppliers must meet conditions as laid down under Section 10(2) of the CGST Act).

6% - in case of service providers or others (who could not fall under above 3 categories)

Important points to be noted in case of composition scheme:

- No Tax Invoice to be issued to the recipient, only Bill of Supply to be issued.
- Taxes cannot be collected from the customer
- Input tax credit paid on inward supplies cannot be claimed. (No ITC)
- File returns only on quarterly basis instead of monthly basis.

More on composition scheme in the next dose, stay tuned.

*"I knew that if I failed, I wouldn't regret that, but I knew the one thing I might regret is not trying." – Jeff Bezos, founder and CEO of Amazon*

### **35. COMPOSITION SCHEME**

Who can opt for composition scheme?

A registered person can opt for the composition scheme (if supplying goods) if:

- He is not engaged in the supply of services except restaurant services. (Supply of services not exceeding 10% of the turnover in the preceding year or Rs.5 lakhs whichever is higher is allowed)
- He is not engaged in making any supply of goods which are not leviable to tax under this Act.
- He is not engaged in making any inter-state outward supplies of goods.
- He is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source
- He is not a manufacturer of such goods as may be notified by the Government
- He is not a non-resident or a casual taxable person.

Registered persons having the same PAN with different registrations, all such registered persons shall opt to pay tax under this scheme.

There is one more composition scheme (if not eligible above) which will be discussed in tomorrow's dose

### **36. COMPOSITION SCHEME**

Yesterday we had stopped our discussion on one more option available for composition scheme (if not eligible under normal scheme).

Registered person having aggregate turnover less than Rs.50 lakhs in the preceding financial year may opt to pay tax at 6% provided he is not:

- engaged in making any supply of goods or services which are not leviable to tax under this Act.
- engaged in making any inter-state outward supplies of goods or services.
- engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source
- a manufacturer of such goods or supplier of such services as may be notified by the Government
- a non-resident or a casual taxable person.

Registered persons having the same PAN with different registrations, all such registered persons shall opt to pay tax under this scheme.

*"If you don't play you can't win." – Judith McNaught*



### **37. Where does Government get power to exempt goods or services in GST?**

GST Act per se does not specifically exempt any goods or services excluding petroleum products and alcoholic liquor. GST Act brings into its fold all supplies to be taxable.

Section 11 of the CGST Act gives power to the Government to exempt:

By **Notification** – either absolutely or subject to certain conditions, goods or services or both from whole or any part of the tax payable (Absolute exemption like services by RBI, renting of residential dwelling etc., which are completely exempted and conditional exemption means services like hotels which are exempted from tax if their tariff is up to Rs.1000 tariff per day etc. such services are exempted if they meet certain conditions)

By **Special Order** – under exceptional circumstances exempt certain goods or services or both from payment from tax.

Notification or order will be issued only on the recommendation of the GST Council.

GST rate classification, exemptions are all notified as per the notifications, Act gives power to the Government on the recommendation of the GST Council to decide the rates (classification), exempt or tax goods or services.

What are the differences between an exempt / Zero rated / Nil rated / Non taxable supply of goods or services? We will discuss in our next dose. Stay tuned.

### **38.Types of Supply**

**Taxable Supply** – means supply of goods or services or both which is leviable to tax under the GST Act

**Exempt Supply** – means supply which attracts NIL rate of tax or which is wholly exempted as per the notifications issued and it includes non taxable supplies (NIL rate supply is not defined but are the supplies which are notified as 0% tax rate)

**Non-taxable Supply** – means supply of goods or services or both which is not leviable to tax under GST law (for example alcoholic liquor for human consumption)

**Zero Rated Supply** – means export of goods or services or both or supply to SEZ developer or unit. (It is called Zero rated because Zero taxes should be exported out of India and all taxes paid for supply of exports will be refunded to the exporter)

Exempt supply & Nil rated supplies are exempted as per notifications and input tax credit becomes the cost and cannot be claimed as refund. Non taxable supplies are not taxable as per law itself and again input tax credit becomes a cost Zero rated supplies if all conditions are met are eligible for refund of accumulated input tax credits or refund of IGST paid (depending on the method chosen by the registered person).

*Why not go out on a limb? Isn't that where the fruit is? – Frank Scully*

### **39. TIME OF SUPPLY**

Time of supply is important to determine the time when the liability to pay tax arises.

#### **In case of goods:**

The time of supply shall be the earliest of the following:

Date of issue of invoice (invoice shall be issued, before or at the time of removal of goods if there involves movement of goods and if there is no movement of goods then delivery of goods or when goods are made available to the recipient).

or

Date of receipt of payment.  
(whichever is earlier)

The time of supply in case of reverse charge (recipient pays the tax) shall be the earliest of the following:

1. Date of receipt of goods or
2. Date of payment or
3. Date immediately following 30 days from the date of issue of invoice.
4. The time of supply for interest, late fees, or penalty for delayed payments for the above supplies shall be the date on which the supplier receives such payment.

### **40. TIME OF SUPPLY**

We discussed time of supply of goods in the previous dose, in this dose we will discuss the time of supply of services.

The time of **supply of services** shall be the earliest of the following,

Date of issue of invoice (if the invoice is raised before or within 30 days from the provision of service) or receipt of payment, whichever is earlier#

Date of provision of service. Date on which recipient shows the receipt of services in his books of accounts (where above two clauses cannot be determined, very impractical clause, how can the supplier know when recipient has entered the transaction in his books of account).

The time of supply of services in case of reverse charge (recipient pays the tax) shall be the earliest of the following, Date of payment by the recipient  
or

Date immediately following 60 days from the date of issue of invoice

If above two clauses not determinable then date of entry in the books of account of the recipient.

In the case of import of service from associated enterprises the time of supply shall be earliest of the following

Date of entry in the books of account of the recipient or Date of payment

We have to be careful, as many a times it may happen the service is provided but the invoice is raised after a long time, there is a possibility of interest liability in such cases.

*"A ship in harbour is safe, but that is not what ships are built for." – William G.T. Shedd*

## **41. Value of taxable supply**

Dispute always arises on what value of supply of goods or services or both, tax should be charged. The general rule shall be the transaction value which the recipient has to pay to the supplier for the supply of the goods or services or both shall be the value on which tax shall be paid.

The above transaction value is considered only if:

The supplier and the recipient are not related (Explanation to section 15 defines related persons) and

Price is the sole consideration (There is no other consideration received other than the value mentioned in the invoice) Example if a mobile is sold for Rs.25000 under exchange and Rs.20000 is paid through cash and Rs.5000 is the value of the old mobile, then the value for the purpose of tax shall be Rs.25000, as the price paid for the mobile is Rs.20000 in cash and Rs.5000 for the old mobile.

If supplier and recipient are related or price is not the sole consideration then value shall be determined as per the valuation rules of the CGST Rule, 2017.

We will be covering few important topics on valuation, which will include what should be included, what should not be included, treatment of discounts etc. in the next doses,

## **42. Value of taxable supply**

What should be included in the value of the taxable supply:

- Any taxes, cesses, duties charged other than CGST, SGST, IGST, UTGST by the supplier. (Any taxes paid other GST shall be added to the value for example customs duty etc.)
- Any amount that the supplier is liable to pay but the same has been incurred by the recipient (like transportation which supplier has to incur but paid by the recipient, later reimbursed should form part of the value)
- Incidental expenses including commission and packing charges charged by the supplier and any amount charged for anything done before or at the time of delivery of goods or supply of services.
- Interest, late fee and penalty charged by the supplier for late payment of consideration (though not known at the time of supply shall be chargeable to GST when the amount is received).
- Any subsidies linked with the supply but excluding subsidies given by the central government and state governments (Any subsidies received other than from the Government shall be charged to GST and will be paid by the person who receives the subsidy)

*"I am always doing that which I cannot do, in order that I may learn how to do it." – Pablo Picasso*

### **43. Value of taxable supply**

In the previous dose we saw inclusions in the value of taxable supply, in this dose we will discuss the exclusions.

The value of supply shall not include any discount which is given,

- before or at the time of supply (should be shown in the invoice).
- after the supply if, given as per the agreement made either before or at the time of supply and should be linked to the relevant invoices and input tax credit proportionate to the discount portion should be reversed by the recipient.

Such discounts should not be considered in the taxable value.

Discounts are always a disputable area and needs to be understood and applied in a more thoughtful manner. Discounts can be in form of quantity discounts, festival discounts, turnover discounts etc.

There are financial credit notes and commercial credit notes which are generally used to pass on discounts.

We will discuss on these credit notes in our next dose. Stay tuned

### **44. Credit note**

In the following circumstances credit notes can be issued:

Taxable value has been charged excessively

Tax is charged in excess

Goods supplied are returned by the recipient or goods or services or both supplied are found to be deficient.

Discounts given

The credit note issued should be declared in the return for the month of September following the end of the financial year or date of filing annual return whichever is earlier.

#### **Financial credit note:**

In financial credit note the supplier of goods or services adjusts the credit note with the outward supply and the recipient shall also reverse proportionate input tax credit. This credit notes should be issued before September following the end of the financial year.

#### **Commercial Credit Note**

In commercial credit note the supplier does not reduce the credit note amount in the outward supply and hence there is no change in the tax liability and in this case even the recipient is not required to reverse the input tax credit. Since there is no tax liability impact, these credit notes can be issued even beyond September due date.

Discounts given through financial credit notes, the recipient needs to reverse the input tax credits (the supplier will disclose the taxable value and related tax in the credit note) and discounts given through commercial credit notes, the recipient need not reverse the input tax credit (such credit notes will have only the amount of value and no tax portion shall be mentioned)

*“Two roads diverged in a wood ... I took the one less travelled by, and that has made all the difference.” – Robert Frost*

#### **45. VALUE OF SUPPLY**

The transaction value mentioned in the invoice or any other document will be taken as value for the purpose of GST only if:

Supplier and recipient are not related and

Price is the sole consideration

If supplier and recipient are related or price is not the sole consideration, then valuation rules will become applicable and we must follow the valuation methods prescribed in the rules to arrive at the value.

#### **How to arrive at the value when the price is not the sole consideration**

We must go step by step

First arrive at the open market value of such supply if it can be arrived at.

If the open market value is not available, then the total of consideration in money and amount equivalent to consideration not in money

If value of supply is not determinable in above two methods, then the value of similar kind or quality of goods or services to be considered.

How to arrive at the value when both supplier and recipient are related, we will cover in tomorrow's dose. Stay tuned

#### **46.VALUE OF SUPPLY**

**The transaction value mentioned in the invoice or any other document will be taken as value for the purpose of GST only if:**

**Supplier and recipient are not related and**

**Price is the sole consideration**

#### **How to arrive at value when supplier and recipient are related person or distinct person**

First arrive at the open market value of such supply if it can be arrived at.

If open market value not available, then the value of similar kind or quality of goods or services to be considered.

If the goods are further supplied by the recipient, then the price to be taken should be 90% of the price of like kind & quality goods and not between related person.

If the recipient is eligible to take full input tax credit, the invoice value shall be deemed to be the open market value of the goods or services.

What are related person and distinct person as per GST law, we will see in our next dose, stay tuned.

*No man is worth his salt who is not ready at all times to risk his well-being, to risk his body, to risk his life in a great cause. – Theodore Roosevelt*

## **47. DISTINCT & RELATED PERSONS**

To determine the value, we had talked about related and distinct person.

### **Who are related/ distinct persons?**

Following persons shall be deemed to be related persons,

- Officers or directors of one another's businesses
- Legally recognized partners in business
- Employer and employee
- Any person directly or indirectly owns, controls or holds twenty-five per cent or more of the outstanding voting stock or shares of both of them
- one of them directly or indirectly controls the other
- Both of them are directly or indirectly controlled by a third person
- Together they directly or indirectly control a third person
- Members of the same family

Following person shall be deemed to be distinct person if,

Registered person have multiple registrations under single PAN either in the same state or UT or in different state or UT's, each such registration will be deemed to be distinct person.

As per IGST Act, any establishment in India / State and their branch or liaison office outside India / State (within state also) or vice versa shall also be deemed to be distinct persons. (Distinct person should not be confused with literal meaning where in means different person, as per GST law distinct person means same meaning as related person)

## **48.Value of supply for specified services**

### **Air Travel agent:**

Value of service is 5% of basic fare in case of domestic travel and 10% of basic fare in case of international travel.

Basic fare means air fare on which commission is paid to the travel agent.

### **Life insurance business:**

In case of policy with dual coverage of risk and investment:

Value of supply = Gross premium charged – amount allocated for investment or savings.

In case of single premium annuity policy, the value of supply is the 10% of premium charged from the policy holder.

In case of only risk premium, the value of supply is the entire premium charged from the policy holder.

In any other case, for first year value of supply is 25% of premium and 12.5% in subsequent years

### **Second hand goods:**

Value of supply is the difference between the selling price and purchase price and no ITC should be claimed for purchase of second hand goods.

*Only those who will risk going too far can possibly find out how far one can go. – T. S. Eliot*

## **49. “Input Tax Credit”.**

GST was introduced for the very reason there should be seamless flow of credit. Pre GST period we had various laws like service tax, excise, VAT etc. Tax paid under one Act could not be used to set off against the other Act. There used to be situation of tax on tax and there was cascading effect. GST was brought in to weed out this cascading effect, so that taxes paid on inputs, input services and capital goods can be used to set off the taxes collected while providing output goods or services. Under VAT era, credits of taxes were allowed only if the transactions happened within the state and no credit was available for interstate movement of goods. GST brought in one national market and credits were available for transactions done within India.

### **But are all input tax credits available for utilization?**

These is where the complications start under GST. Though it is easy said than done, there are few restrictions on utilizing the input tax credit and this defeats the very purpose of why GST was brought in

## **50.What is input tax credit?**

Input tax credit means any credit of input tax

### **What is input tax?**

Input tax means all taxes paid under GST law (CGST, SGST, IGST or UTGST) except taxes paid under composition levy.

As per the definition of input tax credit, you can take credit of any input tax, but section 16 of the CGST Act lays down the conditions.

### **Who are eligible to take input tax credit?**

Every registered person – subject to such conditions and restrictions as may be prescribed (only registered person can take the credit)

Entitled to take credit of input tax on any supply of goods or services or both (all the supplies are covered, and it is not restrictive)

Which are used or intended to be used in the course or furtherance of business (cannot take credit if used for personal purpose)

The said amount should be credit to the electronic credit ledger

*if you are not willing to risk the unusual, you will have to settle for the ordinary. – Jim Rohn*



## **51. Input Tax Credit**

In the eligibility we discussed yesterday the section says we can take the credit of goods or services or both which are used or intended to be used in the course or furtherance of business.

Used or intended to be used is the discussion in today's dose. What is important is not the actual use but the intention to use. If you intended to use the goods or services for your business but actually could not use it for various reasons, may be because it got destroyed, or the quality of the goods or services was such, which cannot be used then the intention to use is good enough to take the credit of such goods or services.

The similar provision was there in excise and in the famous Dalmia Dadri Cement case, department argued that credit can be taken only on the actual use, Apex court held that if the intention of the legislature was to limit the exemption only to such goods sold as were actually used by the undertaking, the phraseology used in the exemption clause would have been different as, for example, "goods actually used" or "goods used"

The four conditions to take input tax credit will be discussed in tomorrow's dose, stay tuned.

## **52. Input Tax Credit**

**What are the conditions for taking Input tax credit?**

The registered person shall be entitled to take input tax credit in respect of any supply if all the below four conditions are satisfied:

1. He is in possession of a tax invoice or debit note or any other tax paying document (the recipient should possess tax paying document)
2. He has received the goods or services (the credit can be taken only when the goods or services are received, that means if the invoice is dated for example in July month, but goods or services are received in August, input tax credit can be taken only in August)
3. Tax charged in respect of the supply has been actually paid to Government either payment through cash or utilization of input tax credit (tax should be paid by the supplier)
4. He has furnished the GST return (the person claiming the input tax credit should have filed his return)

All the above conditions should be met to claim input tax credit.

*Once we believe in ourselves we can risk curiosity, wonder, spontaneous delight, or any experience that reveals the human spirit. – e. e. cummings*



### **53. Input Tax Credit**

Yesterday in our dose the discussion was the conditions to be met to take the input tax credit and one of the conditions was the registered person should have received the goods or services to avail the input tax credit.

The exception to this condition is that if the goods are delivered to any other person on the direction of the registered person, then the delivery of such goods to the other person is deemed to be delivered to the registered person, similarly services provided to any person on the directions of the registered person is deemed to be provided to such registered person.

For example, if 'A' purchases goods from 'B' and directs him to deliver the goods to 'C', when 'C' receives the goods from 'B' it is deemed 'A' has received the goods and at that time the input tax credit can be availed by 'A'.

### **54. Input Tax Credit**

No input tax credit if payment is not made within 180 days

The recipient cannot avail the input tax credit or if claimed must reverse it with interest if he fails to make the payment to the supplier of goods or services within 180 days from the date of issue of invoice. (Not applicable on tax paid on reverse charge)

The input tax credit can be reclaimed when the payment is made to the supplier

*The only way to find true happiness is to risk being completely cut open. – **Chuck Palahniuk***

## **55. Input Tax Credit**

**Can you avail input tax credit anytime? Is there any time limit?**

The registered person can avail input tax credit in respect of any invoice or debit note within the due date of furnishing of the return for the month of September following the end of financial year to which the invoice or debit note pertains or furnishing of relevant annual return whichever is earlier.

For example, input tax credit for the invoice pertaining to the financial 2019-20 should be availed by 20.10.2020, due date for filing September 2020 return, since annual return for that year still is not filed.

**Can we avail the input tax credit if you miss the deadline?**

Scope for litigation- department will always deny

## **56. Can all the input tax credit available in the credit ledger be availed?**

If you are using goods or services partly for business and partly for personal use, the proportionate portion of input tax credit used for personal purpose shall be ineligible.

If you are using the goods or services partly for the purpose of providing exempt supply and partly for taxable supply (Zero rated is included in taxable supply), the input tax credit attributable to exempt supply shall be ineligible.

Exempt supply will include transactions where the recipient has to pay the tax. For example, in case of GTA supply, for the person supplying GTA services is an exempt supply, since the recipient will pay the tax, any input tax credit directly related to this supply is ineligible and common credits (not directly related to any supply like audit fees) shall be proportionately reversed.

Now we enter a very interesting doses of GST where we will discuss the blocked credits, wherein input tax credit is blocked. Stay

*It seems to be a law of nature, inflexible and inexorable, that those who will not risk cannot win. – John Paul Jones*

## **57. Blocked credits (Input Tax Credit not allowed):**

### **Motor Vehicles for transportation of passengers**

No ITC can be claimed of motor vehicles with an approved seating capacity of not more than 13 persons, including the driver, unless if it is used for:

1. Further supply of such vehicles (like dealers etc)
2. Transportation of passengers
3. Imparting training on driving such vehicles

Motor vehicle > 13 persons approved seating capacity – input tax credit allowed

Motor vehicle < 13 persons approved seating capacity – input tax credit allowed only if the vehicle is used for the above three purposes.

Motor vehicles used for transportation of goods are eligible for input tax credit. Such vehicles should be registered as goods vehicle.

Expenses towards the vehicles like service cost insurance, are you eligible? We will cover this in our next dose. Be with us

## **58. Expenses on Motor vehicle – ITC?**

Yesterday we had discussed the eligibility of input tax credit of motor vehicles.

**Whether input tax credit on expenses relating to motor vehicles like general insurance, service cost, repairs and maintenance etc. Are eligible?**

It is very simple, if the input tax credit on motor vehicle is eligible, then input tax credit on expenses relating to such motor vehicle also will be eligible.

Input tax credit on expenses relating to motor vehicle used for transportation of goods are eligible.

Input tax credit on expenses relating to motor vehicle used for transportation of passengers having approved seating capacity of more than 13 persons are eligible and less than 13 persons seating capacity, if used for specific purposes only will be eligible.

**Whether input tax credit on food & beverages are eligible? Stay tuned.**

*It is better to risk starving to death than surrender. If you give up on your dreams, what's left? – Jim Carrey*

## **59. Compensation cess or a mess?**

Yesterday GST council met for the 41<sup>st</sup> time and the only agenda for discussion was how will the states be compensated for the reduction in the GST revenues.

### **What is this Compensation that we are talking about?**

GST was introduced with all states coming on board with an apprehension that with GST being implemented, states may lose the revenue compared to pre GST and there should be some mechanism to handhold the states for some period, so that there is a continuous flow of income to the states. GST Compensation to States Act was passed along with other GST Acts, where it was decided that states will be compensated for any loss of revenue and there will be an increment of 14% every year in the revenue which will be guaranteed for the period of 5 years from the introduction of GST. The revenue for this will be garnered by levying compensation cess on sin & luxury goods and this money will be used for compensating the states.

### **What is the problem now?**

Last one year there has been a drastic reduction in the GST tax collection and especially during this pandemic the revenues have shrunk to more than half. Both centre and state are looking at a drastic fall in GST revenues during this year. 41<sup>st</sup> GST council meeting was held to discuss the ways & means to fund the states. 2 options are given to the states to meet the deficit, which will be applicable only for this year. There will be one more GST council meeting shortly to finalize the scheme

## **60. GSTR 2A vs GSTR 2B**

CBIC yesterday launched GSTR 2B on a trial basis for the month of July, 2020.

### **What is GSTR 2B?**

- GSTR 2B is a static statement (it will not change dynamically like GSTR 2A)
- GSTR 2B will be generated 12<sup>th</sup> of every subsequent month (Credit can be taken only for the ITC available in the statement as on this date)
- It will contain details of import of goods extracted from ICEGATE system including from SEZ
- The statement will show the ITC available and not available
- The statement will in future get auto populated in GSTR 3B (which will be a non-editable item)

**GSTR 2A** – on the contrary is a dynamic statement, which will keep on getting updated as and when the supplier files his GSTR 1. This statement shall be used for viewing only.

### **The flow of credit will be like below:**

Supplier files his GSTR 1 - Credit reflected in GSTR 2A – 12<sup>th</sup> of the succeeding month GSTR 2B to be generated which will be auto populated to GSTR 3B.

PS: Soon, only credits appearing in GSTR 2B can be claimed as ITC and 10% additional option may go once this system is implemented.

*Decision is a risk rooted in the courage of being free. – Paul Tillich*

## **61. Input tax credit on foods & beverages whether allowed?**

Any input tax credit paid on inputs or input services relating to **foods & beverages are not eligible**, except if your outward supply is also in the same line of business i.e. foods & beverages.

For example, input tax credit on food bill of say a 5-star hotel, will not be an eligible credit. The irony is one side we say there should not be any cascading effect of taxes and in other side you block genuine tax credits.

Similar blockage of credit is applicable for outdoor catering also. Input tax credit paid on services received from an outdoor caterer will not be available unless your outward supply also is outdoor catering or as an element of composite or mixed supply.

In the next dose we will do a case study on foods and beverages and outdoor catering. Stay tuned.

## **62. Input tax credit on foods & beverages or outdoor catering – case study**

Your company wants to do an event for your staff and family, and you will be ordering foods & beverages or giving a contract for outdoor catering. In this situation the input tax credit on such inward supplies will not be available, since it is a blocked credit.

Now, we change the arrangement and give a contract of event management to a person and the contract includes organizing foods and beverages or the services of outdoor contractor, then as a company you are getting the services of event management from the person and that is the principal supply and credit will be available to the company.

Even for the event management person the credit of foods & beverages or outdoor catering will be available, as he is using the inward supply for providing outward supply as an element of a composite supply.

By making this arrangement the input tax credit is not lost and for everyone it is a win win situation.

We will look at other blocked credits in the next dose

*George H.W. Bush: "Read my lips: no new taxes."*

### **63. Blocked credits (Input Tax Credit not allowed):**

The following input services no ITC can be availed unless you are in the same line of business.

- Beauty treatment
- Health services
- Cosmetic & plastic surgery
- Leasing, renting or hiring of motor vehicles (if motor vehicle itself not eligible for ITC as discussed in the previous dose)
- Life insurance and health insurance

**Strictly no ITC for the below services:**

- Membership of a club, health & fitness centre
- Travel benefits to employees (personal)

**If the above services are mandatory for the employers to provide under any law, then input tax credit will be available.**

In the next few doses, we will be covering the input tax credit eligibility for works contract on immovable property, stay tuned

### **64. We will spend our few doses in understanding this very important and ever controversial topic of availability of input tax credit used for construction of immovable property.**

No input tax credit is available for works contract service for construction of an immovable property except when:

- Such works contract service is used as an input service for **further supply of works contract service** (you are providing works contract service and you are receiving works contract service – ITC available)
- Such immovable property is **plant and machinery** (if immovable property includes plant & machinery then input tax credit will be available for such plant & machinery).

**Works contract definition under GST pertains only to immovable property** unlike in service tax regime.

We will understand what plant & machinery is and what is works contract with few practical case laws (**Yesterday Bharti Airtel has challenged this provision in Delhi High Court**) to get a better picture in the next doses, stay tuned.

*Bonnie Raitt: Solar power is the last energy resource that isn't owned yet-- nobody taxes the sun yet."*

**65. Input tax credit is not available for any works contract service for construction of immovable property except if it is plant & machinery.**

Plant & machinery in this context means only with regards to immovable property, all other plant & machinery if used in the course or furtherance of business is always available.

The expression “Plant and machinery” means any equipment or machinery which is fixed to earth by foundation and is used for making outward taxable supply, but will not include the following:

- Land, building or any other civil structure
- Telecommunication towers
- Pipelines laid outside the factory premises

The above expression of plant & machinery is only if it gets fixed to the earth or becomes immovable, then they have allowed the input tax credit in such cases for plant & machinery.

More on plant & machinery and some interesting case laws in next doses, like whether lift is a plant or machinery? In Bharti Airtel case, whether telecommunication towers which can be dismantled and taken to other location are movable or immovable? Stay tuned

**66. Immovable property vs. plant & machinery(I)**

Input tax credit for immovable property is not available except if it is a plant & machinery. The problem is sometimes it becomes difficult to bifurcate what is plant & machinery and what is immovable property.

**Is the sliding doors and stackable glass partitions part of immovable property?**

Karnataka Appellate Authority for Advance Ruling has held in the case of We works India Management Pvt Ltd. that since they are not permanently attached to the structure and can be dismantled and installed at any other place, it will not be part of immovable property (in the balance sheet also this was shown separately as movable assets and not under building) and hence **input tax credit is available**.

**Are facilities like transformers, sewage treatment, electrical wiring & fixtures, surveillance, DG Set, lift etc immovable property?**

Karnataka Advance Ruling Authority in the case of Tarun Realtors Private Limited has held that above items cannot be considered separate from building and hence **input tax credit is not available**

*Austin O'Malley: "In levying taxes and in shearing sheep it is well to stop when you get down to the skin."*



## **67. Immovable property vs. plant & machinery**

The expression “plant & machinery” (with respect to immovable property) means apparatus, equipment and machinery fixed to earth by foundation or structural support and includes such foundation & structural support **but excludes**:

- Land, building or any other civil structure
- Telecommunication towers
- Pipelines laid outside the factory premises

In the above 3 situations though it may fit in the expression of plant & machinery, **input tax credit will not be available.**

**Bharti Airtel Limited** has challenged the above provisions before Delhi High Court regarding the non-availability of input tax credit for telecommunication towers. They submitted that the towers are based on a rudimentary “screwdriver” technology and can be easily dismantled and installed at some other place. They also submitted that only those towers which become permanently fixed with the earth should come under above ineligibility.

There is a landmark judgement of Supreme Court in the case of **Sirpur Paper Mills Ltd**, where it had held that just because plant & machinery are fixed in the earth for better functioning does not automatically become immovable property.

We must be very careful while taking credits for the plant & machinery which can be classified as immovable property.

## **68. No input credit for any goods or services received for the construction of the immovable property for own use even if it is used in the course or furtherance of business.**

That means if you receive goods or services for constructing your own building which will be used for your business, you will not get input tax credit. It looks strange, why this kind of artificial blockages are made to claim input tax credit, where the credit paid by the taxpayer is permanently lost and there will be cascading effect.

In landmark judgement by **Orissa High Court** in the case of **Safari Retreats Pvt Ltd**, they constructed mall which was let out for rent and input tax credit for all the goods and services used for the construction of the mall was not allowed, whereas on rentals collected they had to charge GST. The court has held that **input tax credit** on goods or services which are consumed and used in the construction of immovable property which is intended to be let out **should be allowed**

*“The only way around is through.” – Robert Frost*



**69. Input tax credit will not be available if:**

**Goods or services are used for personal consumption**

Personal consumption meaning should be examined based on its nature. Facilities provided to the employees at the office premises, even though is for employees' personal consumption may not fall in the above category, as it is used in the course of business, example can be recreation facility at the factory or office premises.

The eligibility of the credit in this category should be taken from the viewpoint of its end use, if the end use for which the goods or service is used is for business then credit will be available, if it is used for personal consumption which is not anywhere related to the business then credit may not be available.

For example, buying a movie tickets for the employees or organizing holiday packages may not be eligible input tax credit (even though it may be a legitimate business expenditure), as they are for immediate and ultimate consumption by employees only.

The line between eligible and ineligible in these cases are very thin and it may happen genuine credits may be denied.

**70. Input tax credit will not be available if the goods are:**

1. Lost
2. Stolen
3. Destroyed
4. Written off
5. Disposed of by way of gift or free samples.

We will discuss each in detail.

Input tax credit will not be available if the goods are lost. We must keep in mind the word used is '**lost**' and not '**loss**'. Loss can be normal or abnormal in the process of production or manufacturing and such losses does not attract reversal of credit. The condition to take the input tax credit is, goods should be used or intended to be used in the course or furtherance of business. While taking the credit the intention was that these goods will be used for the business and hence even if there is a loss, credit on these goods will be available. Goods lost is the case where because of some situation the goods are not used as was intended when procured and this warrants the reversal of credit.

My personal view is that if any goods which are purchased which are used or intended to be used are lost because of whatever circumstances, input tax credit should be available, the words used in Section 16 for taking input tax credit are goods or services should be used or intended to be used, which gives us a scope for interpretation that if I get goods with an intention to be used in my business, but lost it, credit cannot be denied

*"Yesterday's home runs don't win today's games." – Babe Ruth*

### **71. Input tax credit will not be available if the goods are STOLEN or DESTROYED:**

If the goods are stolen, then the input tax credit availed must be reversed, there may be situation wherein the quantity of goods is found less as compared to the physical verification, such situations the quantity short will be considered as stolen.

**The question is if goods are used in the manufacture of finished goods and finished goods are stolen, then should we reverse the credit?**

Please refer to my yesterday's discussion that if any goods purchased which are used or intended to be used are lost because of whatever circumstances, input tax credit should be available is very well applicable for goods stolen also. It is understood by reading the section to disallow the credit of tax paid on those goods only, which are destroyed or lost or stolen. Once the goods are utilized in the manufacture of finished goods, they have been used in course or furtherance of business. Now, if the finished goods get stolen, then by no stretch of imagination it can be held that the raw materials got stolen. This is an argument which has to be tested in the court of law.

Goods destroyed due to various reasons like fire, flood, natural calamities etc., also get covered under non eligibility of input tax credit. Destruction due to normal wear & tear in the process of manufacturing will not be covered under the meaning destroyed. Destroyed is something which is sudden and immediate. The above argument of finished goods getting stolen will be equally applicable to destruction also

### **72. Input tax credit reversal in the case of goods written off**

Goods the value of which is completely written off in the books of accounts, the input tax credit availed on such goods must be reversed. The goods may be written off due to various reasons like obsolescence or lapse of time, where it may be difficult to sell the goods in the present condition.

#### **Written down vs written off**

Written down is something which is temporary in nature and it is possible to reinstate the value depending on the situation and it may be done for the purpose of accounting treatment to meet accounting standards. In these case ITC need not be reversed.

#### **Charge off vs written off**

Charge off is where the assets are completely depreciated, and its value is zero as per the books of accounts. ITC need not be reversed.

*"I never dreamed about success. I worked for it." – Estée Lauder*

**73. Input tax credit not available in case of goods disposed off by way of gift or free samples.**

Disposed is something which is discarded or got rid off and the important point to remember is disposal should be **by way of gift or free samples**

Disposal usually in the normal parlance means the goods are unfit for sale and is discarded to get rid off the same. The reversal of input tax credit is necessary only when the disposal is by way of gift or free samples. Goods which has lost its merchantability is what is covered here.

**Goods which are merchantable if given as gift or free samples should the input tax credit to be reversed?**

My opinion is no, since these goods are not disposed off, but are given in the normal course of business without consideration then as per Schedule 1 it will be treated as supply as 'disposal of business asset without consideration' and such supply will be valued as per valuation rules.

**Whether medicine samples given to doctors, input tax credit needs to be reversed?**

**Should input tax credit be reversed on shampoo sachet inserted in a magazine for free**

**74.No input tax credit if taxes are paid after notice issued due to fraud or when vehicle or goods are released after detainment.**

If the notice is issued for non-payment or short payment of taxes due to **fraud or wilful misstatement or suppression of facts**, any taxes paid due to this situation, input tax credit relating to such payments will not be available for utilization.

Similarly, if your **goods or conveyance are detained, seized or confiscated in transit** and taxes are paid to release, input tax credit on such goods will not be available. This is applicable for the cases where the conveyance in transit is held by authority (E-way bill issues) and generally we see because of collection targets amounts are being forced to be paid, and assessed also to get the goods released pay the taxes, but we need to keep in mind, any taxes paid to release the goods / conveyance will turn to be a costly affair, as input tax credit will be denied for such goods.

*"I feel that luck is preparation meeting opportunity." – Oprah Winfrey*

### **75. Is input tax credit available for goods purchased before taking GST registration?**

If a person becomes liable for registration under GST and applies for registration within 30 days of becoming liable, he shall be entitled to take credit of input tax in respect of inputs held in stock and in semi-finished and finished goods held in stock held by him a day before he is liable for registration.

Liability to register may happen if his turnover crosses the threshold limit or if his goods or services were exempted before and now has become taxable.

For example, if a person becomes liable for registration on 13<sup>th</sup> September, he should apply for registration before 12<sup>th</sup> October, he is eligible to take credit of input tax credit on inputs lying in his stocks as on 12<sup>th</sup> September.

**No input tax credit is available on services and capital goods.**

### **76. Is input tax credit available for goods purchased before taking GST registration?**

#### **Voluntary registration:**

Person is entitled to take input tax credit in respect of inputs held in stock and input contained in semi-finished & finished goods immediately preceding the date of registration.

#### **Change of registration from Composition to regular or also for persons who were exempted before and now are taxable:**

Person is entitled to take input tax credit in respect of inputs held in stock and input contained in semi-finished & finished goods and on capital goods on the day immediately preceding the day on which he became liable to tax.

Persons who are become liable for getting registered or take voluntary registration, cannot take input tax credit of capital goods lying before registration, whereas persons opting out of composition scheme either voluntarily or otherwise or if his goods or services which was earlier exempted is now taxable, can take input tax credit of capital goods. **Why this disparity**

*"Success is often achieved by those who don't know that failure is inevitable." – Coco Chanel*

**77. Did you that you can transfer the input tax credit in certain circumstances?**

- When there is a change in the constitution of a registered person
- On account of sale, merger, demerger, amalgamation, lease or transfer of the business
- With the specific provision for transfer of liabilities
- The input tax credit lying in the electronic credit ledger can be transferred to such new unit.
- ITC 02 must be filed by the registered person (transferor)

**Sale of capital goods or plant and machinery:**

In case capital goods or plant and machinery is sold on which input tax credit is claimed, the amount of input tax credit taken, reduced by certain percentage points as per rules or transaction value of the supply, whichever is higher shall be paid by the registered person

**78. Input tax credit on goods sent for job work.**

When the principal sends the goods including capital goods to the job worker, he is eligible to take the credit on such inputs and capital goods. Even if the job worker directly receives such inputs / capital goods from the suppliers it is deemed the principal has received the inputs / capital goods and principal can take the credit once job worker receives such inputs / capital goods.

**The input tax credit must be reversed with interest if:**

- Such inputs are not received back within a year from the date it is sent or
- Such capital goods are not received back within three years.

Above conditions of return not applicable for moulds and dies, jigs and fixtures or tools.

*“The way to get started is to quit talking and begin doing.” – Walt Disney*

## **79. TRANSFER OF INPUT IN SALE OR MERGER OR DEMERGER**

Yes, you can transfer provided there is a specific provision for **transfer of liabilities**, you are allowed to transfer input tax credit balance lying in electronic credit ledger, such person shall furnish the details in Form GST ITC-02.

### **What happens if the registered person being a sole proprietor die?**

In the case of death of sole proprietor, if the business is continued by any person being transferee or successor of business, it shall be construed as transfer of business and input tax credit can be transferred.

## **80. It is compulsory to take registration as an input service distributor**

### **What is input service distributor (ISD)?**

Input service distributor is a person who will distribute the credit of taxes on services under GST to the eligible recipients by way of issue of documents. (for example Head office of a company may receive certain invoices the services of which may actually be received by the factory / branches having separate GST registrations, in such situation the Head office should transfer such input tax credits to the respective factories / branches and HO should not avail the credit, example may be audit fees which is done for a company as a whole and one invoice is raised in HO name, the input tax credit of such expenses should be proportionately be distributed to all branches or factories having separate GST registrations).

### **Is it mandatory to get yourself registered as input service distributor?**

As per section 24, it is compulsory to get yourself registered as input service distributor, even though you may have a regular registration if you are liable to distribute the credits.

**Many of the companies / registered persons are ignorant of this provision and during the department audits you will see this issue coming up and taxpayer will be asked to reverse such credits along with interest**

*“The first one gets the oyster, the second gets the shell.” – Andrew Carnegie*

## **81.Can we claim input tax credit of financial year 2018-19 now?**

Section 16(4) of CGST Act restricts input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing September return following the end of the financial year to which this invoice or debit note pertains or furnishing of relevant annual return, whichever is earlier.

As per this section, input tax credit of any invoice or debit note for the financial year 2018-19 should have been claimed before the due date of September 2019 GSTR 3B return, that is before October 20<sup>th</sup>, 2019 (Since annual return for financial year is filed now, GSTR 3B due date will be earlier).

Due date of filing annual return for the financial year 2018-19 is September 30<sup>th</sup>, 2020 (which may further get extended), so can we claim the input tax credit for the financial year 2018-19, this month?

**My views in tomorrow's dose, stay tuned.....let the discussion flow meanwhile and let me get your views.**

## **82. Can we claim input tax credit of financial year 2018-19 now?**

In my opinion we can take the following view:

- Section 16(4) restricts the time limit to avail input tax credit, whereas Section 16(2) reads as notwithstanding anything contained in this section, input tax credit can be claimed if four conditions are met, that is there should be a document, goods or services should be received, the payment should be made and return should be filed. If we meet these conditions, we are eligible to avail input tax credit. **16(2) overpowers 16(4)**
- Due date of filing annual return for FY 2017-18 was February 2020, so it is impossible to finalize the GST data for FY 2018-19 (by claiming it by Sept 2019 return) before finalizing FY 2017-18 annual return.
- There must be seamless flow of credit, if you have a right to collect taxes after due date, then you should give the right to claim input tax credit also.
- Article 300A of our Constitution has given us vested right and that right cannot be restricted.

In conclusion in my view, we can take the input tax credit even after the due date, but we should be prepared for litigation and long battle and is worth if the amount is substantial.

*“Business opportunities are like buses, there’s always another one coming.” – Richard Branson*



### **83. No input tax credit if payment is not made within 180 days**

If the payment to the supplier of goods or services is not made within 180 days from the date of invoice, then input tax credit must be reversed along with interest

#### **What about part payment?**

Input tax credit must be reversed proportionately for the amount not paid.

#### **What if there is no consideration?**

As per amended rules, the supplies made without consideration, shall be deemed to have been paid.

#### **We can take benefit of non-payment during this COVID period?**

GST compliances for the period 20/03/2020 to 30/08/2020 had been extended till 31/08/2020, if any expiry of 180 days falling between these dates shall stand extended to 31/08/2020, since there is no exception made for this provision in the notification

### **84. Amounts recovered from employees liable for GST?**

In recent **TATA Motors Ltd** case, company was collecting nominal amounts from employees for their transportation, difference between the amount paid to the service provider and amount collected is treated as a cost to the company as salary cost.

**Maharashtra AAR** held that

- Amounts collected from employees are in the course of employment and hence GST not applicable
- Input tax credit can be taken on the tax paid to the service provider.

**Is this ruling of Maharashtra AAR, right?**

*“Every problem is a gift—without problems we would not grow.” – Anthony Robbins*



### **85. TATA Motors Ltd case**

**the first question**

**Whether amount collected from employee is in the course of employment?**

Schedule III mentions supplies which are out of GST and in that the first clause is “**Services by an employee to the employer in the course of or in relation to his employment**”. Collecting money from the employees for transportation, the service is given by the employer to the employee and not otherwise. Exemption notification exempts transportation of passengers by a non-air-conditioned contract carriage, but is TATA Motors giving service of transportation of passengers? The following questions need to be answered:

- Employer and employee are related persons as per GST and any service given free of cost or at concession will be subject to valuation rules, nothing discussed about this?
- Press release dated 10.07.2017 clarified that FOC service as per employment contract is not subjected to GST, but any amount collected no clarity
- Referring to Schedule III clause 1 by the AAR is totally flawed as this is the case of employer giving service to employee.

This is a similar situation where nominal amounts may be collected in canteens.

**Let more views flow in. My opinion is the authority has not applied his mind. The Kerala AAR which is upheld by the Appellate authority has passed a ruling in this matter (Canteen recovery) which is more logical. More discussion on this in tomorrow's dose.**

### **86. TATA Motors Ltd case**

**The question**

**Whether amount collected from employee is in the course of employment?**

In **Caltech Polymers Private Limited** case, Kerala AAR, which the Appellate Authority also agreed, held that recovery of food expenses from employees for the canteen service provided by the company would come under the definition of “outward supply” and therefore taxable as service under GST.

Logically, this ruling makes far better sense than TATA Motors Ltd ruling, employee and employer are related persons and even if it is a free service or paid service, it will definitely get covered under the valuation rules, though by press release Government has clarified that free service if part of employment contract is not subject to GST. Government should come out with a further clarification on the taxability of the paid service as per employment contract.

**Notice period recovery from employees or payment to them whether GST applicable? That is coming up tomorrow.**

*“You only have to do a few things right in your life so long as you don’t do too many things wrong.” – Warren Buffett*

## **87. Notice period pay or recovery GST applicable?**

Notice period pay given by employer to employee is as per the employment agreement and will not be subject to GST as per clause 1 of Schedule III of the CGST Act

**Notice period recovered from employee.**

Madras High Court in the case of GE T & D India Limited in Service Tax case had held that notice pay recovery by an employer from the employee will not be covered under service tax, as employer is not providing any service to employee. The same argument or logic can be made for the GST interpretation also.

We will analyse the input tax credit ruling in the TATA Motors Ltd case tomorrow.

## **88. Bid adieu to SPB**

Today's GST dose I would like to dedicate to our beloved singer and who is part of our soul Shri S P Balasubramanian, though physically left us, will always remain in our heart.

His lines in one of the Rajnikanth Movie "Annamalai"

**"Vetri nichchayam idhu vedha sathiyam kolgai velvadhae naan konda latchiyam"**

**"Victory is definite and that is the truth, policy to win is my aim"**

Let's follow these principles in our lives and we will overcome the challenges faced and let the Government, bureaucrats and the taxpayers together make a GST win and it will win that is the truth.

*"Success usually comes to those who are too busy to be looking for it." – Henry David Thoreau*

### **89. TATA Motors Ltd case**

**Whether input tax credit available on hiring of motor vehicle having seating capacity more than 13-seater for transportation of employees?**

There was an amendment from 01.02.2019 in the CGST Act and it says any vehicle having approved seating capacity of more than thirteen-seater, the input tax credit relating to such vehicle (including the expenses) is allowed, only condition is it should be used in the course or furtherance of business. The motor vehicle under thirteen-seater only will have some conditions for the purpose of a claim of input tax credit.

In the TATA Motors Ltd case the input tax credit will be restricted to the cost borne by the company (input tax credit proportionate to the recovery from the employees shall be not allowed).

### **90. Who is liable to get registered under GST?**

GST is a destination based consumption tax, that means the destination state where the goods or services are consumed will get the tax revenues, whereas the registration is origin based, meaning thereby, from which state the goods or services are supplied, in that state the supplier has to get registered.

Every supplier, supplying taxable goods or services within the state or union territory having his aggregate turnover in a financial year exceeding **twenty lakhs rupees** shall be liable to be registered (special category states the limit is ten lakhs rupees).

Supplier who is engaged exclusively in the supply of goods, the aggregate turnover limit of twenty lakhs rupees is enhanced to **forty lakhs rupees** with effect from 01.04.2019.

*“I don’t know the word ‘quit.’ Either I never did, or I have abolished it.” – Susan Butcher*

## **91. Persons who are not liable to be registered**

- Person engaged **exclusively** in the business of supplying goods or services which are **not liable to tax or are wholly exempt**. (please keep in mind, exclusively and not liable means goods like petroleum products, liquor and exempted means which are taxable but exempted by way of notification). The said person should be exclusively dealing in goods or services which are completely not liable to tax or wholly exempted, if even one rupee of supply is of taxable goods or services and the aggregate turnover, including of exempted supply crosses Rs.20/40 Lakhs, then registration should be taken.
- Agriculturist - extent of supply of produce out of cultivation of land.

We will discuss, who should compulsorily get registered in our next doses.

## **92. Compulsory Registration**

In certain cases, we need to take compulsory registration and the threshold limit of Rs.20 lakhs / 40 Lakhs is not applicable. We will discuss those cases one by one in our daily dose.

### **Did you know, if you supply interstate, you need to take compulsory registration.**

The limit of exemption of Rs.20 Lakhs / Rs.40 Lakhs mentioned earlier is applicable only for the supplies made within the state, even a one rupee supply to another state will make you liable to get yourself registered irrespective of your turnover.

### **Exemption to services:**

Effective from 13.10.2017, by way of notification, Government has given relief to service providers from the above provision, that means provision of compulsory registration is not applicable to service providers whose aggregate turnover is less than Rs. 20 Lakhs and who do interstate supplies.

*“If you really look closely, most overnight successes took a long time.” – Steve Jobs*

### **93. Casual Taxable person**

**Did you know, if you are a casual taxable person, you are compulsorily required to take registration?**

**Who is casual taxable person?**

Casual taxable person means a person who occasionally supplies goods or services in the course or furtherance of business in a state, where he has no fixed place of business.

That means, for example you are registered in Tamandu and in an exhibition in Delhi, you put up a stall and display your products. If you supply any of your products from the exhibition to customers, then you are liable to get registered as casual taxable person in Delhi (The value of supply is immaterial).

### **94. Casual taxable person**

In continuation to yesterday's discussion, we will learn more about casual taxable person.

Casual taxable person registration is valid for a limited period as mentioned in the application but not more than ninety days and , the tax has to be remitted in advance and anticipated supplies need to be mentioned while taking the registration and after payment of taxes in advance only the registration is approved.

The casual taxable person should apply for registration at least five days prior to commencement of business.

**So, my question is, if a works contractor located in Bangalore, has got contracts in 20 states for carrying out his activities, should he get himself registered in all the 20 states?**

*“Even if you are on the right track, you’ll get run over if you just sit there.” –  
Will Rodgers*

### **95. Compulsory registration for the persons who are required to pay tax under reverse charge.**

Any person who receives any goods or service, tax on which is liable to be paid under reverse charge (by the recipient), if not already registered, should get himself registered compulsorily and remit tax under reverse charge.

If you are not liable to be registered, because your turnover is below threshold limit or you are supplying exempted goods or services, but if you receive any goods or services, tax on which are liable to be paid under reverse charge, then you have to compulsorily get yourself registered and discharge the tax liability and once registered all your taxable supplies under forward charge also will be liable to tax.

### **96. The following persons also need to get compulsory registration**

- Electronic commerce operators paying tax on behalf of the suppliers of services as notified (at present hotel accommodation app like make my trip, travel app like uber and ola are few of them who are notified), such E com operators should get themselves registered
- Non-resident taxable persons making taxable supply (separate registration process like casual taxable person)
- Person who is required to deduct tax at source (Separate registration required even if you have a regular registration) – Generally applicable to Government departments making payments exceeding Rs.250,000

### **97. The following persons also need to get compulsory registration**

- Input service distributor (Even if regular registration taken, to distribute input tax credit, ISD registration is a must)
- Person who supplies goods or services through E Commerce operators who is required to collect tax at source
- Every E Commerce operators who is required to collect tax at source.

Every person supplying online information and database access or retrieval services from a place outside India to a person who is not registered in India (If supplying to registered person, then tax will be paid under reverse charge)

*"Imagination is everything. It is the preview of life's coming attractions." –  
Albert Einstein*

## **98. Can you take multiple registrations in one state?**

Generally, a person shall be granted a single registration in a state or union territory.

Persons having multiple places of business in a state or union territory may be granted a separate registration for each such place of business. If a person is having multiple places of business in a state or union territory, it is optional for him to take separate registration, he can add such places as an additional place of business in a single registration or take separate registration.

The concept of registration of business verticals introduced at the beginning of introducing the law, has been scrapped.

In the same premises, multiple registrations of the same person will be difficult, unless the area is demarcated with separate work area and access, though proving the requirement for separate registration may be difficult

## **99. Registrations for Job Workers**

Where a job worker provides service of value greater than Rs. 20 lakhs, he is required to compulsorily get registered (only job work charges exceeding the limit).

When there is inter-State supply of goods or services, the registration under GST is mandatory, so if the principal of the job worker is situated in different state, it is compulsory for the job worker to get himself registered irrespective of his turnover. However, the government has provided exemption from registration for job workers making inter-state supply of services unless:

Job worker is registered under GST voluntarily/ or is registered as limit of 20 lakh is crossed, or

Job worker provides services in relation to goods such as – Jewellery, goldsmiths and silversmiths wares and other articles of Chapter 71 of Customs Tariff.

"You must pay taxes. But there's no law that says you got to leave a tip."

–**Morgan Stanley**

### **100.Meaning & Nature of job work:**

The definition of job work has been defined in the Section 2(68) of CGST Act which means any treatment or process undertaken by a person on goods belonging to another **registered person**.

**‘Principal’** would be the registered person who sends the goods for job work.

Treatment or process include packing, labelling, testing, re-conditioning, re-packing, inspection etc.,

In terms of clause 3 of Schedule II to CGST Act 2017, any treatment or process applied to another person goods are to be treated as supply of services

“The End of a story -----

The Beginning of many,

Live long and Prosper”



# “TESTIMONIALS”

“All the best sir &  
keep it continue  
thanx”-  
Manan

“🙏🙏🙏 Thanks  
for your valuable  
references  
boss 🙏🙏”-  
Nagabushan

“Congrats. Keep  
the daily doses  
coming. We enjoy  
these daily shots.  
“-Ashok Sethuram

“Keep  
rocking man  
👍”-Thomas

“Great Job  
Boss. 🤝🤝🤝  
“- Rajesh  
Kannan

“This is an incredible achievement! Congratulations Chandrashekar. You have gone beyond your call of duty and are attaining a very crucial and integral part of society - like an independent 'ombudsman'. I have understood GST only thanks to you. Thank you”- **Rajesh P I**

"Super Sir, all the best 🤝🤝🤝"-by  
Rajshekar - Arul  
Rubber

"Great sir Look  
forward to 1000th  
dose"-  
Gopalkrishnan

"Great job  
sirji 🙌🙌🙌👍🙏  
"-Veeru Patwa

"Congratulations,,ke  
ep going ,,, it's very  
much  
informative,, 🙌🙌  
🙌🙌👍"-Rakesh  
Naidu

"Great going 👍  
would like to have  
a referencer."-  
Venugopal