

Gandhidham Branch of WIRC of ICAI

GOODS & SERVICES TAX

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CA Avinash Poddar

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Presentation Plan

- Registration
- Return
- Payment of Tax
- Accounts and Records
- Audit
- Assessment
- Demand and Recovery
- Valuation
- Refund

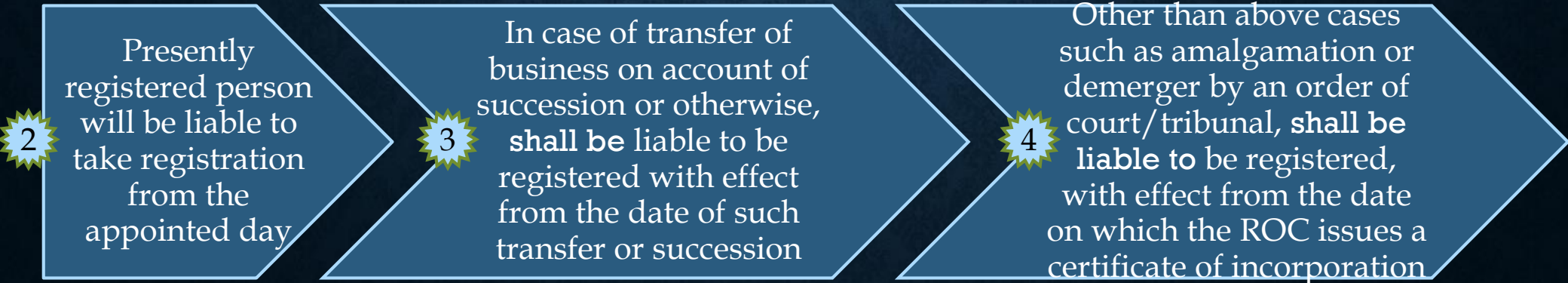
Registration

Person liable for Registration - Section 22

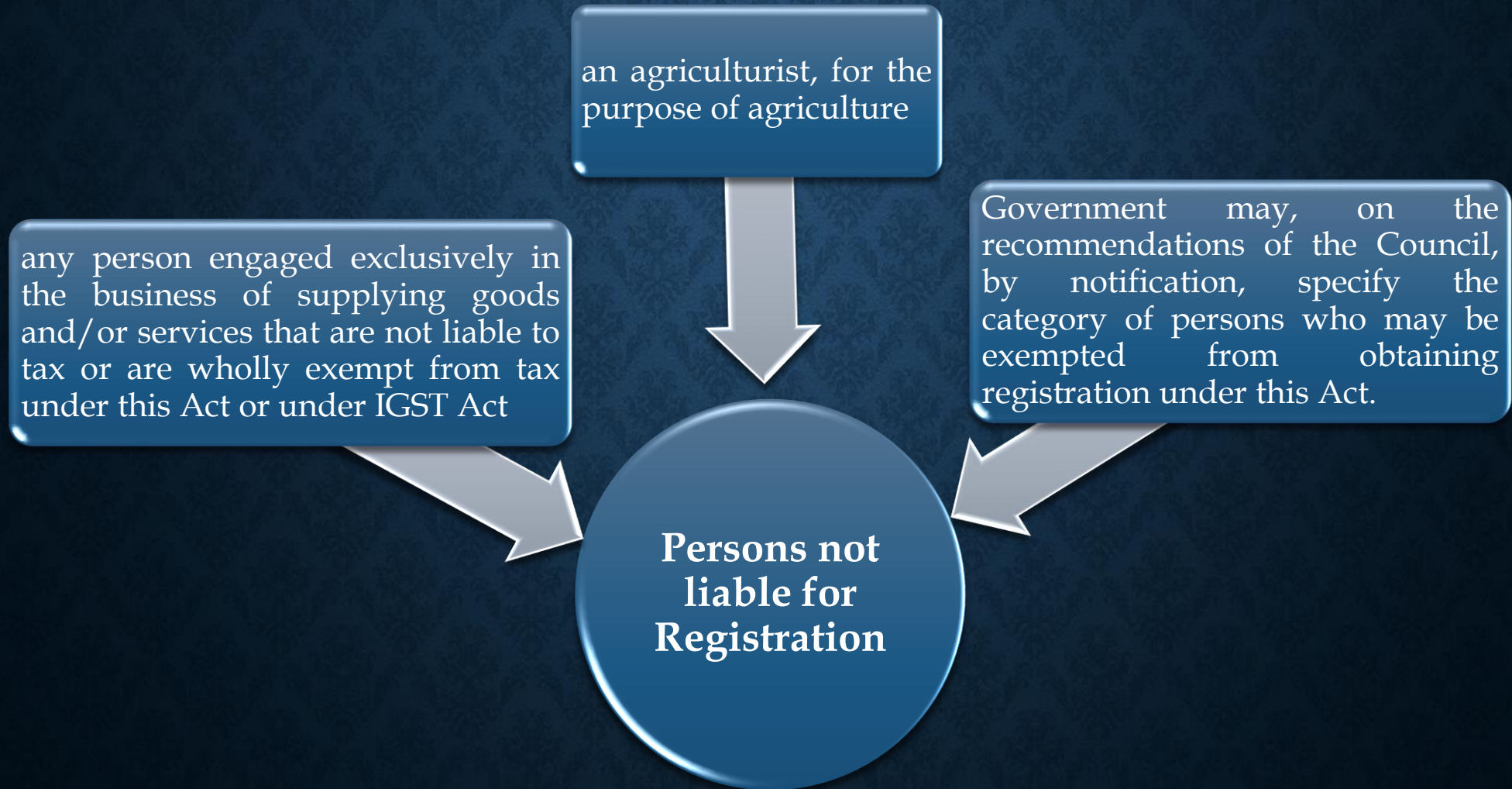


Where supply made to states such as Arunachal Pradesh, Assam, J & K, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh & Uttrakhand, supplier liable to be registered if aggregate turnover in F.Y. exceeds 10 lakh rupees

Explanation :-
 (i) "aggregate turnover" shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals;
 (ii) the supply of goods, after completion of job-work, by a registered job worker shall be treated as the supply of goods by the principal referred to in section 143, and the value of such goods shall not be included in the aggregate turnover of the registered job worker;
 (iii) "special category States" shall mean the States as specified in sub-clause (g) of clause (4) of article 279A of the Constitution



Person not liable for Registration - Section 23



Compulsory Registration - Section 24

- (i) persons making any inter-State taxable supply;
- (ii) casual taxable persons making taxable supply;
- (iii) persons who are required to pay tax under reverse charge;
- (iv) person who are required to pay tax under sub-section (5) of section 9;
- (v) non-resident taxable persons making taxable supply;
- (vi) persons who are required to deduct tax u/s 51,
- (vii) persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;
- (viii) Input Service Distributor, whether or not separately registered under this Act;
- (ix) persons who supply goods or services or both, other than supplies specified u/s 9(5), through such electronic commerce operator who is required to collect tax at source u/s 52;
- (x) every electronic commerce operator;
- (xi) every person supplying online information and data base access or retrieval services from a place outside India to a person in India, other than a registered person; and
- (xii) such other person or class of persons as may be notified by the Government on the recommendations of the Council.

Deemed Registration - Section 26

Grant of Registration certificate in SGST or UTGST shall be deemed to be granted in CGST also - subject to application not rejected u/s 25(10)

Rejection of Registration certificate in SGST or UTGST shall be deemed to be rejected in CGST Act also - subject to certificate not granted in other Act

Casual Taxable Person and Non-resident Taxable Person - Sec 27

Certificate of CTP or NRTP will be valid for 90 days from effective date of registration or period specified in application, whichever is earlier

Taxable supply shall be made only after the issuance of RC

Proper officer may extend this period to further 90 days on sufficient reasons being shown

CTP or NRTP make an advance deposit of tax in an amount equivalent to the estimated tax liability at the time of application u/s. 25(1)

In case of Extension period, amount estimated for extension period should also be deposited in advance

Amount deposited in advance will be credited to the electronic cash ledger and shall be utilised in the manner provided u/s. 49

Amendment of Registration - Section 28

Person shall inform the proper officer of any changes in the information furnished at the time of registration or that furnished subsequently

In the manner and within such period as may be prescribed

Proper officer may approve or reject in the registration particulars in the manner and within such period as may be prescribed

Approval of the proper officer shall not be required in respect of prescribed particulars amendment

Show Cause Notice and reasonable opportunity of being heard should be given in case of rejection of amendment applications

Approval or rejection in SGST/UTGST act shall be deemed to be same in CGST act

Revocation of Cancellation of Registration - Section 30

Person may apply for revocation of cancellation of registration to such proper officer in the prescribed manner within 30 days from the date of service of the cancellation order



PO may by an order either revoke cancellation of the registration or reject the application for revocation for good and sufficient reasons



Show Cause Notice and reasonable opportunity of being heard should be given in case of rejection of appeal for revocation of cancellation of registration



Approval or rejection in SGST/UTGST act shall be deemed to be same in CGST act

Return

Furnishing details of outward supplies [Sec-37]

Sub Section (1)

- Every registered person except ISD, NRTP, person liable to pay u/s. 10 or 51 or 52
- Shall furnish return electronically by 10th of the next month
- Cannot furnish anything between 11 to 15 of next month
- Commissioner may extend this period by notification for notified class of persons
- Any extension granted under SGST/UTGST by commissioner, CGST will also have same effect

Sub Section (2)

- Person who has been communicated the details u/s. 38(3) or 38(4) shall
- Accept or Reject the details
- Up to 17th day but not before 15th day, of the month succeeding the tax period

Sub Section (3)

- Person who has furnished details as per sub-sec(1) and which have remained unmatched u/s. 42/43 shall
- Rectify the error/ omission in the prescribed manner and
- Pay the Tax and Interest
- Such error/omission allowed to be rectified before
 - Annual return filling date or
 - Return u/s. 39 filling date for September of succeeding year to the relevant tax period

Furnishing details of inward supplies [Sec-38]

Sub Section (1)

- Every registered person except ISD, NRTP, person liable to pay u/s. 10 or 51 or 52
- shall verify, validate, modify or delete, if required, the details communicated u/s. 37(1)
- Outward supply becomes inward supply for recipient, who shall prepare details of his inward supplies and CN/DN and
- May include details of inward supplies not declared by the supplier u/s. 37(1)

Sub Section (2)

- Every registered person except ISD, NRTP, person liable to pay u/s. 10 or 51 or 52
- Shall furnish details of inward supply of goods/services or both and also on which liable under reverse charge and inward supply of goods/services or both taxable under IGST Act and CN/DN
- Such details for tax period must be furnished after the 10th day but before 15th day of the month succeeding the tax period in prescribed form and manner
- Commissioner may extend this period by notification for notified class of persons
- Any extension granted under SGST/UTGST by commissioner, CGST will also have same effect

Furnishing details of inward supplies [Sec-38]

Sub Section (3)

- Details of Supplies modified, deleted or included by the recipient and furnished under sub-section (2) shall be
- communicated to the supplier in prescribed time and manner

Sub Section (4)

- Details of Supplies modified, deleted or included by the recipient in return under sub-section (2) or u/s. 39(4)
- communicated to the supplier in prescribed time and manner

Sub Section (5)

- Person who has furnished details as per sub-sec(2) and which have remained unmatched u/s. 42/43 shall
- Rectify the error/omission in the prescribed manner and
- Pay the Tax and Interest
- Such error/omission allowed to be rectified before
 - Annual return filling date or
 - Return, u/s. 39, filling date for September of succeeding year to the relevant tax period

Furnishing of returns [Sec-39]

Every registered person except ISD, NRTP, person liable to pay u/s. 10 or 51 or 52 shall furnish a return, electronically, of inward and outward supplies of goods/services or both, ITC availed, tax payable/paid or any other prescribed particulars on or before the 20th day of the month succeeding such calendar month or part thereof

For person covered u/s. 10, shall file return electronically for each quarter or part thereof of turnover in the State or Union territory, inward supplies of goods/services or both, tax payable/paid within 18 days after the end of such quarter

A person liable to deduct tax u/s. 51 shall furnish a return electronically for the month within 10 days of after the end of such month

Every ISD shall furnish a return electronically for every month or part thereof within 13 days after the end of such month

Every Registered NRTP shall furnish a return electronically every month or part thereof within 20 days after the month end/within 7 days after the last day of registration period, whichever is earlier

Commissioner may extend this period by notification for notified class of persons
Any extension granted under SGST/UTGST by commissioner, CGST will also have same effect

Furnishing of returns [Sec-39]

Return to be filed under sub-section (1),(2),(3) and (5) of Section 39 above, shall be filed only after the payment of tax due as per return

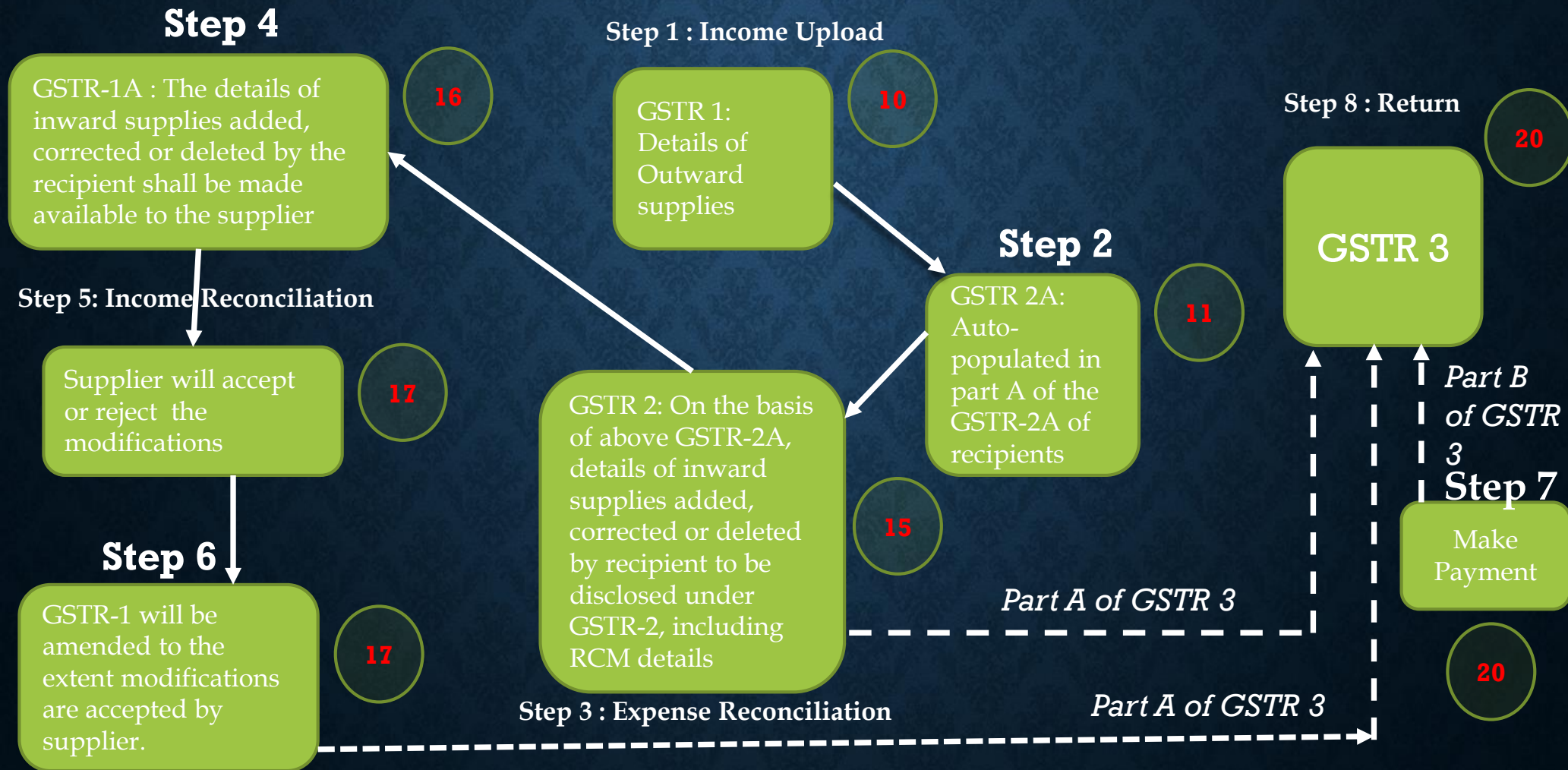
Those registered person who are covered under sub-section(1) or (2) are required to file return irrespective of the fact that there are no supplies of goods/services or both have been made during such tax period.

If after filling returns as per above sub-sections, the registered Person discovers any error/omission, other than result of scrutiny etc by the tax department, he shall rectify such error/omission in the return for the period in which such error/omission is noticed along with payment of interest

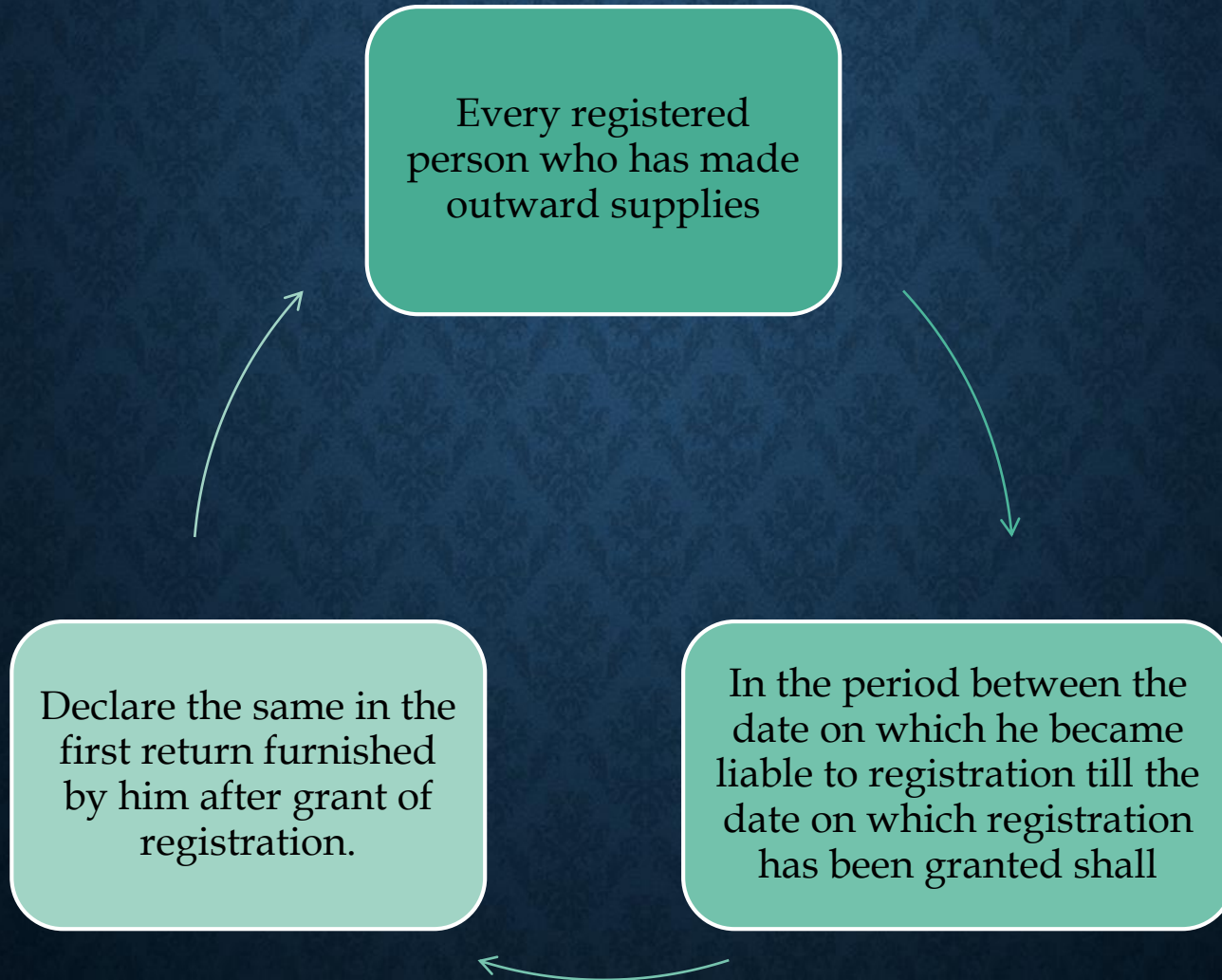
This mistake shall be allowed to be rectified before Annual return filling date or Return, u/s. 39, filling date for September or 2nd quarter of succeeding year to the relevant tax period

No return filling shall be allowed for a period if the return for any previous period has not been furnished

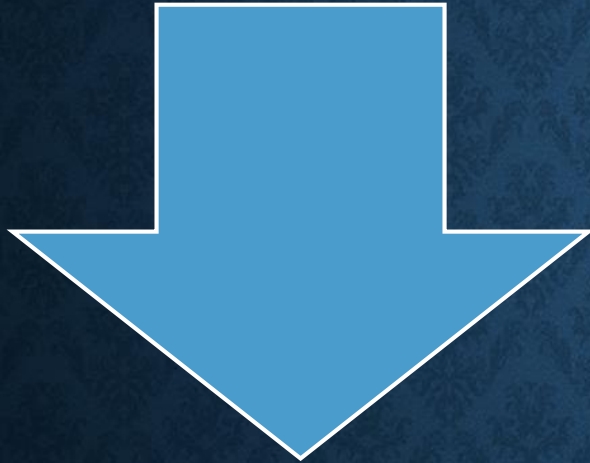
Return under GST



First Return [Sec-40]



Claim of ITC and provisional acceptance thereof [Sec-41]



Every registered person shall be

- entitled to take the credit of eligible input tax,
- in his return and
- shall be credited on a provisional basis to his ECL
- as per the conditions and restrictions prescribed



The credit referred above shall be utilised only for payment of self-assessed output tax



Matching, reversal and reclaim of ITC [Sec-42]

| | | |
|---|---|----------------------------------|
| The details of every inward supply furnished by registered person be matched for a tax period | | |
| with the corresponding details of outward supply furnished by the corresponding registered person in his valid return | with the IGST paid u/s. 3 of the Customs Tariff Act, 1975 | for duplication of claims of ITC |



Claim of ITC in respect of Invoices or Debit notes should match as per above 2 conditions

If matched, shall be accepted as ITC and communicated to recipient



If ITC claimed in inward return is in excess of the amount declared by corresponding person in his outward supply

Both person shall be communicated in the prescribed manner



Duplication of claims of ITC shall be communicated to the recipient in the prescribed manner



If any discrepancy found as per sub-section (3) is not rectified in that month return,

Output Tax Liability (OTL) of recipient for next month shall get increased

Matching, reversal and reclaim of ITC [Sec-42]

Amount claimed as ITC is found to be in excess on account of duplication of claims shall be added to the OTL of the recipient for next month shall get increased



The recipient shall be eligible to reduce his OTL by the amount added u/ss. (5), if the supplier declares the invoice details or debit note in his valid return within specified time u/s. 39(9)



Whose OTL is increased u/ss (5) or (6)

Shall be liable to pay interest as per Sec 50 for the period starting from date of Availment of credit till the date of addition of ITC



If OTL u/ss (7) gets reduced, Interest paid u/ss (8)

Shall be refunded in ECL in prescribed manner

Amount of interest shall not exceeds amount of interest paid by the supplier



The amount reduced from the OTL in contravention of the provisions of sub-section (7) shall be added to the OTL

Interest will also be leviable as per Sec 50(3)

Matching, reversal and reclaim of reduction in OTL [Sec-43]

The details of every credit note furnished by registered person be matched for a tax period

with the corresponding reduction in the claim for ITC by the corresponding registered person in his valid return

for duplication of claim reduction in output tax liability



Claim of reduction in output tax liability should match with the corresponding reduction

If matched, shall be accepted and communicated to recipient



If reduction of output tax liability in respect of outward supplies exceeds the corresponding reduction in the claim for ITC or the corresponding credit note is not declared by the recipient in his valid returns

Both person shall be communicated in the prescribed manner



Duplication of claims reduction in output tax liability shall be communicated to the Supplier in the prescribed manner



If any discrepancy found as per sub-section (3) is not rectified in that month return,

Output Tax Liability of supplier for next month shall get increased

Matching, reversal and reclaim of reduction in OTL [Sec-43]

Amount in respect of any reduction in OTL on account of duplication of claims shall be added to the OTL of the supplier for the month in which duplication is communicated



The supplier shall be eligible to reduce his OTL by the amount added u/ss. (5), if the recipient declares the details of the credit note in his valid return within specified time u/s. 39(9)



Whose output tax liability is increased u/ ss (5) or (6) Shall be liable to pay interest as per Sec 50 for the period starting from date of such claim of reduction in OTL till the date of addition

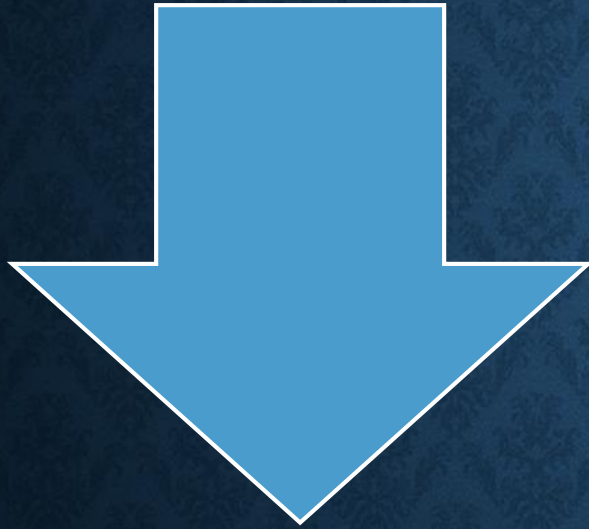


| | |
|--|---|
| If OTL u/ss (7) gets reduced, Interest paid u/ss (8) | |
| Shall be refunded in ECL in prescribed manner | Amount of interest shall not exceeds amount of interest paid by the recipient |



| | |
|---|---|
| The amount reduced from the OTL in contravention of the provisions of sub-section (7) | |
| shall be added to the OTL | Interest will also be leviable as per Sec 50(3) |

Annual return [Sec-44]



Every registered person shall be -

- Require to file annual return for every year
- Before 31st December following end of such financial year
- List of Excluded persons :-
 - NRTP
 - CTP
 - ISD
 - Person paying Tax u/s. 51 or 52

Person require to be audited u/s. 35(5) shall

- furnish Annual Return under sub-section (1)
- And copy of the audited annual accounts
- And a reconciliation statement and
- Such other particulars as may be prescribed



Final Return [Sec-45]

- Furnish a return u/s. 39(1) and
- whose registration has been cancelled

Every registered person who is required to

shall furnish a final return

- within three months of the date of cancellation or
 - date of order of cancellation,
- whichever is later

Notice to return defaulters [Sec-46]

Where a registered person fails to furnish

Notice shall be issued

within fifteen days

a return u/s. 39/44/45

requiring him to furnish such return

in prescribed form and manner

Levy of Late Fee [Sec-47]

- who fails to furnish
 - details of outward or inward supplies u/s. 37/38 or
 - returns u/s. 39/45
 - by the due date
 - shall pay a late fee of 100 Rs. per day subject to a maximum amount of Rs. 5000

Any registered person

Any registered person

- who fails to furnish
 - returns u/s. 44
 - by the due date
 - shall pay a late fee of 100 Rs. per day subject to 0.25% of his total turnover in the State or Union territory

Goods and services tax practitioners [Sec-48]

Following shall be prescribed in respect of Goods and Service Tax Practitioners

- approval of goods and services tax practitioners
- their eligibility conditions
- duties and obligations
- manner of removal and
- other conditions relevant for their functioning

A registered person may authorise an approved goods and services tax practitioner

- to furnish the details of supplies u/s. 37/38 and
- the return u/s. 39/44/45 as may be prescribed

the responsibility for correctness of any particulars furnished in the return or other details

- shall continue to rest with the registered person on whose behalf such return and details are furnished

Return under GST

| GSTR | For | To be filed by | Frequency in a year |
|------|--|-------------------------------|---------------------|
| • 1 | Outward supplies made by taxpayer | 10th of the next month | 12 |
| • 2 | Inward supplies received by a taxpayer | 15th of the next month | 12 |
| • 3 | Monthly return combining GSTR 1 GSTR2 | 20th of the next month | 12 |
| • 4 | Quarterly return for compounding Taxpayer | 18th of the month next to qtr | 4 |
| • 5 | Periodic return by Non-Resident Foreign Taxpayer | Within 7 days of Exp of Reg | - |
| • 6 | Return for Input Service Distributor (ISD) | 15th of the next month | 12 |
| • 7 | Return for Tax Deducted at Source | 10th of the next month | 12 |
| • 8 | Annual Return | By 31st December of next FY | 1 |

Payment of Tax

Payment of Tax, Interest, Penalty & other Amounts

Every deposit towards interest, tax, penalty, fee, etc.
Subject to such conditions and restrictions as may be prescribed

Shall be credited to Electronic Cash Ledger of such person
Date of credit in govt. account shall be deemed to be the date of deposit in the
Electronic Cash Ledger (ECAL)

Self assessed ITC from returns to be credited in Electronic Credit Ledger (ECRL),
maintained as prescribed

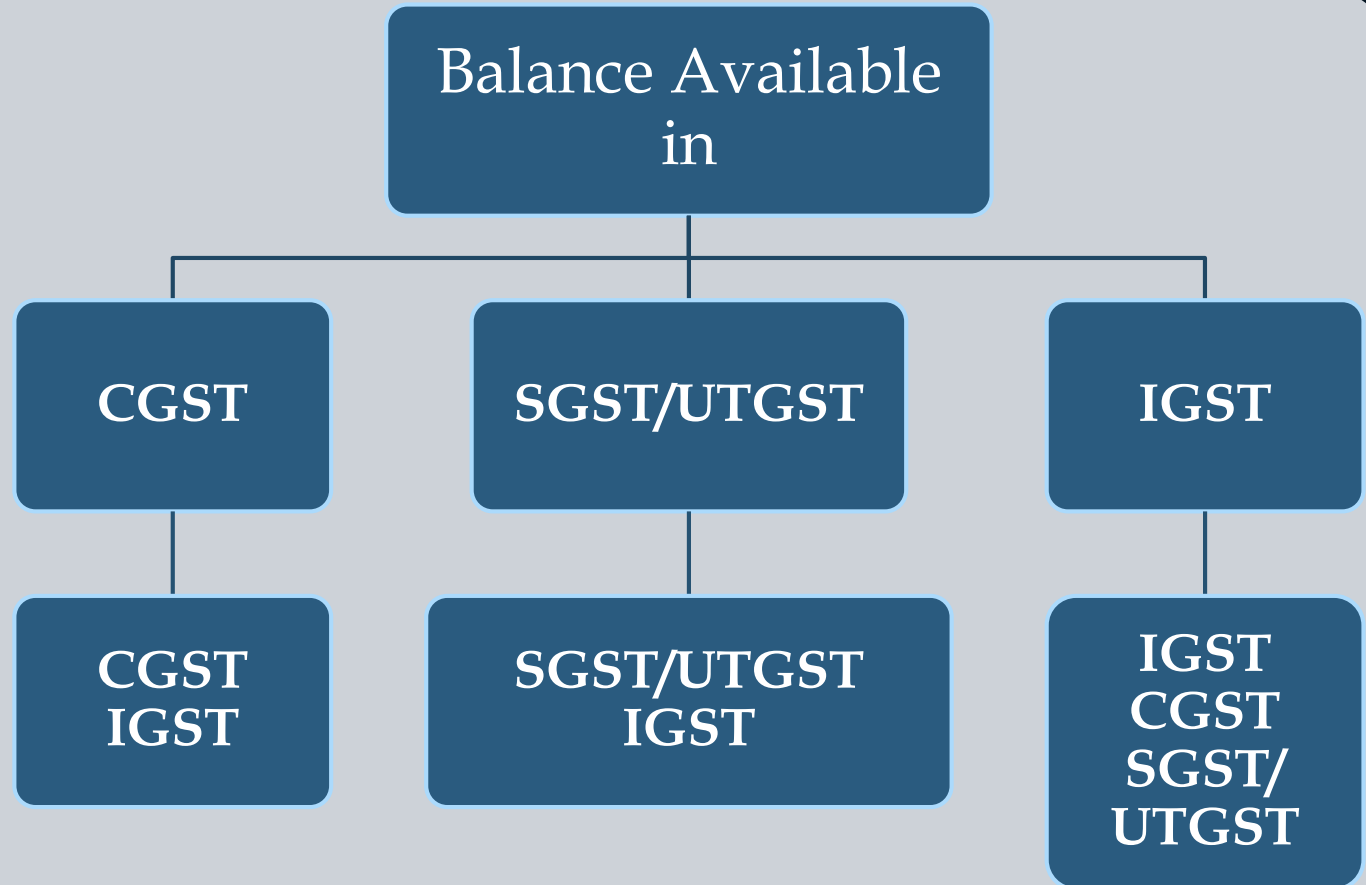
Amount in ECAL to be used for paying tax, interest, penalty, fees, etc.
Subject to such conditions and within such time as may be prescribed

Amount in Electronic Credit Ledger (ECRL) to be used for paying output Tax Liability
under this Act or Integrated Goods and Services Tax Act

Subject to such conditions and within such time as may be prescribed

Payment of Tax, Interest, Penalty & other Amounts

Utilisation of ITC



Cross Credit of CGST and SGST is the only restriction

Payment of Tax, Interest, Penalty & other Amounts

Balance in ECAL or ECRL after payment of Taxes and others shall be refunded as per the provisions of Section 54 or this Act and the rules made thereunder

Electronic Liability Ledger (ELL) shall carry all the liabilities under the Act and shall be maintained as may be prescribed

For discharging Tax and other dues, the taxable person shall follow the following order :-

(a) self-assessed tax, and other dues related to returns of previous tax periods;

(b) self-assessed tax, and other dues related to return of current tax period;

(c) any other amount payable under the Act or the rules made thereunder including the demand determined under section 73 or 74

Every Person paying Tax under this Act shall, unless otherwise proved, be deemed to have passed on the incidence of Tax to recipient of such goods or services or both.

Interest on delayed Payment of Tax

Every person liable to pay Tax under the Act or Rules if fails to pay the same or any part thereof within prescribed period, shall

- On his account pay interest at such rate notified but not exceeding 18% for the period for which the Tax or any part thereof remains unpaid

Interest to be calculated from the 1st day on which tax was due to be paid

In case where undue or excess ITC is claimed u/s. 42(10) or undue or excess reduction in output tax liability u/s. 43(10) is made by taxable person, he shall

- be liable to pay interest at such rate, not exceeding 24%, as may be notified.

Tax Deduction at Source

Tax Deduction at Source

Notwithstanding anything contained to the contrary in this Act, the Government may mandate, -

| | | | |
|---|--------------------------------|--------------------------------------|---|
| <p>(a) a department or establishment of the CG/SG, or</p> | <p>(b) Local authority, or</p> | <p>(c) Governmental agencies, or</p> | <p>(d) such persons or category of persons as may be notified, by Government on the recommendations of the Council,</p> |
|---|--------------------------------|--------------------------------------|---|

Tax Deduction at Source

Amount deducted as TDS shall be paid to appropriate Govt within 10 days from the end of the month in which deduction is made.

Deductor shall issue a Certificate to the deductee with appropriate details as may be prescribed

In case of failure to furnish the certificate within 5 days of crediting TDS to govt, deductor shall be liable to pay late fee of Rs.100/day up to the extent of Rs 5,000 from the date of expiry of 5 days till failure is rectified

Deductee shall claim credit, in Electronic Cash Ledger, of Tax deducted and shown in return filed under Section 39(3) by the deductor.

In case deductor fails to deposit TDS, he shall be liable to pay interest as per Section 50(1) in addition to amount of Tax deducted.

Any amount of Default under this section to be determined as per Section 73 or 74 as the case may be.

Refund to deductor or deductee because of excess or erroneous deduction shall be as per provisions of Section 54 but NO REFUND in case amount deducted has been credited to Electronic Cash Ledger of the deductee.

Collection of Tax at Source

Notwithstanding anything contained to the contrary in this Act, every electronic commerce operator include not being an agent shall

collect an amount calculated at such rate not exceeding 1%, as may be notified by the Government on the recommendations of the Council

of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator

“net value of taxable supplies” shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified u/s 9(5), made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month

Collection of Tax at Source

The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.

Amount collected should be paid within 10 days from the end of the month in which collection is made

A statement should be furnished electronically with details of outward supplies effected through it and the amount collected in such form and manner as may be prescribed within 10 days after the end of such months to which collection relates

Every operator shall furnish an annual statement electronically containing details of outward supplies effected and returned through it and the amount collected in the prescribed form and manner before 31st December of the following year

In case operator discovers any error or omission in the statement furnished, other than due to scrutiny, audit, inspection or enforcement by tax authorities, operator shall rectify subject to payment of interest as per section 50(1)

No such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of statement for the month of September following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.

Collection of Tax at Source

The supplier who has supplied through the operator shall claim credit in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished as discussed above, in prescribed manner

Such details furnished shall be matched with corresponding details of outward supplies furnished by the concerned supplier registered under this Act

Where the details of outward supplies furnished by the operator do not match with the corresponding details furnished by the supplier u/s 37, the discrepancy shall be communicated to both persons

The amount in respect of which any discrepancy is communicated and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated,

shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier,

in his return for the month succeeding the month in which the discrepancy is communicated

Collection of Tax at Source

Supplier whose output tax liability has been increased as above, shall pay the tax payable in respect of such supply along with interest, at the rate specified u/s 50(1) on the amount so added from the date such tax was due till the date of its payment

Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details, as specified in notice, relating to-

supplies of goods or services or both effected through such operator during any period; or stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers,

Required information as per notice above shall be furnished within 15 working days of the date of serving of notice

In case the person fails to furnish required information shall without prejudice to any action that may be taken u/s 122, be liable to a penalty which may extend to Rs. 25,000/-

Accounts and Records

Accounts and Other Records

Every registered taxable person shall keep and maintain,

at his principal place of business, as mentioned in the certificate of registration,

a true and correct account

- of production or manufacture of goods,
- of inward or outward supply of goods and/or services,
- of stock of goods,
- of input tax credit availed,
- of output tax payable and paid,
- and such other particulars as may be prescribed

Where more than one place of business specified, the accounts for each place shall be kept at the concerned place

Accounts and other records can be kept in electronic form in such manner as may be prescribed

Accounts and Other Records

Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter irrespective of whether he is a registered person or not shall maintain records of consigner, consignee and other relevant details of the goods as may be prescribed

Commissioner may notify class of persons to maintain additional records and accounts for specified purpose

Where Commissioner feels maintenance of accounts is not possible for a class of person, he may, with reasons recorded in writing, permit such class of person to maintain accounts in the manner prescribed

Registered person having turnover exceeding the prescribed limit during the Financial Year shall have it audited by a CA or CMA and shall submit a copy along with reconciliation statement u/s 44(2) and other prescribed documents to the PO

In case taxable person fails to account for goods/services, PO shall determine the tax payable and the provisions of Sec. 73 or 74 shall apply.

Period of retention of Accounts

Every registered taxable person shall keep and maintain records as per section 35(1) and shall retain them for 72 months from the due date of filling of Annual Return for the year to which record pertains

In case where matter in before any appellate/revisional authority or tribunal or court, books must be retained for 1 year after the final disposal or for period specified above, whichever is later

Audit

Audit by Tax Authorities

Commissioner or any officer authorised by him,

by way of a general or a specific order,

may undertake audit of any registered person

for such period, at such frequency and in prescribed manner



Such audit may be conducted at

the place of business of registered person
or

officer's office



Registered person shall be informed

by way of a notice

not less than 15 working days prior to the conduct of audit in prescribed manner

Audit by Tax Authorities

Audit shall be completed within a period of 3 months from the date of commencement of the audit

Where commissioner is satisfied that audit can not be completed in 3 months, he may extend the period further but not beyond 6 months on the basis of recorded and written reasons



During the course of audit, the authorised officer may require the registered person, -

| | |
|---|---|
| to afford him the necessary facility to verify the books of account or other documents as he may require; | to furnish such information as he may require and render assistance for timely completion of the audit. |
|---|---|



On conclusion of audit, the proper officer shall, within 30 days, inform the auditee,

| | |
|--|----------------------------|
| about the findings and the reasons thereof and | his rights and obligations |
|--|----------------------------|



Where the audit results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised,
the proper officer may initiate action u/s 73 or 74

Special Audit

If at any stage of scrutiny, inquiry, investigation or any other proceedings before him, any officer not below the rank of Assistant Commissioner,

having regard to the nature and complexity of the case and the interest of revenue,

is of the opinion that

the value has not been correctly declared or the credit availed is not within the normal limits,

he may, with the prior approval of the Commissioner, direct such registered person

by a communication in writing to get his records including books of account

examined and audited by a chartered accountant or a cost accountant as may be nominated by the Commissioner

Chartered accountant or cost accountant so nominated shall, within the period of 90 days, submit a report of such audit duly signed and certified by him to the said Assistant Commissioner mentioning therein such other particulars as may be specified

Special Audit

Assistant Commissioner may, on an application made to him in this behalf by the registered person or the chartered accountant or cost accountant or for any material and sufficient reason, extend the said period by a further period of 90 days

Even if the accounts of the registered person have been audited under any other provisions of this Act or any other law for the time being in force, the audit conducted under this section shall have the effect

Opportunity of being heard to registered person should be given in respect of any material gathered which is proposed to be used in any proceedings against him under this Act or the rules made thereunder

The expenses of the examination and audit of records, including the remuneration of such chartered accountant or cost accountant,

shall be determined and paid

by the Commissioner and

such determination shall be final

Where the special audit conducted results in detection of tax not paid or short paid or erroneously refunded, or ITC wrongly availed or utilised,

proper officer may initiate action u/s 73 or 74

Assessment

Self Assessment

Every registered taxable person shall himself assess the taxes payable under this Act and



Furnish a return for each tax period as specified under section 34.

Provisional Assessment

Taxable person unable to determine value of goods and/or services or the rate of tax applicable thereto

Request may be made to the proper officer in writing giving reasons for payment of tax on provisional basis

The proper officer may allow at such rate or on such value as may be specified by him

For such allowance execution of bond as prescribed with such surety or security as the proper officer may deem fit

This is required for binding taxable person for payment of difference of tax at the time of final assessment

The proper officer may allow at such rate or on such value as may be specified by him, by way of an order

Provisional Assessment

The proper officer shall pass the final assessment order within 6 months from the date of communication of provisional order

This period may be extended on sufficient cause and reasons if recorded in writing by the JC/AC for further 6 months and by commissioner for any period as he may deems fit

Taxable person shall pay interest, at the rate specified, on any tax payable on supplies under provisional assessment but not paid within prescribed time limit
u/s. 34

Interest to be paid for the period starting from the first day after the due date till the date of actual payment

In case taxable person entitled for refund after final assement order, Interest shall be paid on such refund

Scrutiny of Returns

The Proper officer may scrutinize the return and the related particulars furnish by taxable person to verify the correctness of the return



The discrepancies if any shall be informed in such manner as we prescribed and call for explanation



If explanation acceptable no for the action and taxable person shall be informed



If no satisfactory explanation given within 30 days or extended period, of being informed, appropriate action may be initiated by the proper officer



In case discrepancies accepted by the taxable person, not corrected in the return of the month when accepted, appropriate action may be initiated by the proper officer

Assesment of non fillers of returns

Return U/S 34 or U/S 40 in not filled even after service of notice U/S 41

The proper officer may proceed to the best of his judgement and assess the tax liability

Such assesment must be on basis of available material or gathered material

Such assesment order must be issued within the time limit U/S 67(8)

In case valid return is filled within 30 days of service of aforesaid order, the said order shall be deemed to be withdrawn

Such withdrawn does not immune the taxable person from payment of interest u/s. 45 or late fee u/s. 42

Assessment of unregistered persons

Where a taxable person fails to obtain registration even though liable to do so,



The proper officer may proceed to assess the tax liability of such taxable person to the best of his judgement



For the relevant tax periods and



Issue an assessment order within five years from the due date for filing of the annual return for the year to which the tax not paid relates:



Such assessment order shall not be passed without giving a SCN and reasonable opportunity of being heard

Summary Assessment in certain cases

In order to protect the interest of revenue, the proper officer having evidence of outstanding liability may, with prior permission of ADC/JC

Proceed to assess the tax liability and

Issue the assessment order provided he has reasons to believe that any delay would adversely affect the revenue

In a situation where the person of whom the liability is, not ascertainable and the liability is of supply of goods, the person in-charge of such goods would become liable for payment of tax

If the taxable person makes an application from the date of receipt of aforesaid order, he may withdraw such order OR

If ADC/JC considers the aforesaid order as erroneous he may withdraw such order and

After withdrawal in both the above cases, the PO shall follow procedure laid down in Sec. 66 or 67

Demand and Recovery

Tax wrongly collected and paid

Tax wrongfully collected and deposited with the Central or a State Government



| Particulars | Sub Section (1) | Sub Section (2) |
|----------------------------|--|-----------------|
| Wrongly Collected and Paid | CGST/SGST | IGST |
| To be Collected and Paid | IGST | CGST/SGST |
| Course of Action | Pay IGST along with Interest and claim refund of CGST/SGST | Pay CGST/SGST |

Valuation

Sec – 15 – Value of Supply

value of a supply of goods or services or both shall be

the transaction value,

which is the price actually paid or payable for the said supply of goods or services or both

where the supplier and the recipient of the supply are not related and

the price is the sole consideration for the supply

Which includes

- Any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this act, the state goods and services tax act, the union territory goods and services tax act and the goods and services tax (compensation to states) act, if charged separately by the supplier;
- Any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;
- Incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;
- Interest or late fee or penalty for delayed payment of any consideration for any supply; and
- Subsidies [including the value of supply of the supplier who receives the subsidy.] directly linked to the price excluding subsidies provided by the central government and state governments

not include any discount which is given

- before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and
- after the supply has been effected, if—
 - such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
 - ITC as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

Where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined in such manner as may be prescribed.

Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.

- (a) persons shall be deemed to be “related persons” if—
- (a) such persons are officers or directors of one another’s businesses;
 - (b) such persons are legally recognised partners in business;
 - (c) such persons are employer and employee;
 - (d) 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;
 - (e) one of them directly or indirectly controls the other;
 - (f) both of them are directly or indirectly controlled by a third person;
 - (g) together they directly or indirectly control a third person; or
 - (h) they are members of the same family;
- (b) the term “person” also includes legal persons;
- (c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

Refund

Refund of Tax

Any person claiming refund of any tax and interest, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in prescribed form and manner



If a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of section 49(6), may claim such refund in the return furnished under section 39 in prescribed manner.



A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries or any other person or class of persons, as notified u/s 55

entitled to a refund of tax paid by it on inward supplies of goods or services or both,

may make an application for such refund, in such form and manner as may be prescribed,

before the expiry of six months from the last day of the quarter in which such supply was received

Refund of Tax

Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period

Refund of unutilised credit shall be allowed

(1) zero rated supplies made without payment of tax

(2) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the government on the recommendations of the council

No refund of unutilised credit shall be allowed

Other than point (1) and (2)

In cases where the goods exported out of india are subjected to export duty

If the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies

Refund of Tax

application shall be accompanied by

such documentary evidence as may be prescribed to establish that a refund is due to the applicant

such documentary or other evidence (including the documents referred to in section 33) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person

No documents required if amount of refund is below Rs. 2 Lac. Instead of such documentary or other evidence, he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person

Refund of Tax

If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable he may make an order accordingly and the amount so determined shall be credited to the Fund referred to in section 57

Notwithstanding anything contained above, the proper officer may,

in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council,

refund on a provisional basis,

90% of the total amount so claimed, excluding the amount of input tax credit provisionally accepted, in such manner and subject to such conditions,

limitations and safeguards as may be prescribed and thereafter make an order as stated above for final settlement of the refund claim after due verification of documents furnished by the applicant

Issue an order as per above, within sixty days from the date of receipt of application complete in all respects

Refund of Tax

Notwithstanding anything contained in sub-section (5),

the refundable amount shall,

instead of being credited to the Fund,

be paid to the applicant, if such amount is relatable to —

- refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies;
- refund of unutilised input tax credit under sub-section (3);
- refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;
- refund of tax in pursuance of section 77;
- the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or
- the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify

Refund of Tax

Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the

- Appellate Tribunal or any court or in any other provisions of this Act or the rules made thereunder or in any other law for the time being in force,
- no refund shall be made except in accordance with the provisions of sub-section (8).

Where any refund is due under sub-section (3) to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may—

- (a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;
- (b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law
- “specified date” shall mean the last date for filing an appeal under this Act

Refund of Tax

Where an order giving rise to a refund is

- the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and
- Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings
- on account of malfeasance or fraud committed,
- he may, after giving the taxable person an opportunity of being heard,
- withhold the refund till such time as he may determine.

Where a refund is withheld under sub-section (11),

- the taxable person shall, notwithstanding anything contained in section 56, be entitled to interest at such rate not exceeding 6% as may be notified on the recommendations of the Council,
- if as a result of the appeal or further proceedings he becomes entitled to refund

Refund of Tax

Notwithstanding anything to the contrary contained in this section,

- the amount of advance tax deposited by a casual taxable person or a non-resident taxable person under sub-section (2) of section 27,
- shall not be refunded unless such person has,
- in respect of the entire period for which the certificate of registration granted to him had remained in force,
- furnished all the returns required under section 39.

Notwithstanding anything contained in this section,

- no refund under sub-section (5) or sub-section (6) shall be paid to an applicant,
- if the amount is less than 1,000 Rs.

Refund of Tax

For the purposes of this section, —

- (1) “refund” includes refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilised input tax credit as provided under sub-section (3).
- (2) “relevant date” means—
 - (a) in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods,—
 - (i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or
 - (ii) if the goods are exported by land, the date on which such goods pass the frontier; or
 - (iii) if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;
 - (b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;
 - (c) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of—
 - (i) receipt of payment in convertible foreign exchange, where the supply of services had been completed prior to the receipt of such payment; or
 - (ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;
 - (d) in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;
 - (e) in the case of refund of unutilised input tax credit under sub-section (3), the end of the financial year in which such claim for refund arises;
 - (f) in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;
 - (g) in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and
 - (h) in any other case, the date of payment of tax.

Refund in certain cases

The Government may, on the recommendations of the Council,

by notification, specify

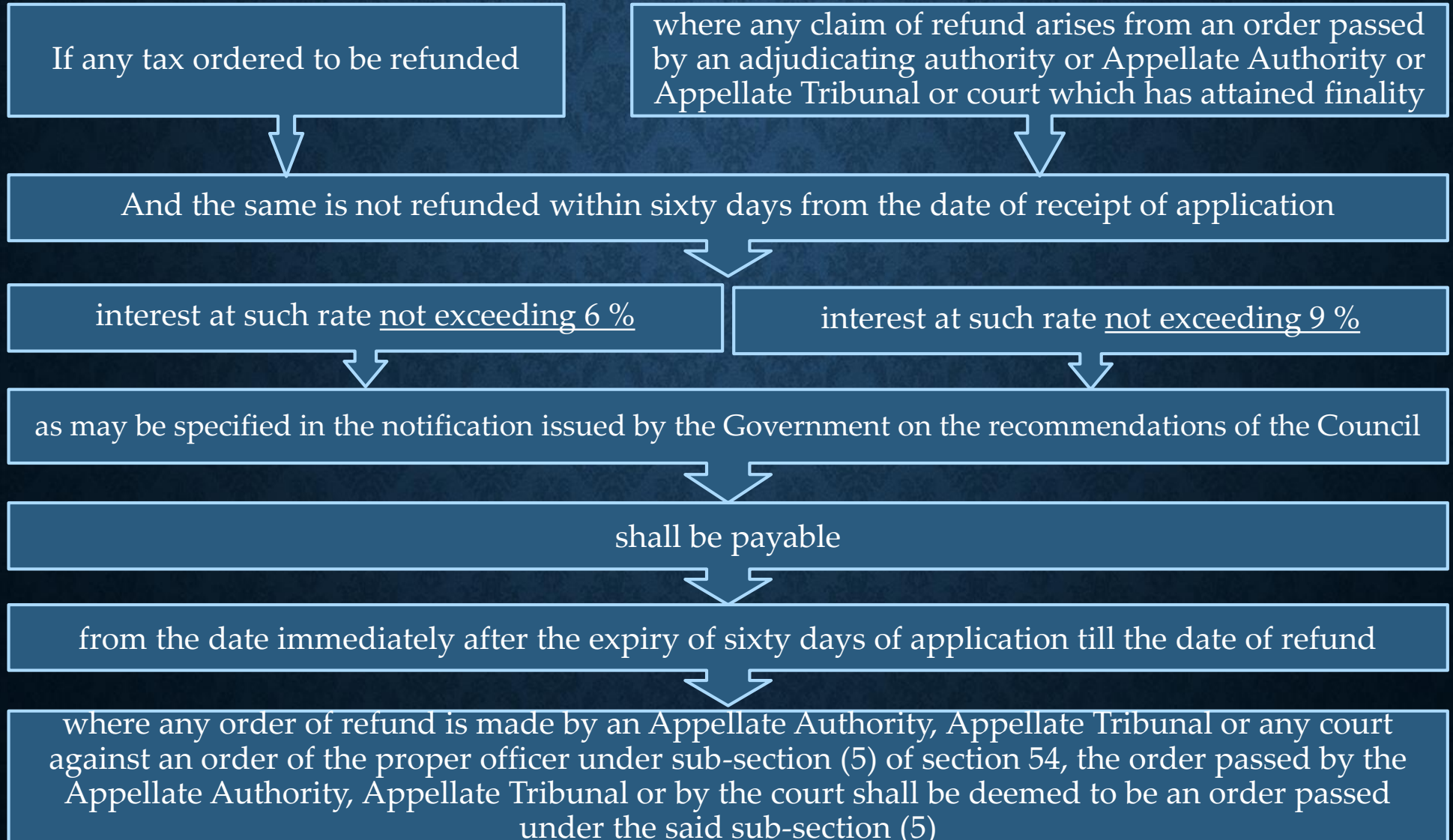
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| any specialised agency of the United Nations Organisation or | any Multilateral Financial Institution and | Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), | Consulate or | Embassy of foreign countries and | any other person or class of persons as may be specified in this behalf, |
|--|--|--|--------------|----------------------------------|--|

who shall, subject to such conditions and restrictions as may be prescribed,

be entitled to claim a refund of taxes paid

on the notified supplies of goods or services or both received by them.

Interest on delayed refunds



Consumer welfare Fund

Government shall constitute a Consumer Welfare Fund and following shall be credited to the Fund -

| | | |
|--|--|---|
| the amount referred to in sub-section (5) of section 54; | any income from investment of the amount credited to the Fund; and | such other monies received by it, in such manner as may be prescribed |
|--|--|---|

Section 58

Utilisation of Fund

All sums credited to the Fund shall be utilised by the Government for the welfare of the consumers in such manner as may be prescribed.



Government or the authority specified by it shall

maintain proper and separate account and other relevant records in relation to the Fund and

prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India

Thank You

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