

Indirect Taxes Revision cum Amendment Notes For CA Final May / Nov 2020 Exam – Part 2

Note

- These Notes are not a substitute for Regular Notes / ICAI Study Material and are useful only for the purpose of revising the subject.
- RTP, Suggested Answers have to be studied thoroughly.
- We have taken all care while drafting these notes. If you find any error in these notes, please send us an email to junnarkarkedar@gmail.com

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Video Lectures by CA Kedar Junnarkar for May / Nov 2020 Exam

2 Views / 1 Year Validity

Videos	Pendrive Price in Rs.	Google Drive Price in Rs.
CA Final DT Regular - Paper 7	12,000	11,000
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CA Final DT and IDT Regular Combo (Paper 7 and 8)	22,000	20,000
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Practice Book (covering Problems and Solutions from Past Exam Papers, RTP, Mock Papers)

Subject	Rs.
CA Final DT	650
CA Final DT	650

You can order the Videos / Books from www.junnarkarkedar.com; In case of any purchase related query, contact 9975612464

Face to Face Class Details

CA Final IDT Fast Track Batch	Tapasya Academy, Hyderabad from 19 th Feb 2020 for 15 days 6 hours daily (Phone no. 8885556611 / 8885556622)
CA Final IDT Revision Batch	Chennai in March 2020
CA Final DT (Paper 7 and Paper 6C) Regular Batch for May / November 2021 Exam	Navi Peth, Pune from 2nd April 2020 for 2 months Timing: 6.30 am to 9.30 am (Ph. no. 9975612464)
CA Final IDT Batch for Nov 2020 onwards exams	Hyderabad / Chennai in June / July 2020 (To be announced)

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- An Associate Member of ICAI. Also passed Company Secretary Examination
- Based in Pune and have teaching experience of more than 9 years in Direct and Indirect Taxes
- Diploma Holder in IFR (Diploma in International Financial Reporting – ACCA UK) and DISA (Diploma in Information Systems Audit – ICAI, New Delhi)
- A Rank Holder In All Five Examinations
 - AIR 5 in CA Professional Exam I
 - AIR 27 in CA Professional Exam II
 - AIR 47 in CA Final
 - AIR 13 in CS Executive
 - Rank 7 in HSC (Pune Division)
- All India Subject topper in:
 - Economics (91/100 in CA Professional Exam I)
 - Audit (83/100 in CA Professional Exam II)
- Second Highest in State in HSC in:
 - Accountancy (99/100)
 - French (98/100)

Phenomenal Results for November 2019 Exams - Students who have done our DT / IDT Classes

ALL INDIA RANK 1	ALL INDIA RANK 46
Mr. Gurram Naga Sri Krishna Praneeth (Vijaywada)	Mr. Prasad Vangala (Vijaywada)
DT – 69 Marks and IDT – 74 Marks	IDT – 66 Marks

More than 100 Students have scored exemption in DT / IDT.

Change in Returns Chapter in Revision Notes 1 – Due date for furnishing Form GSTR-4 is 30th April of succeeding year and not 13th.

Chapter 12 : GST Exemptions and Reverse Charge

Construction Service

Value of supply = total amount charged for such supply (-) one third of the total amount i.e. for value of land or undivided share of land

Total amount means the sum total of consideration charged + amount charged for transfer of land or undivided share of land

Real Estate Sector (Optional Rates)

- a. 1% without ITC on construction of affordable houses (area 60 sqm in metros/ 90 sqm in non-metros and value upto Rs. 45 lakh).
- b. 5% without ITC shall be applicable on construction of:
 - i. all houses other than affordable houses, and
 - ii. commercial apartments such as shops, offices etc. in a residential real estate project (RREP) in which the carpet area of commercial apartments is not more than 15% of total carpet area of all apartments.

Conditions

Above tax rates shall be available subject to following conditions:

- a. Input tax credit shall not be available.
- b. 80% of inputs and input services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], used in supplying the service shall be purchased from registered persons

However, if value of inputs and input services purchased from registered supplier is less than 80%, promoter has to pay GST on reverse charge basis, under section 9(4) of the CGST Act, at the rate of 18% on all such inward supplies (to the extent short of 80% of the inward supplies from registered supplier).

Further, where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement on reverse charge basis, under section 9(4) of the CGST Act, at the applicable rate which is 28% (CGST 14% + SGST 14%) at present. Moreover, GST on capital goods shall be paid by the promoter on reverse charge basis, under section 9(4) of the CGST Act at the applicable rates.

Exempt Service

Supply of TDR, FSI, long term lease (premium) of land by a landowner to a developer have been exempted subject to the condition that the constructed flats are sold before issuance of completion certificate and tax is paid on them.

Exemption shall be withdrawn in case of flats sold after issue of completion certificate, but such withdrawal shall be limited to 1% of value in case of affordable houses and 5% of value in case of other than affordable houses. This will achieve a fair degree of taxation parity between under construction and ready to move property.

The liability to pay tax on TDR, FSI, long term lease (premium) has been shifted from land owner to builder under the reverse charge mechanism (RCM)

GST Exemptions relating to Renting

1. Renting of residential dwelling for use as residence
2. Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or **equal to** Rs. 1,000 per day or equivalent (Exemption will also apply to dharamshalas, ashram etc.) (**w.e.f. 1.10.2019**)

	Transportation of Passengers	Transportation of Goods
Airways	<ul style="list-style-type: none"> • Transportation by Air, embarking from or terminating in an airport located in North East India or Bagdogra in West Bengal: Exempt • In other cases: Taxable (Transportation by Air embarking from or terminating in a Regional Connectivity Scheme Airport other than above Airports shall be taxable; Exemption will apply only for Viability Gap Funding for three years) • Ropeway, Cable Car, Aerial Tramway: Taxable 	<ul style="list-style-type: none"> • by an aircraft from a place outside India to the first customs station of landing in India : Exempt • by an aircraft from customs station of clearance in India to a place outside India: Exempt upto 30.9.2020 • in other cases: Taxable
Waterways	<ul style="list-style-type: none"> • Transport by Inland waterways (Tourism or Non tourism purpose): Exempt • Transport by public transport, other than predominantly for tourism purpose, in a vessel between places located in India: Exempt (exempt even if few tourists ply if it is not predominantly for tourism) • Transport by public transport predominantly for tourism purpose in a vessel between places located in India: Taxable (Eg. Leisure or charter vessels or cruises) 	<ul style="list-style-type: none"> • by inland waterways: Exempt • by vessel from customs station of clearance in India to a place outside India: Exempt upto 30.9.2020 • in other cases: Taxable (Transportation relating to certain goods – exempt)
Railways	<ul style="list-style-type: none"> • Metro, monorail or tramway: Exempt • Railways in first class or AC coach: Taxable • Railways in class other than first class or an air conditioned coach: Exempt 	<ul style="list-style-type: none"> • Service of Transportation - Taxable • Transportation relating to certain goods – Exempt
Roadways	<ul style="list-style-type: none"> • Non AC Stage carriage: Exempt • AC Stage Carriage: Taxable • Metered cabs, auto rickshaws, e-rickshaws: Exempt • Radio Taxi /AC Contract Carriage: Taxable • Non-air conditioned contract carriage for tourism, conducted tour, charter or hire: Taxable • Non-air conditioned contract carriage excluding for tourism, conducted tour, charter or hire: Exempt 	<ul style="list-style-type: none"> • Goods transportation agency: Taxable (Transportation relating to certain goods – exempt) • Courier agency: Taxable • Other ways like handcarts, camels, horses, donkeys, yaks: Exempt

Exemptions	
Services provided by a goods transport agency , by way of transport in a goods carriage of <ol style="list-style-type: none"> a) goods if consideration charged for transportation of goods on a consignment transported in single carriage does not exceed Rs.1,500 b) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed Rs.750 	Services by way of transportation by rail or vessel from one place in India to another of the following goods <ol style="list-style-type: none"> i. railway equipments or materials

Common Exemptions

- a) agricultural produce
- b) milk, salt and food grain including flours, pulses and rice
- c) newspaper or magazines registered with the Registrar of Newspapers
- d) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap
- e) defence or military equipments
- f) organic manure

Exempt: GTA Service to an unregistered person/ unregistered casual taxable person is exempt OTHER THAN to following recipients:

- a) factory
- b) Society
- c) Co-operative Society
- d) Body corporate
- e) Partnership firm/AOP whether registered or not
- f) Registered Casual taxable person

Exemption

Services provided by a goods transport agency, by way of transport of goods in a goods carriage to

- a) a Department or Establishment of the Central Government or State Government or Union territory or
- b) local authority or
- c) Governmental agencies

which has taken registration under the CGST Act, 2017 only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.

Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries) shall be exempt (means goods coming from other countries and to be transported to Nepal and Bhutan and transportation is done in India)

Deemed Value

- Where value of taxable service provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India is not available with the person liable for paying integrated tax, the same shall be deemed to be 10% of the CIF value (sum of cost, insurance and freight) of imported goods.
- This provision will not apply if service recipient (person who appoints the transporter) is an Indian importer.

Hiring/Leasing/Licensing

Exempt Services: Services by way of giving on hire

- a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or
- b) to a goods transport agency, a means of transportation of goods.
- c) motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalent.
- d) to a local authority, an Electrically operated vehicle meant to carry more than twelve passengers (w.e.f. 1st August 2019)**

Tour Operator Services - Exemption from GST

1. Services by a specified organisation in respect of a religious pilgrimage facilitated by Government of India, under bilateral arrangement
Specified organisation shall mean
 - a) Kumaon Mandal Vikas Nigam Limited, a Government of Uttarakhand Undertaking; or
 - b) Committee' or 'State Committee' as defined in section 2 of the Haj Committee Act, 2002
2. Services provided to a foreign tourist in relation to a tour conducted wholly outside India (Exempt from IGST)

Import of Services

Imports by following persons shall be exempt from IGST

- a) the Central Government, State Government, Union territory, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession;
- b) an entity registered under section 12AA of the Income-tax Act, 1961 for the purposes of providing charitable activities; or
- c) Services received from provider of service located in a non-taxable territory by way of supply of online educational journals or periodicals to an educational institution other than institution providing services by way of
 - i. pre-school education and education up to higher secondary school or equivalent or
 - ii. education as a part of an approved vocational education course.
- d) a person located in a non-taxable territory:

The exemption shall not apply to:

- a) online information and database access or retrieval services received by persons specified in (a) or (b) or
- b) services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India received by persons specified in the entry

Exempt Services

1. Services supplied by an establishment of a person in India to any establishment of that person outside India, which are treated as establishments of distinct persons provided the place of supply of the service is outside India in accordance with section 13 of IGST Act, 2017.
2. Import of services by United Nations or a Specified International Organisation for official use of the United Nations or the specified international organisation.
3. Services imported by a unit or a developer in the Special Economic Zone for authorised operations shall be exempt from the whole of the integrated tax leviable thereon under section 5 of the Integrated Goods and Service Tax Act, 2017. (Notification no. 18/2017)
4. Services by a Foreign Diplomatic Mission located in India shall be exempt.
5. Import of services by Foreign diplomatic mission or consular post in India, or diplomatic agents or career consular officers posted therein shall be exempt
6. **Services provided by an intermediary when location of both supplier and recipient of goods is outside the taxable territory shall be exempt (w.e.f. 1.10.2019)**

GST Exemption relating to services by Central / State Government / Union Territory / Local Authority

A. Services by the Department of Posts –

- (a) speed post, express parcel post, life insurance, and agency services – Taxable (exempt if provided to Central Government, State Government, Union territory)
- (b) Other services of post – Exempt

B. services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport - Taxable

C. Transport of goods or passengers – Taxable subject to other exemptions (eg. Non AC Stage Carriage exempt)

D.

1. Other services provided to another Central Government, State Government, Union territory or local authority – exempt

2. provided to other than business entity - exempt

3. provided to business entity – check (a) or (b)

(a) if consideration is upto Rs. 5000 p.a. – if yes, then exempt

(b) if consideration exceeds Rs. 5000 p.a. – check (i) or (ii)

(i) if the service is renting of immovable property

(1) to a person registered under CGST Act, 2017 - Taxable under Reverse Charge

(2) to unregistered person - Taxable under Forward Charge

(ii) if it is other service – check (1) or (2)

(1) aggregate turnover of business entity in the preceding financial year is of up to **Registration threshold limit** in preceding financial year – Service is exempt (**w.e.f. 1.10.2019**)

(2) if it exceeds **Registration threshold limit** in preceding financial year – Taxable (**w.e.f. 1.10.2019**)

GST Exemption relating to services BY Central / State Government / Union Territory / Local Authority

1. Issuance of passport, visa, driving licence, birth certificate or death certificate
2. Tolerating non-performance of a contract for which consideration in the form of fines or liquidated damages
3. by way of registration required under any law for the time being in force
4. by way of testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, required under any law
5. Assignment of right to use natural resources to an individual farmer for cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products.
6. Assignment of right to use any natural resource to persons other than individual farmer where such right to use was assigned before the 1st April, 2016. The exemption shall apply only to tax payable on one time charge payable.
7. Services provided by the Central Government, State Government, Union territory or local authority by way of allowing a business entity to operate as a telecom service provider or use radio frequency spectrum during the period prior to the 1st April, 2016, on payment of licence fee or spectrum user charges
8. Services provided by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime charges.
9. Services by governmental authority by way of any activity in relation to any function entrusted to a municipality under article 243W of the Constitution

10. Services by a governmental authority by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution
11. Services supplied by Central Government, State Government, Union territory to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the **banking companies** and financial institutions. **(banking companies added w.e.f. 1.1.2019)**
12. Services by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, has been exempted from so much of tax as is leviable on the consideration paid to the Central Government in the form of Central Government's share of profit petroleum as defined in the contract entered into by the Central Government in this behalf.
13. Services supplied by a State Government to Excess Royalty Collection Contractor (ERCC) by way of assigning the right to collect royalty on behalf of the State Government on the mineral dispatched by the mining lease holders.

At the end of the contract period, ERCC shall submit an account to the State Government and certify that the amount of goods and services tax deposited by mining lease holders on royalty is more than the goods and services tax exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and where such amount of goods and services tax paid by mining lease holders is less than the amount of goods and services tax exempted, the exemption shall be restricted to such amount as is equal to the amount of goods and services tax paid by the mining lease holders and the ERCC shall pay the difference between goods and services tax exempted on the service provided by State Government to the ERCC of assignment of right to collect royalty and goods and services tax paid by the mining lease holders on royalty.

Exempt Services to Central or State Government or Union territory or local authority or a Governmental authority

1. Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.
2. Composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.
3. Services provided to the Central Government, State Government, Union territory administration under any training programme for which total expenditure is borne by the Central Government, State Government, Union territory administration.
4. Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government, Union territory Services by way of reinsurance of the insurance schemes specified above

GST Exemptions relating to Legal Services provided by

- a) an arbitral tribunal to -
 - i. any person other than a business entity - exempt
 - ii. To the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity: Exempt

- iii. a business entity with an aggregate turnover up to **Registration threshold limit** in preceding financial year- Exempt (**w.e.f. 1.10.2019**)
 - iv. if turnover exceeds **Registration threshold limit** in preceding financial year–Taxable (**w.e.f. 1.10.2019**)
- b) partnership firm of advocates or Junior advocate to
- i. an advocate or partnership firm of advocates providing legal services - exempt
 - ii. any person other than a business entity- exempt
 - iii. To the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity: Exempt
 - iv. a business entity with an aggregate turnover up to **Registration threshold limit** in preceding financial year- exempt
 - v. if turnover exceeds **Registration threshold limit** in preceding financial year – service taxable
- c) senior advocate to-
- i. any person other than a business entity- exempt
 - ii. To the Central Government, State Government, Union territory, local authority, Governmental Authority or Government Entity: Exempt
 - iii. a business entity with an aggregate turnover up to **Registration threshold limit** in preceding financial year- exempt
 - iv. if turnover exceeds **Registration threshold limit** in preceding financial year – service taxable

Person liable to pay tax in case of services provided by Senior Advocates

- a) where legal services are provided by senior advocates to business entities, tax will be payable by the recipient of service.
- b) where representational services are provided by the senior advocates to any business entity, tax will be payable by the recipient of service which is the business entity who is litigant, applicant, or petitioner.
- c) where the contract for representational services provided by the senior advocates to any business entity has been entered through another advocate or a firm of advocates, tax will be payable by the recipient of service which is the business entity who is litigant, applicant, or petitioner.

Electricity Service

Exempt Service

- 1. Transmission or distribution of electricity by an electricity transmission or distribution utility
- 2. Services supplied by electricity distribution utilities by way of construction, erection, commissioning, or installation of infrastructure for extending electricity distribution network upto the tube well of the farmer or agriculturist for agricultural use

GST Exemptions relating to Health Care Service (diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India)

- 1.
 - (a) by a clinical establishment - exempt
 - (b) by authorised medical practitioner registered with medical council - exempt
 - (c) by paramedics (labs, nurses, diagnostic centres)- exempt
 - (d) transportation of a patient in an ambulance – exempt
 - (e) hair transplant or cosmetic or plastic surgery - Taxable

(f) hair transplant or cosmetic or plastic surgery undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma – exempt

2. Services by a veterinary clinic in relation to health care of animals or birds
3. Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation.
4. Services provided by operators of the common bio-medical waste treatment facility to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto

GST Exemptions relating to Education

Services **by an Educational Institution** to its students, faculty and staff shall be exempt.

Educational institution means an institution providing services by way of:

- a) pre-school education and education up to higher secondary school or equivalent
- b) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force
- c) education as a part of an approved vocational education course

Service	<u>Educational Institution providing education</u>		
	Pre-school education and education up to higher secondary school or equivalent	education as a part of a curriculum for obtaining qualification recognised by any law	education as a part of an approved vocational education course
Transportation of students, faculty and staff	<u>Exempt</u>	Taxable	Taxable
Catering, including any mid-day meals scheme sponsored by the the Central Government, State Government or Union territory	<u>Exempt</u>	Taxable	Taxable
Security or cleaning or house-keeping services performed in such educational institution	<u>Exempt</u>	Taxable	Taxable
Services relating to admission to, or conduct of examination by, such institution	<u>Exempt</u>	<u>Exempt</u>	<u>Exempt</u>
Supply of online educational journals or periodicals	Taxable	<u>Exempt</u>	Taxable
Hiring of Motor Vehicle for transport of students, faculty and staff to person providing transportation service to	<u>Exempt</u>	Taxable	Taxable

Services provided by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee

The Central and State Educational Boards shall be treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students.

Circular No. 82/01/2019 GST

IIMs are "educational institutions" as they provide education as a part of a curriculum for obtaining a qualification recognized by law for the time being in force. Therefore, such services would be exempt. Services provided by IIMs to participants of short courses is not exempt from GST.

GST Exemption relating to Performance based Services

Services provided to a recognised sports body by

- a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organised by a recognized sports body
- b) another recognised sports body

Services by an artist by way of a performance in folk or classical art forms of

- a) music, or
- b) dance, or
- c) theatre,

if the consideration charged for such performance is not more than Rs. 1.5 Lakhs. No exemption for service provided by such artist as a brand ambassador

GST Exemptions relating to Arts, Culture and Sports

1. Admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo (No limit on ticket price)
2. Services by way of right to admission to
 - a) circus, dance, or theatrical performance including drama or ballet
 - b) award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event
 - c) recognised sporting event
 - d) planetarium,where the consideration for right to admission to the events or places as referred to in item (a), (b), (c) or (d) above is not more than Rs. 500 per person.
3. Training or coaching services in recreational activities relating to
 - a) arts or culture
 - b) sports by charitable entities registered under section 12AA of the Income-tax Act.
3. Services by way of sponsorship of sporting events organised -
 - a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, State, zone or Country;
 - b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;
 - c) by the Central Civil Services Cultural and Sports Board;
 - d) as part of national games, by the Indian Olympic Association; or
 - e) under the Panchayat Yuva Kreedha Aur Khel Abhiyaan Scheme.

Exemption for Services relating to FIFA U-17 Women's World Cup 2020 (w.e.f. 1.10.2019)

- a) Services by way of right to admission to the events organised under FIFA U-17 Women's World Cup 2020
- b) Services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020 to be hosted in India if Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020

GST Exemptions relating to Agriculture

Exemption for Services relating to cultivation of plants and rearing of all life forms of animals, except rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of

- a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing;
- b) supply of farm labour
- c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;
- d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;
- e) loading, unloading, packing, storage or warehousing of agricultural produce;
- f) agricultural extension services;
- g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.
- h) services by way of fumigation in a warehouse of agricultural produce

Exemption for

- job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce
- Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables
- Services by way of fumigation in a warehouse of agricultural produce
- Services by way of warehousing of minor forest produce
- **Services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu leaves, coffee and tea (w.e.f. 1.10.2019)**
- Loading, unloading, packing, storage or warehousing of rice
- Service provided by Fair Price Shops to Central Government by way of sale of wheat, rice and coarse grains, kerosene, sugar, edible oil, etc under Public Distribution System (PDS) against consideration in the form of commission or margin

GST Exemption relating to Banking Sector

1. Services by way of

- a) interest or discount (interest involved in credit card services is taxable)
- b) inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers (Money changing service to public is taxable)

2. Services by an acquiring bank, to any person in relation to settlement of an amount upto two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service.

3. Services by the following persons in respective capacities -

- a) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch
- b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a)
- c) business facilitator or a business correspondent to an insurance company in a rural area

4. Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY)

GST Exemption relating to RBI

1. Services by the Reserve Bank of India
2. Services received by the Reserve Bank of India, from outside India in relation to management of foreign exchange reserves

Financial Service

Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR) shall be exempt

GST Exemptions relating to Charitable Trust

Services by an entity registered under section 12AA of the Income-tax Act, 1961 by way of charitable activities shall be exempt. Also imports by such entity will be exempt.

Charitable activities means activities relating to

1. Public health by way of

A. care or counselling of

- a) terminally ill persons or persons with severe physical or mental disability
- b) persons afflicted with HIV or AIDS
- c) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol

B . public awareness of preventive health, family planning or prevention of HIV infection

2. Advancement of educational programmes or skill development relating to

- a) abandoned, orphaned or homeless children
- b) physically or mentally abused and traumatized persons
- c) prisoners or
- d) persons over the age of 65 years residing in a rural area

3. Advancement of religion, spirituality or yoga

4. preservation of environment including watershed, forests and wildlife

Services by an old age home run by Central Government, State Government or by an entity registered under section 12AA of the Income-tax Act, 1961 to its residents (aged 60 years or more) against consideration upto Rs. 25,000 per month per member shall be exempt provided that the consideration charged is inclusive of charges for boarding, lodging and maintenance

Services provided by rehabilitation professionals recognised under the Rehabilitation Council of India Act, 1992 by way of rehabilitation, therapy or counselling and such other activity as covered by the said Act at medical establishments, educational institutions, rehabilitation centers established by Central Government, State Government or Union territory or an entity registered under section 12AA of the Income-tax Act, 1961 shall be exempt. (w.e.f. 1.1.2019)

Religious Services

Services exempt

- a) conduct of any religious ceremony (Religious ceremonies are life cycle rituals including special religious poojas conducted in terms of religious texts)
- b) renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 or a trust or an institution registered under section 10(23C)(v) of the Income-tax Act or a body or an authority covered under section 10(23BBA) of the said Income-tax Act:
This exemption shall not apply to
 - i. renting of rooms where charges are one thousand rupees or more per day
 - ii. renting of premises, community halls, kalyanmandapam or open area, and the like where charges are ten thousand rupees or more per day
 - iii. renting of shops or other spaces for business or commerce where charges are ten thousand rupees or more per month.

GST Exemptions to different types of persons / bodies

1. Services by way of licensing, registration and analysis or testing of food samples supplied by the Food Safety and Standards Authority of India (FSSAI) to Food Business Operators
2. Services by Coal Mines Provident Fund Organisation to persons governed by the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948
3. Services by National Pension System (NPS) Trust to its members against consideration in the form of administrative fee
4. Services by way of providing information under the Right to Information Act, 2005
5. Services of life insurance business provided by way of annuity under the National Pension System regulated by the Pension Fund Regulatory and Development Authority of India under the Pension Fund Regulatory and Development Authority Act, 2013
6. Services of life insurance business provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government

7. Services by the Employees' State Insurance Corporation to persons governed under the Employees' State Insurance Act, 1948
8. Services provided by the Employees Provident Fund Organisation to the persons governed under the Employees Provident Funds and the Miscellaneous Provisions Act, 1952
9. Services provided by the Insurance Regulatory and Development Authority of India to insurers under the Insurance Regulatory and Development Authority of India Act, 1999
10. Services provided by the Securities and Exchange Board of India set up under the Securities and Exchange Board of India Act, 1992 by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market.
11. Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India
12. Services provided by the Goods and Services Tax Network to the Central Government or State Governments or Union territories for implementation of Goods and Services Tax
13. Services provided by the National Centre for Cold Chain Development under the Ministry of Agriculture, Cooperation and Farmer's Welfare by way of cold chain knowledge dissemination
14. Any services provided by
 - a) the National Skill Development Corporation set up by the Government of India;
 - b) a Sector Skill Council approved by the National Skill Development Corporation;
 - c) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;
 - d) a training partner approved by the National Skill Development Corporation or the Sector Skill Council, in relation to-
 - i. the National Skill Development Programme implemented by the National Skill Development Corporation; or
 - ii. a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or
 - iii. any other Scheme implemented by the National Skill Development Corporation.
15. Services of assessing bodies empanelled centrally by the Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under the Skill Development Initiative Scheme
16. Services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana implemented by the Ministry of Rural Development, Government of India by way of offering skill or vocational training courses certified by the National Council for Vocational Training

Other GST Exemptions

1. Services by way of slaughtering of animals

2. Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets
3. Services by an organiser to any person in respect of a business exhibition held outside India
4. Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material
5. Services provided by way of pure labour contracts of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of a civil structure or any other original works pertaining to the beneficiary-led individual house construction or enhancement under the Housing for All (Urban) Mission or Pradhan Mantri Awas Yojana.
6. Services by way of pure labour contracts of construction, erection, commissioning, or installation of original works pertaining to a single residential unit otherwise than as a part of a residential complex.

Single residential unit means a self-contained residential unit which is designed for use, wholly or principally, for residential purposes for one family.

5. Supply of service by a Government Entity to Central Government, State Government, Union territory, local authority or any person specified by Central Government, State Government, Union territory or local authority against consideration received from Central Government, State Government, Union territory or local authority, in the form of grants.
6. Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of thirty years, or more) of industrial plots or plots for development of infrastructure for financial business, provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having 50% or more ownership of Central Government, State Government, Union territory to the industrial units or the developers in any industrial or financial business area

For the purpose of this exemption, the Central Government, State Government or Union territory shall have 50 per cent or more ownership in the entity directly or through an entity which is wholly owned by the Central Government, State Government or Union territory.

7. Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets
8. Service by an unincorporated body or a non-profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution -
 - a) as a trade union
 - b) for the provision of carrying out any activity which is exempt from the levy of Goods and Service Tax
 - c) up to an amount of Rs. 7,500 per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex
9. Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in

- i. activities relating to the welfare of industrial or agricultural labour or farmers or
 - ii. promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment,
- to its own members against consideration in the form of membership fee upto an amount of one thousand rupees (Rs. 1000) per member per year.

10. Services by way of transfer of a going concern, as a whole or an independent part thereof

11. Service by way of access to a road or a bridge on payment of toll charges

12. Service by way of access to a road or a bridge on payment of annuity

13. Services of general insurance business provided under following schemes

- a) Hut Insurance Scheme
- b) Cattle Insurance under Swarnajayanti Gram Swarozgar Yojana (earlier known as Integrated Rural Development Programme)
- c) Scheme for Insurance of Tribals
- d) Janata Personal Accident Policy and Gramin Accident Policy
- e) Group Personal Accident Policy for Self-Employed Women
- f) Agricultural Pumpset and Failed Well Insurance
- g) Premia collected on export credit insurance
- h) Restructured Weather Based Crop Insurance Scheme (RWCIS), approved by the Government of India and implemented by the Ministry of Agriculture
- i) Jan Arogya Bima Policy
- j) Pradhan Mantri Fasal BimaYojana (PMFBY)
- k) Pilot Scheme on Seed Crop Insurance
- l) Central Sector Scheme on Cattle Insurance
- m) Universal Health Insurance Scheme
- n) Rashtriya Swasthya Bima Yojana
- o) Coconut Palm Insurance Scheme
- p) Pradhan Mantri Suraksha Bima Yojana
- q) Niramaya Health Insurance Scheme implemented by the Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999
- r) **Bangla Shasya Bima (w.e.f. 1.10.2019)**

Services by way of reinsurance of the insurance schemes specified above are exempt

14. Services of life insurance business provided under following schemes-

- a) Janashree Bima Yojana
- b) Aam Aadmi Bima Yojana
- c) Life micro-insurance product as approved by the Insurance Regulatory and Development Authority, having maximum amount of cover of **Rs. 2,00,000**
- d) Varishtha Pension BimaYojana
- e) Pradhan Mantri Jeevan Jyoti Bima Yojana
- f) Pradhan Mantri Jan Dhan Yojana
- g) Pradhan Mantri Vaya Vandana Yojana

Services by way of reinsurance of the insurance schemes specified above are exempt

15. Services by way of collection of contribution under the Atal Pension Yojana
16. Services by way of collection of contribution under any pension scheme of the State Governments
17. Services of life insurance provided or agreed to be provided by the Naval Group Insurance Fund to the personnel of Coast Guard under the Group Insurance Schemes of the Central Government
18. Services of leasing of assets (rolling stock assets including wagons, coaches, locos) by the Indian Railways Finance Corporation to Indian Railways
19. Services provided by an incubatee up to a total turnover of fifty lakh rupees in a financial year subject to the following conditions, namely:-
 - a) the total turnover had not exceeded fifty lakh rupees during the preceding financial year; and
 - b) a period of three years has not elapsed from the date of entering into an agreement as an incubatee.
20. Taxable services, provided or to be provided, by a Technology Business Incubator or a Science and Technology Entrepreneurship Park recognised by the National Science and Technology Entrepreneurship Development Board of the Department of Science and Technology, Government of India or bio-incubators recognised by the Biotechnology Industry Research Assistance Council, under the Department of Biotechnology, Government of India.
21. Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material
22. Services by way of slaughtering of animals
23. Services by way of artificial insemination of livestock (other than horses)
- 24. Services of life insurance provided or agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force (w.e.f. 1.10.2019)**

Reverse Charge in case of Services

Category of Supply of Services - <u>Reverse Charge</u>	Supplier of service	Recipient of Service who will pay tax
Supply of Services by a Goods Transport Agency (GTA) who has not paid tax at the rate of 12% in respect of transportation of goods by road to <ol style="list-style-type: none"> a) any factory registered under or governed by the Factories Act, 1948 or b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India or c) any co-operative society established by or under 	Goods Transport Agency (GTA)	<ol style="list-style-type: none"> a) Any factory registered under or governed by the Factories Act, 1948 or b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force or c) any co-operative society established by or under any law

<p>any law or</p> <p>d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or</p> <p>e) any body corporate established, by or under any law or</p> <p>f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>g) any casual taxable person.</p>		<p>d) any person registered under the CGST Act or the IGST Act or SGST Act or UTGST Tax Act</p> <p>e) anybody corporate established, by or under any law</p> <p>f) any partnership firm whether registered or not under any law including association of persons</p> <p>g) any casual taxable person located in the taxable territory.</p>
<p>Above provision shall not apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to</p> <p>a. a Department or Establishment of the Central Government or State Government or Union territory; or</p> <p>b. local authority; or</p> <p>c. Governmental agencies,</p> <p>which has taken registration under the CGST Act, 2017 only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services</p>		
<p>Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly (Firm includes LLP)</p>	<p>Individual advocate or a senior advocate or firm of advocates</p>	<p>Any business entity located in the taxable territory</p>
<p>Services supplied by an arbitral tribunal to a business entity</p>	<p>An arbitral tribunal</p>	<p>Any business entity located in the taxable territory.</p>
<p>Services provided by way of sponsorship to anybody corporate or partnership firm</p>	<p>Any person</p>	<p>Anybody corporate or partnership firm located in the taxable territory</p>
<p>Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding</p> <p>a) renting of immovable property, and</p> <p>b) services specified below</p> <p>i. services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority</p> <p>ii. services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport</p> <p>iii. transport of goods or passengers</p>	<p>Central Government, State Government, Union territory or local authority</p>	<p>Any business entity located in the taxable territory.</p>
<p>Services supplied by the Central Government, State</p>	<p>Central Government,</p>	<p>Any person registered under the</p>

Government, Union territory or local authority by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017	State Government, Union territory or local authority	Central Goods and Services Tax Act, 2017
Services supplied by a director of a company or a body corporate to the said company or the body corporate.	A director	The company or a body corporate located in the taxable territory.
Services supplied by an Insurance Agent to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business located in taxable territory
Services supplied by a Recovery Agent to a banking company or a financial institution or a non-banking financial company	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory
Supply of services by the members of Overseeing Committee to Reserve Bank of India	Members of Overseeing Committee constituted by RBI	Reserve Bank of India
Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm to bank or non-banking financial company (NBFCs)	Individual Direct Selling Agents (DSAs) other than body corporate, partnership or LLP	A banking company or a non-banking financial company, located in the taxable territory
Services provided by business facilitator (BF) to a banking company	Business facilitator (BF)	A banking company, located in the taxable territory
Services provided by an agent of business correspondent (BC) to business correspondent (BC)	An agent of business correspondent	A business correspondent, located in the taxable territory
Security services (services provided by way of supply of security personnel) provided to a registered person	Any person other than body corporate	A registered person, located in the taxable territory
<p>Above provision relating to security services shall not apply to</p> <p>(i)(a) a Department or Establishment of the Central Government or State Government or Union territory or</p> <p>(b) local authority or</p> <p>(c) Governmental agencies</p> <p>which has taken registration under the CGST Act, 2017 only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services or</p> <p>(ii) a registered person paying tax under section 10 of the said Act.</p>		
Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter. (w.e.f. 1.4.2019)	Any person	Promoter

Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter. (w.e.f. 1.4.2019)	Any person	Promoter
Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.	Author or music composer, photographer, artist, or the like	Publisher , music company, producer or the like, located in the taxable territory.
Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary works to a publisher.	Author	Publisher located in the taxable territory
<p>Reverse Charge provisions will not apply in above case if</p> <p>a. the author has taken registration under the CGST Act, 2017 and filed a declaration, in the form at Annexure I, within the time limit prescribed therein, with the jurisdictional CGST or SGST commissioner, that he exercises the option to pay tax on forward charge and to comply with all the provisions of CGST Act, 2017 as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option</p> <p>b. the author makes a declaration on the invoice issued by him in Form GST Inv-I to the publisher</p>		
Services provided by way of renting of a motor vehicle provided to a body corporate (w.e.f. 1.10.2019)	Any person other than a body corporate, paying central tax at the rate of 5% on renting of motor vehicles with input tax credit only of input service in the same line of business	Any body corporate located in the taxable territory.
Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of SEBI (w.e.f. 1.10.2019)	Lender i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI	Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI

Reverse Charge only in case of IGST (in addition to above)

Category of Supply of Services	Supplier of service	Recipient of Service
Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient.	Any person located in a non-taxable territory	Any person located in the taxable territory other than non-taxable online recipient.
Services supplied by a person located in non- taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.	A person located in non-taxable territory	Importer, as defined in Customs Act, 1962 located in the taxable territory

Chapter 13 : Procedures under GST

Assessment

Section 59 of CGST Act: Self-assessment

Every registered person shall self-assess the taxes payable and furnish a return for each tax period.

Section 60 of CGST Act: Provisional assessment

- Where the taxable person is **unable to determine the value or determine the rate of tax**, he may request the proper officer for payment of tax on a provisional basis and the proper officer shall pass an order allowing such payment within **90 days** from the date of receipt of such request.
- Bond with such surety or security of the difference between the amount of tax as may be finally assessed and the amount of tax provisionally assessed.
- The proper officer shall, within **6 months** from the date of the communication of the order issued, pass the final assessment order.
- This period may be extended by Joint or Additional Commissioner for a further period **not exceeding six months** and by the Commissioner for such further period **not exceeding four years**.
- The registered person shall be liable to pay interest on any tax payable at 18% p.a. from the first day after the due date till the date of actual payment.
- Where the registered person is entitled to a refund consequent to the order of final assessment, interest shall be paid on such refund 6% p.a. from the date immediately after the expiry of 60 days from the date of receipt of application till the date of refund of such tax.

Section 61 of CGST Act: Scrutiny of returns

- The proper officer may scrutinize the return to verify the correctness of the return and inform him of the discrepancies noticed and seek his explanation thereto.
- In case the explanation is found acceptable, the registered person shall be informed accordingly and no further action shall be taken.
- In case no satisfactory explanation is furnished within 30 days of being informed by the proper officer or such further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action including those under section 65 or section 66 or section 67, or proceed to determine the tax and other dues under section 73 or section 74.

Section 62 of CGST Act: Assessment of non-filers of returns

- Where a registered person fails to furnish the return under section 39 or section 45, even after the service of a notice under section 46, the proper officer may proceed to assess the tax liability of the said person to the best of his judgment and issue an assessment order within **5 years** from due date of the annual return.
- Where the registered person furnishes a valid return within **30 days** of the service of the assessment order, the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest under section 50 or for payment of late fee under section 47 shall continue.

Section 63 of CGST Act: Assessment of unregistered persons

Where a taxable person fails to obtain registration even though liable to do so or whose registration has been cancelled but who was liable to pay tax, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgment for the relevant tax periods and issue an assessment order within **5 years** from due date of the annual return.

Section 64 of CGST Act: Summary assessment in certain special cases

- The proper officer may, on any evidence showing a tax liability of a person coming to his notice, with the previous permission of Additional or Joint Commissioner, proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order, if he has sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue.
- Where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and liable to pay tax and any other amount due under this section.
- On an application made by the taxable person within **30 days** from the date of receipt of order passed or on his own motion, if the Additional or Joint Commissioner considers that such order is erroneous, he may withdraw such order and follow the procedure laid down in section 73 or section 74.

Types of Audits under GST

Mandatory Audit by CA / CMA	Audit by Tax Authorities	Special Audit
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Section 65 of CGST Act: Audit by tax authorities

- The Commissioner or any officer authorised by him may undertake audit of any registered person.
- The officers may conduct audit at the place of business of the registered person or in their office.
- The registered person shall be informed by way of a notice not less than 15 working days prior to the conduct of audit.
- The audit shall be completed within **3 months** from the date of commencement of the audit.
- Commissioner may extend the period by a further period not exceeding **6 months**.
- On conclusion of audit, the proper officer shall, within **30 days**, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings.
- Where the audit conducted 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 under section 73 or 74.

Section 66 of CGST Act: 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 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.
- The Chartered Accountant or Cost Accountant so nominated shall, within **90 days**, submit a report of such audit duly signed and certified by him to the said Assistant Commissioner.
- The Assistant Commissioner may extend the said period by a further **90 days**.
- 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 input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or 74.

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

Tax not paid voluntarily	Tax paid voluntarily
The Officer shall, within 2 years 9 months from the due date for furnishing of annual return, serve notice on such person requiring him to show cause why he should not pay the amount specified in the notice.	<ul style="list-style-type: none"> • Person chargeable with tax may, before service of notice pay on basis of <ol style="list-style-type: none"> a) his own ascertainment of such duty or b) duty ascertained by the Officer, the amount of duty along with interest payable thereon. • He shall inform the Officer of such payment in writing, who, on receipt of such information, shall not serve any notice. • If the Officer is of the opinion that the amount paid falls short of that actually payable, then, he shall issue the notice for such shortfall

Section 74 of CGST Act: Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized due to fraud or wilful-misstatement or suppression of facts

The Officer shall, **within 4 years 6 months from the due date for furnishing of annual return**, person requiring him to show cause why he should not pay the amount serve notice on such as per notice along with interest payable and a penalty = 100% of tax as per notice.

Time Limit to complete proceeding

No intention to evade payment of duty	Intention to evade payment of duty
within 3 years from the due date for furnishing of annual return	within 5 years from the due date for furnishing of annual return

Action by Taxpayer	Amount of penalty payable	
	Non Fraud Cases	Fraud Cases
Tax along with Interest is paid before issuance of Show Cause Notice (SCN)	No Penalty and no Show Cause Notice	Penalty = 15% of Tax and no SCN shall be issued
Tax along with Interest is paid within 30 days of issuance of Show Cause Notice	No Penalty; All proceedings deemed to be concluded	Penalty = 25% of Tax All proceedings deemed to be concluded
Tax amount along with Interest, paid within 30 days of communication of adjudication order	Penalty = Higher of <ul style="list-style-type: none"> ➤ 10% of Tax amount ➤ Rs. 10,000 	Penalty = 50% of Tax All proceedings deemed to be concluded
Tax amount along with Interest, paid after 30 days of communication of adjudication order		100% of Tax

Recovery Procedure**Section 78 of CGST Act: Initiation of recovery proceedings**

- Any amount payable by a taxable person in pursuance of an order passed under this Act shall be paid by such person within a period of three months from the date of service of such order failing which recovery proceedings shall be initiated:

- Where the proper officer considers it expedient in the interest of revenue, he may, for reasons to be recorded in writing, require the said taxable person to make such payment within such period less than a period of three months as may be specified by him.

Section 79 of CGST Act: Recovery of tax

- Where any amount payable by a person to the Government under any of the provisions of this Act or the rules made thereunder is not paid, the proper officer shall proceed to recover the amount by one or more of the following modes:
 - a) the proper officer may deduct or may require any other specified officer to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other specified officer
 - b) the proper officer may recover or may require any other specified officer to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the proper officer or such other specified officer
 - c)
 - (i) the proper officer may, by a notice in writing, require any other person from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the Government either forthwith upon the money becoming due or being held, or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount;
 - (ii) every person to whom the notice is issued shall be bound to comply with such notice, and in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary;
 - (iii) in case the person to whom a notice has been issued, fails to make the payment in pursuance thereof to the Government, he shall be deemed to be a defaulter in respect of the amount specified in the notice and all the consequences of this Act or the rules made thereunder shall follow;
 - (iv) the officer issuing a notice may, at any time, amend or revoke such notice or extend the time for making any payment in pursuance of the notice;
 - (v) any person making any payment in compliance with a notice issued shall be deemed to have made the payment under the authority of the person in default and such payment being credited to the Government shall be deemed to constitute a good and sufficient discharge of the liability of such person to the person in default to the extent of the amount specified in the receipt;
 - (vi) any person discharging any liability to the person in default after service on him of the notice issued shall be personally liable to the Government to the extent of the liability discharged or to the extent of the liability of the person in default for tax, interest and penalty, whichever is less;
 - (vii) where a person on whom a notice is served proves to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold any money for or on account of the person in default, at the time the notice was served on him, nor is the money demanded or any part thereof, likely to become due to the said person or be held for or on account of such person, nothing contained in this section shall be deemed to require the person on whom the notice has been served to pay to the Government any such money or part thereof;

- d) the proper officer may, in accordance with the rules to be made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus amount, if any, to such person;
- e) the proper officer may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business or to any officer authorised by the Government and the said Collector or the said officer, on receipt of such certificate, shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue;

Section 80 of CGST Act: Payment of tax and other amount in instalments

- On an application filed by a taxable person, the Commissioner may, for reasons to be recorded in writing, extend the time for payment or allow payment of any amount due under this Act, other than the amount due as per the liability self-assessed in any return, by such person in monthly instalments not exceeding twenty four, subject to payment of interest under section 50 and subject to such conditions and limitations as may be prescribed.
- where there is default in payment of any one instalment on its due date, the whole outstanding balance payable on such date shall become due and payable forthwith and shall, without any further notice being served on the person, be liable for recovery.
- The facility of payment in instalments shall not be allowed where -
 - (a) the taxable person has already defaulted on the payment of any amount under the CGST Act or IGST Act or UTGST Act or any of the SGST Act, for which the recovery process is on;
 - (b) the taxable person has not been allowed to make payment in instalments in the preceding financial year under the Act or the IGST Act or UTGST Act or any of the SGST Act;
 - (c) the amount for which instalment facility is sought is less than Rs. 25,000.

Section 81 of CGST Act: Transfer of property to be void in certain cases.

Where a person, after any amount has become due from him, creates a charge on or parts with the property belonging to him or in his possession by way of sale, mortgage, exchange, or any other mode of transfer whatsoever of any of his properties in favour of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the said person:

Provided that, such charge or transfer shall not be void if it is made for adequate consideration, in good faith and without notice of the pendency of such proceedings under this Act or without notice of such tax or other sum payable by the said person, or with the previous permission of the proper officer.

Section 82 of CGST Act: Tax to be first charge on property

Notwithstanding anything to the contrary contained in any law for the time being in force, save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, any amount payable by a taxable person or any other person on account of tax, interest or penalty which he is liable to pay to the Government shall be a first charge on the property of such taxable person or such person.

Section 83 of CGST Act: Provisional attachment to protect revenue in certain cases.

- Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed.
- Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made.

Section 142A of the Customs Act: Liability under Act to be first charge

- Notwithstanding anything to the contrary contained in any Central Act or State Act,
- any amount of duty, penalty, interest, or any other sum payable by an assessee or any other person under this Act or the rules made thereunder shall be the first charge on the property of the assessee or the person,
- save as otherwise provided in
 - a) section 529A of the Companies Act, 1956
 - b) the Recovery of Debts Due to Banks and the Financial Institutions Act, 1993 and
 - c) the Securitisation and Reconstruction of Financial Assets and the Enforcement of Security Interest Act, 2002

Section 28BA of the Customs Act: Provisional Attachment of Property

- Where, during the pendency of any proceedings, the Officer is of the opinion that for protecting the interests of revenue, it is necessary so to do, he may, with the previous approval of the Principal Commissioner or Commissioner, attach provisionally any property belonging to the person on whom notice is served.
- Every such provisional attachment shall cease to have effect after **six months from the date of the order.**
- The Principal Chief Commissioner or Chief Commissioner may extend by such further period or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed **two years.**
- Where an application for settlement of case is made to the Settlement Commission, the period commencing from the date on which such application is made and ending with the date on which an order is made shall be excluded from the period specified above.
- Where a property has been provisionally attached, the said person or his representative shall not mortgage, lease, transfer, deliver or deal with the attached property in any manner except with the previous approval of the Commissioner.

Powers of GST Officers

Section 67 of CGST Act: Power of inspection, search and seizure

- Where the proper officer, not below the rank of Joint Commissioner, has reasons to believe that
 - a) a taxable person has suppressed any transaction relating to supply of goods or services or both or the stock of goods in hand, or
 - b) a taxable person has claimed input tax credit in excess of his entitlement under this Act or
 - c) a taxable person has indulged in contravention of any of the provisions of this Act or the rules made thereunder to evade tax under this Act or

- d) any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act, he may authorise in writing any other officer of central tax to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.
- Where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any other officer of central tax to search and seize or may himself search and seize such goods, documents or books or things:
 - Where it is not practicable to seize any such goods, the proper officer, or any officer authorized by him, may serve on the owner or the custodian of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:
 - The documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceedings under this Act.
 - The documents, books or things or any other documents, books or things produced by a taxable person or any other person, which have not been relied upon for the issue of notice under this Act or the rules made thereunder, shall be returned to such person within a period not exceeding thirty days of the issue of the said notice.
 - The officer authorised shall have the power to seal or break open the door of any premises or to break open any almirah, electronic devices, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, where access to such premises, almirah, electronic devices, box or receptacle is denied.
 - The person from whose custody any documents are seized shall be entitled to make copies thereof or take extracts therefrom in the presence of an authorised officer at such place and time as such officer may indicate in this behalf except where making such copies or taking such extracts may, in the opinion of the proper officer, prejudicially affect the investigation.
 - The goods so seized shall be released, on a provisional basis, upon execution of a bond and furnishing of a security, in such manner and of such quantum, respectively, as may be prescribed or on payment of applicable tax, interest and penalty payable.
 - Where any goods are seized and no notice in respect thereof is given within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized.
 - The period of six months may, on sufficient cause being shown, be extended by the proper officer for a further period not exceeding six months.
 - The Government may, having regard to the perishable or hazardous nature of any goods, depreciation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations, by notification, specify the goods or class of goods which shall, as soon as may be after its seizure, be disposed of by the proper officer in such manner as may be prescribed.
 - Where any goods have been seized by a proper officer, or any officer authorised by him, he shall prepare an inventory of such goods in such manner as may be prescribed.
 - The provisions of the Code of Criminal Procedure, 1973, relating to search and seizure, shall, so far as may be, apply to search and seizure under this section. Commissioner shall have the powers of Magistrate.
 - Where the proper officer has reasons to believe that any person has evaded or is attempting to evade the payment of any tax, he may, for reasons to be recorded in writing, seize the accounts, registers or documents of such person produced before him and shall grant a receipt for the same, and shall retain

the same for so long as may be necessary in connection with any proceedings under this Act or the rules made thereunder for prosecution.

- The Commissioner or an officer authorised by him may cause purchase of any goods or services or both by any person authorised by him from the business premises of any taxable person, to check the issue of tax invoices or bills of supply by such taxable person, and on return of goods so purchased by such officer, such taxable person or any person in charge of the business premises shall refund the amount so paid towards the goods after cancelling any tax invoice or bill of supply issued earlier.

Section 69 of CGST Act: Power to arrest

- Where the Commissioner has reasons to believe that a person has committed any offence specified in section 132(1)(a)/(b)/(c)/(d) which is punishable under clause (i) or (ii) of sub-section (1), or sub-section (2) of the said section, he may, by order, authorise any officer of central tax to arrest such person.
- Where a person is arrested for an offence specified under section 132(5), the officer authorised to arrest the person shall inform such person of the grounds of arrest and produce him before a Magistrate within twenty four hours.
- Subject to the provisions of the Code of Criminal Procedure, 1973
 - a) where a person is arrested for any offence specified under section 132(4), he shall be admitted to bail or in default of bail, forwarded to the custody of the Magistrate
 - b) in the case of a non-cognizable and bailable offence, the Deputy Commissioner or the Assistant Commissioner shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station.

Section 70 of CGST Act: Power to summon person to give evidence and produce documents.

- The proper officer under this Act shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908
- Every such inquiry shall be deemed to be a "judicial proceedings" within the meaning of section 193 and section 228 of the Indian Penal Code.

Section 70 of CGST Act: Power to summon person to give evidence and produce documents.

- The proper officer under this Act shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908.
- Every such inquiry shall be deemed to be a "judicial proceedings" within the meaning of section 193 and section 228 of the Indian Penal Code.

Section 71 of CGST Act: Access to business premises.

- Any officer under this Act, authorised by the proper officer not below the rank of Joint Commissioner, shall have access to any place of business of a registered person to inspect books of account, documents, computers, computer programs, computer software whether installed in a computer or otherwise and such other things as he may require and which may be available at such place, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue.
- Every person in charge of place shall, on demand, make available to the officer authorised or the audit party deputed by the proper officer / cost accountant / chartered accountant nominated u/s 66

- a) such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed
- b) trial balance or its equivalent
- c) statements of annual financial accounts, duly audited, wherever required
- d) cost audit report, if any, under section 148 of the Companies Act, 2013
- e) the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961 and
- f) any other relevant record, for the scrutiny by the officer or audit party or the Chartered Accountant or Cost Accountant within a period not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the chartered accountant or cost accountant.

Section 72 of CGST Act: Officers to assist proper officers

- All officers of Police, Railways, Customs, and those officers engaged in the collection of land revenue, including village officers, officers of State tax and officers of Union territory tax shall assist the proper officers in the implementation of this Act.
- The Government may, by notification, empower and require any other class of officers to assist the proper officers in the implementation of this Act when called upon to do so by the Commissioner.

Penalties under GST

Offences related to Invoices, Transportation, payment of tax, ITC, Refund of tax, TDS, TCS, furnishing of false records, information	Tax not paid, short paid or erroneously refunded or ITC has been wrongly availed or utilised	<ul style="list-style-type: none"> ➤ Aids or abets offences ➤ acquires possession / concerns in dealing with goods which he knows or has reasons to believe are liable to confiscation ➤ Fails to appear when summons issued to give evidence or produce a document ➤ Fails to issue Invoice or Account in accordance with provision 	Fails to furnish Information Return within time specified in the notice	Fails to furnish Statistics without reasonable cause / willfully furnishes false information
Higher of a) Rs. 10,000 b) Tax evaded / not deducted / not collected / not paid to Government / ITC availed, passed or distributed irregularly/ claimed Refund	Fraud Cases: Higher of Rs. 10,000 or 100% of Tax Non Fraud Cases: Higher of Rs. 10,000 or 10% of Tax	Rs. 25,000	Rs. 100 per day for which failure continues subject to maximum Rs. 5,000	Rs. 10,000 Continuing offence Rs. 100 per day Maximum Rs. 25,000

Section 128 of CGST Act: Power to waive penalty or fee or both.

The Government may, by notification, waive in part or full, any penalty referred to in section 122 or section 123 or section 125 or any late fee referred to in section 47 for such class of taxpayers and under such mitigating circumstances as may be specified therein on the recommendations of the Council.

Section 129 of CGST Act: Detention, seizure and release of goods and conveyances in transit

- Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released
 - a) on payment of the applicable tax and penalty equal to one hundred per cent of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent of the value of goods or twenty five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such tax and penalty;
 - b) on payment of the applicable tax and penalty equal to the fifty per cent of the value of the goods reduced by the tax amount paid thereon and, in case of exempted goods, on payment of an amount equal to five per cent of the value of goods or twenty five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such tax and penalty;
 - c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed:
- Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.
- The provisions of section 67 shall, mutatis mutandis, apply for detention and seizure of goods and conveyances.
- The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty.
- No tax, interest or penalty shall be determined without giving the person concerned an opportunity of being heard.
- On payment of amount referred above, all proceedings in respect of the notice shall be deemed to be concluded.
- Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty within seven days of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130.
- Where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of seven days may be reduced by the proper officer.

Section 130 of CGST Act: Confiscation of goods or conveyances and levy of penalty

- Notwithstanding anything contained in this Act, if any person
 - i. supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax or
 - ii. does not account for any goods on which he is liable to pay tax under this Act or
 - iii. supplies any goods liable to tax under this Act without having applied for registration or
 - iv. contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax or
 - v. uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so

used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance, then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.

- Whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation, such fine as the said officer thinks fit:
- Such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon:
- The aggregate of such fine and penalty leviable shall not be less than the amount of penalty leviable under section 129:
- Where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.
- Where any fine in lieu of confiscation of goods or conveyance is imposed, the owner of such goods or conveyance or the person, shall, in addition, be liable to any tax, penalty and charges payable in respect of such goods or conveyance.
- No order for confiscation of goods or conveyance or for imposition of penalty shall be issued without giving the person an opportunity of being heard.
- Where any goods or conveyance are confiscated under this Act, the title of such goods or conveyance shall thereupon vest in the Government.
- The proper officer adjudging confiscation shall take and hold possession of the things confiscated and every officer of Police, on the requisition of such proper officer, shall assist him in taking and holding such possession.
- The proper officer may, after satisfying himself that the confiscated goods or conveyance are not required in any other proceedings under this Act and after giving reasonable time not exceeding three months to pay fine in lieu of confiscation, dispose of such goods or conveyance and deposit the sale proceeds thereof with the Government.

Section 131 of CGST Act: Confiscation or penalty not to interfere with other punishments.

Without prejudice to the provisions contained in the Code of Criminal Procedure, 1973, no confiscation made or penalty imposed under the provisions of this Act or the rules made thereunder shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law for the time being in force.

Offences and Prosecution

Section 132 of CGST Act: Punishment for certain offences

Whoever commits any of the following offences:

- a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax
- b) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax
- c) avails input tax credit using such invoice or bill
- d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due

- e) evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses (a) to (d)
- f) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act
- g) obstructs or prevents any officer in the discharge of his duties under this Act
- h) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder
- i) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder
- j) tampers with or destroys any material evidence or documents
- k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information
- l) attempts to commit, or abets the commission of any of the offences mentioned in clauses (a) to (k) of this section,
- shall be punishable

Tax evaded / ITC wrongly availed or utilised or the amount of refund wrongly	Punishment / Imprisonment	Cognizable / Non Bailable?
i. exceeds Rs. 500 Lakhs	Upto 5 years and with fine	Cognizable / Non Bailable – (a)/(b)/(c)/(d); Others - Non Congizable / Bailable
ii. exceeds Rs. 200 Lkhs but does not exceed Rs. 500 Lakhs	Upto 3 years and with fine	Non Congizable / Bailable
iii. exceeds Rs. 100 Lkhs but does not exceed Rs. 200 Lakhs	Upto 1 year and with fine	Non Congizable / Bailable
iv. he commits or abets the commission of an offence specified in clause (f) or (g) or (j)	Upto 6 months and with fine	Non Congizable / Bailable

Note

- a) Where any person convicted of an offence is again convicted of an offence, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may **extend to five years** and with fine. It cannot be for a term less than six months.
- b) The imprisonment referred to in clauses (i), (ii) and (iii) shall, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, be for a term not less than six months.

Section 133 of CGST Act: Liability of officers and certain other persons.

- Where any person engaged in connection with the collection of statistics under section 151 or compilation or computerisation thereof or if any officer of central tax having access to information specified under section 150, or if any person engaged in connection with the provision of service on the common portal or the agent of common portal, wilfully discloses any information or the contents of any return furnished under this Act or rules made thereunder otherwise than in execution of his duties under the said sections or for the purposes of prosecution for an offence under this Act or under any other Act

for the time being in force, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to twenty-five thousand rupees, or with both.

- Any person
 - a) who is a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Government;
 - b) who is not a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.

Section 138 of CGST Act: Compounding of offences

- Any offence under this Act may, either before or after the institution of prosecution, be compounded by the Commissioner on payment, by the person accused of the offence, to the Central Government or the State Government, as the case be, of such compounding amount in such manner as may be prescribed.
- Nothing contained in this section shall apply to
 - a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f) of sub-section (1) of section 132 and the offences specified in clause (l) which are relatable to offences specified in clauses (a) to (f) of the said sub-section
 - b) a person who has been allowed to compound once in respect of any offence, other than those in clause (a), under this Act or under the provisions of any State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act or the Integrated Goods and Services Tax Act in respect of supplies of value exceeding one crore rupees
 - c) a person who has been accused of committing an offence under this Act which is also an offence under any other law for the time being in force
 - d) a person who has been convicted for an offence under this Act by a court
 - e) a person who has been accused of committing an offence specified in clause (g) or clause (j) or clause (k) of sub-section (1) of section 132
 - f) any other class of persons or offences as may be prescribed:
- Any compounding allowed under the provisions of this section shall not affect the proceedings, if any, instituted under any other law.
- Compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.
- The amount for compounding of offences under this section shall be such as may be prescribed, subject to the minimum amount not being less than ten thousand rupees or fifty per cent of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent of the tax, whichever is higher.
- On payment of such compounding amount as may be determined by the Commissioner, no further proceedings shall be initiated under this Act against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

Appeals and Revision under GST

Appellate Authority (Sec 107)	GST Appellate Tribunal (Sec 112)	High Court (Sec 117)	Supreme Court (Sec 118)
Taxpayer can file appeal against order of a) Additional / Joint Commissioner to Commissioner (Appeals) b) AC/DC/Superintendent to Joint Commissioner (A) or lower authority Within 3 months from receipt of order of adjudicating authority.	Taxpayer can file appeal against order of a) Appellate Authority b) Revisional Authority Within 3 months from receipt of order of such authority.	Taxpayer can file appeal against the order passed by State and Area Bench of Appellate Tribunal Within 180 days from receipt of order	Taxpayer can file appeal against the order passed by a) National or Regional Bench of Appellate Tribunal b) High Court
Taxpayer has to be tax, interest, penalty, fine, fee admitted and 10% of tax in dispute subject to Rs. 25 crores (For IGST – Rs. 50 crores)	Taxpayer has to be tax, interest, penalty, fine, fee admitted and 20% of tax in dispute subject to Rs. 50 crores (For IGST – Rs. 100 crores) – in addition to disputed amount paid u/s 107	Entire amount due has to be paid before the appeal is filed.	Entire amount due has to be paid before the appeal is filed.
Department can also file appeal Within 6 months from receipt of order of such authority.	Department can also file appeal Within 6 months from receipt of order of such authority.	Department can also file appeal within 180 days .	Department can also file appeal.
Not applicable	Other party may within 45 days of receipt of notice, file a memorandum of cross-objections	Not applicable	Not applicable
The time limit of 3 / 6 months can be extended by 1 month .	The time limit of 3 / 6 months / 45 days can be extended.	Time limit can be extended.	--
Appeal is possible against Question of Law as well as fact.	Appeal is possible against Question of Law as well as fact.	Appeal possible against Question of Law. No Appeal against Question of fact; Writ petition to High Court can be filed. If it is dismissed, then Special Leave petition to Supreme Court.	
Appellate Authority, where it is possible, shall decide such appeal within 1 year from the date on which such appeal is filed.	Appellate Tribunal, where it is possible, shall decide such appeal within 1 year from the date on which such appeal is filed.	No time limit specified.	No time limit specified.

Appeal against order of Appellate or Revisional Authority

One of the issue relates to place of supply	Other than issues to place of supply
Appeal to National / Regional Bench of Appellate Tribunal	Appeal to State / Area Bench of Appellate Tribunal

Appellate Authority (Sec 107)	GST Appellate Tribunal (Sec 112)	High Court (Sec 117)	Supreme Court (Sec 118)
This appeal is heard and decided by single person.	If the tax or ITC involved or the difference in tax or ITC or fine, fee or penalty does not exceed Rs. 5 Lakhs and which does not involve any question of law may be heard by a bench consisting of a single member .	Appeal shall be heard by a bench of not less than two Judges of the High Court.	Nothing specified in CGST Act.
Appellate Authority does not have the power to send back the case to AO for reconsideration.	It can send back the case to Appellate or Revisional Authority or Adjudication Authority for reconsideration.	It may refer the case back to the Appellate Tribunal for the making additions or alterations as it may direct.	
Adjournment possible for maximum 3 times .	Adjournment possible for maximum 3 times .	Nothing specified	Nothing specified
Rectification of Mistake (Sec 161) shall be made a) On own motion or error brought to notice by officer of tax payer - Within 3 months from date of order b) Other cases - Within 6 months from date of order (This time limit will not apply for clerical or arithmetical error, arising from any accidental slip or omission)	With a view to rectifying any mistake apparent from the record, it may amend any order passed by it, at any time within 3 months from the date of order.	Nothing specified	Nothing specified
Appeal application cannot be rejected on the basis of tax involved.	It may, in its discretion, refuse to admit appeal if the tax or ITC involved or the difference in tax or ITC or fine, fee or penalty does not exceed Rs. 50,000 .	Nothing specified	Nothing specified

Section 108: Powers of Revisional Authority

Revisional Authority may call for and examine the record of any proceedings and revise the order if he considers that any decision or order passed is

erroneous in so far as it is prejudicial to the interest of revenue	is illegal or improper	has not taken into account certain material facts, whether available at the time of issuance of the said order or not or in consequence of an observation by CAG
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Time Limit to pass order – Later of

on any point which has not been raised and decided in an appeal before the expiry of 1 year from the date of the order in such appeal	before the expiry of 3 years after the passing of the decision or order sought to be revised
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Advance Ruling under GST

Section 97 of CGST Act: Application for Advance Ruling

An applicant desirous of obtaining an advance ruling may make an application to Advance Ruling Authority stating the question on which the advance ruling is sought. The question on which the advance ruling is sought under this Act, shall be in respect of

- a. classification of any goods or services or both
- b. applicability of a notification issued under the provisions of this Act
- c. determination of time and value of supply of goods or services or both
- d. admissibility of input tax credit of tax paid or deemed to have been paid
- e. determination of the liability to pay tax on any goods or services or both
- f. whether applicant is required to be registered
- g. whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term

Section 98 of CGST Act: Procedure on receipt of application

- Authority shall cause a copy thereof to be forwarded to the concerned officer and, if necessary, call upon him to furnish the relevant records.
- The Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act:
- Where an application is admitted, the Authority shall pronounce its advance ruling on the question specified in the application within **ninety days** from the date of receipt of application.

Section 100 of CGST Act: Appeal to Appellate Authority (AAAR)

- The concerned officer, the jurisdictional officer or an applicant aggrieved by any advance ruling pronounced, may appeal to the Appellate Authority.
- Every appeal under this section shall be filed within thirty days from the date on which the ruling sought to be appealed against is communicated to the concerned officer, the jurisdictional officer and the applicant
- The Appellate Authority may allow it to be presented within a further period not exceeding thirty days.

Section 101 of CGST Act: Orders of Appellate Authority

The order shall be passed within a period of 90 days from the date of filing of the appeal under section 100 or a reference under section 98.

Section 102 of CGST Act: Rectification of advance ruling

The Authority (AAR) or the Appellate Authority (AAAR) may amend any order passed within a period of six months from the date of the order.

Section 103 of CGST Act: Applicability of advance ruling

The advance ruling pronounced by the Authority or the Appellate Authority shall be binding only

- a) on the applicant who had sought it in respect of any matter referred to in section 97 for advance ruling
- b) on the concerned officer or the jurisdictional officer in respect of the applicant.

The advance ruling shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

Section 104 of CGST Act: Advance ruling to be void in certain circumstances

Where the Authority or the Appellate Authority finds that advance ruling pronounced by it has been obtained by the applicant or the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab initio.

Refunds

Situations leading to refund claims under GST

1. Goods or services or both are exported or, goods or services or both supplied to an SEZ developer/unit, on payment of IGST and refund of such IGST paid on goods or services or both supplied is claimed
2. A registered person may claim refund of any unutilised input tax credit (ITC) at the end of any tax period in the following cases:
 - a) Zero rated supplies: Supply of goods/services/both to an SEZ developer/unit or export of goods or services or both, and
 - b) Accumulated ITC on account of inverted duty structure: 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.However, refund of unutilized ITC shall NOT be allowed if:
 - a) the goods exported out of India are subjected to export duty;
 - b) the supplier of goods or services or both avails of drawback in respect of CGST or claims refund of the IGST paid on such supplies.
3. Tax paid on the supply of goods regarded as deemed exports may be claimed by recipient.
4. Refund of any balance in the electronic cash ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made there under may be claimed
5. Refund on account of issuance of refund vouchers for taxes paid on advances against which goods or services have not been supplied, may be claimed
6. Refund of tax wrongly collected and paid to the Government [i.e. CGST & SGST paid by treating the supply as intra-State supply which is subsequently held as inter-State supply and vice versa
7. The IGST paid by tourist leaving India on any supply of goods taken out of India by him
8. Tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court.
9. On finalization of provisional assessment, if any tax becomes refundable to assessee (on account of assessed tax on final assessment being less than the tax deposited by the assessee)
10. Refund of taxes on purchase made by UN bodies or embassies etc.
11. Refund of taxes to retail outlets (discussed in Chapter 3)

Section 54 of CGST Act: Refund of Tax

- Any person claiming refund of any tax and interest, if any, 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**.
- The proper officer shall issue the order within **60 days** from the date of receipt of application complete
- No refund shall be paid to an applicant, if the amount is **less than Rs.1,000**.
- If refund is less than Rs. 2,00,000, then it shall not be necessary for the applicant to furnish documentary and other evidences proving that the incidence of such tax and interest had not been passed on to any other person. In other cases, he may file a declaration, based on the documentary or other evidences available with him,
- 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 Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 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 before the expiry of **18 months from the last day of the quarter in which such supply was received**.

Grant of provisional refund

- 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 ITC provisionally accepted
- thereafter make an order under section 56(5) for final settlement of the refund claim after due verification of documents furnished by the applicant.
- It shall be granted within period not exceeding 7 days from the date of the acknowledgement
- If the amount of tax evaded exceeds Rs. 2.5 crores, the provisional refund shall be granted subject to the condition that the person claiming refund has, during any period of 5 years immediately preceding the tax period to which the claim for refund relates, not been prosecuted for any offence under the Act or under an existing law.

Withholding of refund claim

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 the 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.

However, it has been adequately safeguarded by provision for payment of interest @ 6% p,a, if, as a result of appeal, or further proceedings, the applicant becomes eligible for refund.

Where any refund is due in case of zero rated supplies or accumulated ITC on account of inverted duty structure, 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.

Amount to be claimed as refund in case of zero rated supply of goods or services

Maximum Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) / Adjusted Total Turnover * Net ITC

where

"Net ITC" means ITC availed on **inputs and input services** during the relevant period

"Turnover of zero-rated supply of goods" means the value of zero rated supply of goods made during the relevant period without payment of tax under bond/LUT

"Turnover of zero-rated supply of services" means the value of zero rated supply of services made without payment of tax under bond or LUT, calculated in the following manner, namely:-

Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period.

"Adjusted Total turnover" means the turnover in a State or a Union territory, as defined under section 2(112), excluding the value of exempt supplies other than zero-rated supplies, during the relevant period;

Refund on account of inverted duty structure, refund of input tax credit

Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) × Net ITC ÷ Adjusted Total Turnover} – tax payable on such inverted rated supply of goods and services.

Net ITC shall mean input tax credit availed on **inputs** during the relevant period other than the input tax credit availed for which refund is claimed under sub-rule (4A) or (4B) or both.

"Adjusted Total turnover" and "relevant period" shall have the same meaning as above.

Section 56 of CGST Act: Interest on Delayed Refunds

A. Interest on amount refundable consequent to order passed by Proper Officer under section 54(5)

Where any tax ordered to be refunded under section 54(5) to any applicant is not refunded within 60 days from the date of receipt of application under section 54(1), interest shall be payable @ 6% p.a. from 61st day to the date of refund.

B. Interest on amount refundable consequent to order passed in an appeal or further proceedings

Where any claim of refund arises from an order passed by an Adjudicating Authority or Appellate Authority or Appellate Tribunal or Court which has attained finality and the same is not refunded within 60 days from the date of receipt of application filed consequent to such order, interest @ 9% p.a. shall be payable on such refund. from 61st day to the date of refund.

Section 11(1) of CGST Act / Section 6 of IGST Act

- If the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by notification, exempt generally, **either absolutely or subject to such conditions**, goods or services or both.
- Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, **by special order**, under **circumstances of an exceptional nature** to be stated in such order, exempt from payment of tax any goods or services or both.
- The Government may, for **clarifying** the scope or applicability of any notification issued or order issued, insert an explanation at any time **within one year** of issue of the notification or order and every such explanation shall have effect as if it had always been the part of the first such notification or order.
- Where an exemption has been granted absolutely, the registered person shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.

Chapter 14 : Customs Law - Basics

Importance of different zones

1. **Indian territorial waters:** Indian territorial waters extend up to 12 nautical miles from the baseline of India. Import starts when goods cross this area.
2. **Continental Shelf of India and Exclusive Economic Zone of India:** It is 200 nautical miles from the nearest point of the baseline. It is important for economic activities like fishing, mining, excavation of minerals, extraction of mineral oil and natural gas etc. It is important for security, sanitation and other purposes. The Customs officer has the power to curb smuggling and such other activities in this area.
3. **High Seas:** It is area beyond 200 Nautical Miles

Provisions of Customs Act, 1962 and Customs Tariff Act, 1985 shall apply to

- a) Entire Continental Shelf of India and Exclusive Economic Zone of India for the purpose of exploration of mineral oil, natural gas, petroleum etc.
- b) Designated areas in Continental Shelf of India and Exclusive Economic Zone of India for other goods

Section 12: Charging Section

- Duties of customs shall be levied on goods.
- The goods shall be such as are imported or exported to or from India
- The duty shall be at such rates as may be specified under the Customs Tariff Act, 1975.
- Government goods shall be treated on par with non-governmental goods for the purposes of levy of customs duty. Hence, there is **no general exemption to goods imported by Government.**

Taxable event

	Import	Export
Starts	When goods cross the territorial waters	When exporter files shipping bill or bill of export
Ends	A. Goods cleared for home consumption: when they become part of the mass of goods within the country i.e. when bill of entry for home consumption is filed. B. Goods warehoused and then cleared: when Ex bond bill of entry is filed	when the goods cross the territorial waters of India (If ship sinks within the territorial waters, export is not complete so export benefits will not be available)

Section 15: Date for determining the rate of duty and tariff valuation of imported goods (other than baggage and goods imported by post)

Goods entered for home consumption	Goods cleared from a warehouse	Other Goods
Date of filing the a bill of entry or date of entry inward / arrival whichever is later	Date of filing bill of entry for home consumption i.e. Ex-bond Bill of Entry	Date of payment of duty

Rate of Exchange (CBIC Rate)

Goods entered for home consumption	Goods cleared from a warehouse
Exchange rate as on date of filing bill of entry for home consumption.	Exchange rate as on date of Into Bill of Entry.

Note: Social Welfare Surcharge should be calculated on Import Duty. However, it should not be calculated on Export duty.

Section 16: Date for determining the rate of duty and tariff valuation for export goods

Goods entered for export (irrespective of the mode of transport)	Date of the let export order permitting export and loading of cargo on board
any other goods	Date of payment of duty

Note: Exchange rate will be CBIC Exchange rate as on the date of filing Shipping Bill / Bill of Export.

Section 20: Re-importation of goods produced or manufactured in India

- If goods are imported into India after exportation therefrom, such goods shall be liable to duty and be subject to all the conditions and restrictions, if any, to which goods of the like kind and value are liable or subject, on the importation thereof.
- However, the following notifications have provided certain concessions in this regard:

Condition	Time limit for reimport	Import duty payable
Exported goods re-imported a) for Repairs or Reconditioning other than goods specified in Notification no. 60/2018	within 3 years of export (in case of Nepal and Bhutan within 10 years)	Duty payable = Nil if a) time limit for re-export is 6 months (extendable to one year by Commissioner) and b) AC of Customs is satisfied as regards identity of the goods.
b) for Reprocessing or refining or remaking:	within 1 year of export	
c) Specified Goods manufactured in India and reimported into India for repairs or for reconditioning	within 7 years of export (in case of Nepal and Bhutan within 10 years)	Duty payable = Nil if a) time limit for re-export is 1 months (extendable to one year by Commissioner) and b) AC of Customs is satisfied as regards identity of the goods.
Goods exported and re-imported	without being re-manufactured or re-processed	
a) Goods exported under claim for drawback of any customs or excise duties levied by the Union	within 3 years from date of export (can be extended by 2 years)	Drawback of customs or excise duties allowed at the time of export
b) under claim for drawback of any excise duty levied by a State		Excise duty leviable by State at the time and place of importation of the goods. allowed at the time of export
c) under claim for refund of integrated tax paid on export goods	For Bhutan, 7 years (3 years extension)	Refund of integrated tax, availed at the time of export
d) under bond without payment of integrated tax		Integrated tax not paid
e) under duty exemption scheme (DEEC/ Advance Authorisation/ DFIA) or Export Promotion Capital Goods Scheme (EPCG)	within 1 year from date of export (can be extended by 1 year)	Integrated tax and compensation cess leviable at the time and place of importation of goods
Goods exported for repairs and re-imported without any	within 3 years (can be extended to 5	Value for levy of duty = Fair Cost of repairs done abroad including cost of materials used in repairs (whether such costs are actually

remanufacturing or reprocessing	years)	incurred or not) + Insurance cost + Freight Charges both ways
Parts, components of aircraft replaced or removed during the course of maintenance, repair or overhaul of the aircraft in a Special Economic Zone and brought to any other place in India.		Nil

Section 21: Goods derelict, wreck etc

- All goods, derelict, jetsam, flotsam and wreck brought or coming into India, **shall be dealt with as if they were imported into India**, unless it be shown to the satisfaction of the proper officer that they are entitled to be admitted duty-free under this Act.
- This implies that apart from goods which are normally imported in the course of international trade, such goods brought into India out of compulsion are also treated on par with trade goods.

Section 13: Pilferage

If any imported goods are pilfered after the unloading thereof and before the proper officer has made **an order for clearance for home consumption or deposit in a warehouse**, the importer shall not be liable to pay the duty leviable on such goods except where such goods are restored to the importer after pilferage.

Section 23: Remission of duty on goods lost, destroyed or abandoned

Remission of duty	Relinquishment of title
<ul style="list-style-type: none"> If any imported goods have been lost (otherwise than as a result of pilferage) or destroyed at any time before clearance for home consumption AC/DC shall remit the duty on such goods. 	<ul style="list-style-type: none"> The owner may, at any time before an order for clearance of goods for home consumption (Sec 47) or an order for permitting warehousing (Sec 60) has been made, relinquish his title to the goods He shall not be liable to pay the duty thereon. He shall not be allowed to relinquish his title to goods for which an offence appears to have been committed.

Section 22: Abatement of duty on damaged or deteriorated goods

- Where it is shown to the satisfaction of the Assistant or Deputy Commissioner of Customs that

Any imported goods	Any imported goods, other than warehoused goods	Any warehoused goods
had been damaged or had deteriorated at any time before or during the unloading of the goods in India	had been damaged at any time after the unloading thereof in India but before their examination under section 17, on account of any accident not due to any wilful act, negligence or default of the importer, his employee or agent	had been damaged at any time before clearance for home consumption on account of any accident not due to any wilful act, negligence or default of the owner, his employee or agent

Duty abated = Duty on the goods before the damage or deterioration * $\frac{\text{Value of the damaged or deteriorated goods}}{\text{Value of the goods before the damage or deterioration}}$

Rule 2: Application

These rules shall apply to an importer, who intends to avail the benefit of an exemption notification issued under section 25(1) of the Customs Act, 1962 and where the benefit of such exemption is dependent upon the use of imported goods for the manufacture of any commodity or provision of output service.

Rule 4: Information about intent to avail benefit of exemption notification

An importer who intends to avail the benefit of an exemption notification shall provide the information to the AC / DC having jurisdiction over the premises where the imported goods shall be put to use.

Rule 5: Procedure to be followed

- The importer who intends to avail the benefit of an exemption notification shall provide information -
 - a) in duplicate, to AC / DC, the estimated quantity and value of the goods to be imported, particulars of the exemption notification applicable on such import and the port of import in respect of a particular consignment for a period not exceeding one year
 - b) in one set, to AC / DC at the Custom Station of importation.
- Importer shall submit a continuity bond with such surety or security as deemed appropriate by AC / DC.
- It will be an undertaking to pay the amount equal to the difference between the duty leviable and that already paid, if any, at the time of importation, along with interest, at 15% p.a.

Rule 6: Importer who intends to avail the benefit of an exemption notification to give information regarding receipt of imported goods and maintain records

- Such importer shall provide the information of the receipt of the imported goods in his premises where goods shall be put to use for manufacture, within two days (excluding holidays, if any) of such receipt to the jurisdictional Customs Officer.
- He shall maintain an account indicating the quantity and value of goods imported, the quantity of imported goods consumed in accordance with provisions of the exemption notification, the quantity of goods re-exported, and the quantity remaining in stock, bill of entry wise and shall produce it when required by AC/DC.
- The importer shall submit a **quarterly return**, AC / DC **by the tenth day of the following quarter**.

Rule 7: Re-export or clearance of unutilised or defective goods

Re-export

- The importer who has availed benefit of an exemption notification may reexport the unutilised or defective imported goods, **within six months** from the date of import, with the permission of the AC / DC having jurisdiction over the premises where the imported goods shall be put to use for manufacture of goods or for rendering output service:
- The value of such goods for re-export shall not be less than the value of the said goods at the time of import.

Clearance

The importer may also clear the unutilised or defective imported goods, with the permission of AC / DC within **six months** from the date of import on payment of differential import duty along with interest, at 15% p.a. from the date of importation to date of actual payment.

Rule 8: Recovery of duty in certain case

- The importer shall use the goods imported as per the conditions mentioned in the concerned exemption notification or take action by re-export or clearance of unutilised or defective goods under rule 7.
- In the event of any failure, AC / DC shall take action by invoking the Bond to initiate the recovery proceedings of the amount equal to the differential duty along with interest, at 15% p.a..

Section 25 of the Customs Act, 1962

- General Exemption by Notification by Central Government
- Exemption by Special Order by Central Government
- Clarification by Central Government within one year of issue of the notification and every such explanation shall have effect as if it had always been the part of the first such notification or order.
- Form of exemption: It can be at a rate expressed in a form or method different from the form or method in which the statutory duty is leviable. Duty chargeable on such goods shall in no case exceed the statutory duty.
- No duty shall be collected if the amount of duty leviable is equal to, or less than, Rs.100.

Section 17: Self Assessment

1. Duty to be self- assessed by the importer/ exporter

2. Verification by proper officer

The proper officer may verify the entries made under section 46 (Bill of Entry) or section 50 (Shipping Bill / Bill of Export) and the self-assessment of such goods and examine or test any imported goods or export goods. He may require the importer, exporter or any other person to produce any contract, broker's note, insurance policy, catalogue or other document, whereby the duty leviable can be ascertained, and to furnish any information required to such ascertainment.

The selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria.

3. **Calling for Information:** For verification of the entries made under section 46 or section 50 and self-assessment, the proper officer may ask to produce any document or information, whereby the duty leviable on the imported goods or export goods can be ascertained.

4. If self-assessment not done correctly

Where any re-assessment done is contrary to the self-assessment done by the importer or exporter and in cases other than those where he confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a **speaking order on re-assessment**, within **15 days** from the date of re-assessment of the bill of entry or the shipping bill.

Section 18: Provisional assessment of duty

- Provisional assessment can be resorted to where
 - a) the importer or exporter is unable to make self-assessment under section 17 and makes a request in writing to the proper officer for assessment
 - b) the proper officer deems it necessary to subject any imported goods or export goods to any chemical or other test
 - c) where the importer or exporter has produced all the necessary documents and furnished full information but the proper officer deems it necessary to make further enquiry

d) where necessary documents have not been produced or information has not been furnished and the proper officer deems it necessary to make further enquiry

- The proper officer may direct that the duty leviable on such goods be assessed provisionally if the importer/exporter execute a bonds of an amount equal to the difference between the duty that may be finally assessed and the provisional duty
- Where, pursuant to the provisional assessment, if any document or information is required by the proper officer for final assessment, the importer or exporter, as the case may be, shall submit such document or information within such time, and the proper officer shall finalise the provisional assessment within such time and in such manner, as may be prescribed.
- When the duty leviable on such goods is assessed finally or re-assessed by the proper officer

Goods cleared for home consumption or export	Warehoused goods
Amount paid shall be adjusted against the final duty. If the amount so paid is short or in excess of final duty, he shall pay the deficiency or be entitled to a refund.	The Proper Officer may, where the final duty is in excess of the duty provisionally assessed, require the importer to execute a bond, binding himself in a sum equal to twice the amount of the excess duty.

• **Interest**

Amount is payable on finalization	Amount is refundable on finalization
Interest at the rate of 15% p.a. from the first day of the month in which the duty is provisionally assessed till the date of payment.	Interest on Refund at 6% p.a. from 3 months from the date of assessment till the date of refund. Refund shall be subject to doctrine of unjust enrichment

Section 99A of Customs Act, 1962: Audit

- The proper officer may carry out the audit of assessment of imported goods or export goods or of an auditee under this Act either in his office or in the premises of the auditee in such manner as may be prescribed.
- Auditee means a person who is subject to an audit under this section and includes an importer or exporter or custodian approved under section 45 or licensee of a warehouse and any other person concerned directly or indirectly in clearing, forwarding, stocking, carrying, selling or purchasing of imported goods or export goods or dutiable goods.

Chapter 15 : The Customs Tariff Act, 1975

The First Schedule	The Second Schedule
The goods liable to Import Duty	The goods liable to Export Duties

A	Assessable Value as per Customs	XXX
B	Basic Customs Duty (% of A)	XXX
C	Social Welfare Surcharge (% of B)	XXX
D	Safeguard Duty / Anti-Dumping Duty / CVD on Subsidized Articles	XXX
E	Value for the purpose of calculating Integrated Tax / GST Compensation Cess (A+B+C+D)	XXX
F	Integrated Tax (% of E)	XXX
G	GST Compensation Cess (% of E)	XXX
H	Landed Cost (E + F + G)	XXX

Protective Duty

- The protection through protective duties is given considering the following factors.
 - The protective duties should not be very stiff so as to **discourage imports**.
 - It should be sufficiently **attractive** to encourage imports to **bridge the gap** between demand and supply of those articles in the market.
- The protective duties are levied by the Central Government upon recommendation of the Tariff Commission
- Duty imposed shall be deemed to have been specified in the First Schedule as duty on goods.
- Protective Duty shall be **effective** only upto and inclusive of the **date specified** in the First Schedule.

Section 8B: Safeguard Duty

- If the Central Government is satisfied that any article is imported into India in such increased quantities so as to cause or threatening to cause **serious injury to domestic industry**, then, it may, by notification in the Official Gazette, impose a safeguard duty on that article.
- Serious injury** means an injury causing significant overall impairment in the position of a domestic industry.
- Threat of serious injury** means a clear and imminent danger of serious injury.

Exemptions from safeguard duty

- Articles originating from developing country if share of imports of article from that country does not exceed **3%** of total imports of that article
- Articles originating from more than one developing country if total imports from developing countries each with less than **3%** import share and together upto **9%**
- Articles imported by a **100% EOU** or units in **FTZ/SEZ unless specifically made applicable**

Time Limits

- Provisional duty shall be in force for maximum **200 days from the date of its imposition**
- First Time levy - 4 years** from the date of its imposition
- Extension** - Central Government may extend the period of such imposition subject to a maximum of **10 years from the date of first imposition**.

Section 9: Countervailing Duty on Subsidized Articles

- a) Any country or territory, directly or indirectly, pays or bestows **subsidy** upon the manufacture or production or exportation of any article. Such subsidy includes subsidy on transportation of such article.
- b) The subsidy relates to export performance
- c) The subsidy relates to the use of domestic goods over imported goods in the export article or
- d) The subsidy has been conferred on a limited number of persons engaged in manufacturing producing or exporting the article

Quantum = Countervailing duty shall not exceed the amount of subsidy paid or bestowed

Section 9A: Anti-Dumping Duty

- Where any article is **exported** by an exporter or producer from any country or territory to India at **less than its normal value**, then, upon the importation of such article into India, the Central Government may, by notification in the Official Gazette, impose an anti-dumping duty
- The anti-dumping duty shall not be leviable on articles imported by a 100% EOU or a unit in a Free Trade Zone or Special Economic zone, unless specified. However, duty is leviable if articles are cleared in DTA.

Quantum

Anti-Dumping Duty shall not exceed the margin of dumping in relation to such article.

Margin of dumping = Export Price - Normal Value in the country of export

Time Limits for Countervailing Duty on Subsidized Articles / Anti-Dumping

- Original Levy - **5 years** from the date of such imposition
- Extension - If Central Government, in a review is of opinion such cessation is likely to lead to continuation or recurrence of such subsidization and injury, it may extend it for **5 years**.
- Review is not completed before the expiry of the period of imposition - Duty may continue to remain in force pending the outcome of such review for a further period not exceeding **1 year**
- Prior imposition of duty - Retrospective date from which the duty is payable shall **not be beyond 90 days** from the date of notification
- Provisional duty can be levied

Section 9C: Appeal

- **An appeal against the order of determination or review thereof shall lie to the Customs, Excise and Service Tax Appellate Tribunal constituted under section 129 of the Customs Act, 1962, in respect of the existence, degree and effect of**
 - i. **any subsidy or dumping in relation to import of any article or**
 - ii. **import of any article into India in such increased quantities and under such condition so as to cause or threatening to cause serious injury to domestic industry requiring imposition of safeguard duty in relation to import of that article. (added by Finance Act 2019)**
- Appeal shall be filed within **90 days** of date of order under appeal. Delay can be condoned if sufficient cause.

Project imports

- Project Imports are the imports of machinery, instruments, and apparatus etc., falling under different classifications, required for initial set up of a unit or for substantial expansion of an existing unit. Several different items are required, each of which is importable at different rates of customs duties.
- Hence, it becomes very complicated to make assessment for such project imports.

- Therefore, one consolidated rate of customs duty has been made applicable for all items imported under a project irrespective of the nature of the goods and their customs classification.
- The items eligible for project import are specified in **Heading 9801** of the Customs Tariff Act, 1975
- This scheme has been made applicable to Industrial Plants, Irrigation Projects, Power Projects, Mining Projects, Projects for Oil or Mineral Exploration etc.

8 Digit System

- The excisable goods are classified by using 8-digit system.
- The first two digits refer to the Chapter Number of the Tariff
- The next two digits refer to heading of the goods in that Chapter,
- The next two digits indicate Chapter sub-heading and the last two digits refer to the Chapter sub-sub-heading.
- Description with eight digits is termed as tariff item.

Dash System

- If the description of the articles is preceded by a single dash, it means that it is a sub-classification of the immediately preceding heading.
- If there is double dash or triple dash before a description, it means that it is a sub-classification of the immediately preceding item which has either a single dash or double dash.

Five Column Headings

- a) Tariff Item (8 digit code of the goods)
- b) Description of goods covered
- c) Standard unit of Measurement
- d) Rate of duty
- e) Preferential rate of duty

Rules for the Interpretation

Rule 1

Titles of Sections, Chapters and Sub-Chapters are provided for ease of reference only for legal purposes, classification shall be determined according to the terms of the headings and any relative **Section or Chapter Notes** and, provided such headings or Notes do not otherwise require, according to the following provisions.

Rule 2(a)

Any reference in a heading to an article shall be taken to include a reference to that article **incomplete or unfinished**, provided that, as presented the incomplete or unfinished article has the **essential character of the complete or finished article**.

It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented **unassembled or disassembled**.

Rule 2(b)

Any reference in a heading to a **material or substance** shall be taken to include a reference to **mixtures or combinations** of that material or substance with other materials or substances.

The classification of goods consisting of more than one material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance.

Rule 3

When by application of rule 2(b) or for any other reason, goods are, prima facie, **classifiable under two or more headings**, classification shall be effected as follows:

- a) the heading which provides the **most specific description** shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.
- b) **mixtures**, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their **essential character**, insofar as this criterion is applicable.
- c) when goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs **last in numerical order** among those which equally merit consideration.

Rule 4

Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to **which they are most akin**.

Rule 5(a)

camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended	Containers which give the whole its essential character
Classified with such articles when of a kind normally sold therewith.	Classified independently

Rule 5(b)

Packing materials or containers are clearly suitable for repetitive use	Packing materials or containers are clearly suitable for single use
classified independently	classified with the goods if they are of a kind normally used for packing such goods

Rule 6

Only subheadings at the same level are comparable

Classification of Parts and Accessories

Parts		Accessories
Special Purpose Parts	General Purpose Parts	
These parts are made for a particular machine and cannot be used for any other machine.	Their use is not restricted to any specific machine.	They cannot be said to be component or integral part of any machine. They can be fitment for any type of goods.
They should be classified under same heading as that of machine.	They should be classified independently.	They should be classified independently.

The onus of proving dutiability is on the department while in the case of exemption, the burden is on the tax payer claiming the exemption.

Chapter 16 : Customs Valuation

Section 14(2): Tariff Value

- If the Board is satisfied that it is necessary or expedient so to do, it may, by notification in the Official Gazette, fix tariff values for any class of imported goods or export goods.
- Provisions of Tariff Value have an overriding effect on the provisions of Transaction Value.

Section 14(1): Transaction Value

In case of export goods	In case of imported goods
<ul style="list-style-type: none"> • the price actually paid or payable for the goods • when sold for export from India • for delivery at the time and place of exportation • where the buyer and seller of the goods are not related and • Price is the sole consideration for the sale. 	<ul style="list-style-type: none"> • the price actually paid or payable for the goods when sold for export to India • for delivery at the time and place of importation • where the buyer and seller of the goods are not related and • Price is the sole consideration for the sale.

Customs Valuation (Determination of Price of Imported Goods) Rules, 2007

Rule 10(1): Additions to Transaction Value

- Commissions and brokerage **except buying commission**
- Cost of containers
- Cost of packing
- The value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues, directly or indirectly, to the seller
- The value, apportioned of the following where supplied directly or indirectly by the buyer free of charge or at reduced cost
 - a) materials, components, parts and similar items incorporated in the imported goods
 - b) tools, dies, moulds and similar items used in the production of the Imported goods
 - c) materials consumed in the production of the imported goods
 - d) Engineering, development, art work, design work, and plans and sketches undertaken elsewhere than in India and necessary for the production of the imported goods.
- Royalties and licence fees related to the imported goods that the buyer is required to pay, directly or indirectly, as a condition of sale of the goods. It may include payments in respect to patents, trademarks and copyrights. (Charges for the **right to reproduce** the imported goods in the country of importation **shall not be added**)
- All other payments actually made or to be made **as a condition of sale** of the imported goods, by the buyer to the seller or by the buyer to a third party to satisfy an obligation of the seller

Additions under Rule 10(2)	Transport by Air + Loading, unloading, handling charges	Transport by Sea/Land + Loading, unloading, handling charges	Insurance Charges
Ascertainable	Actual cost subject to 20% of Customs FOB Value	Actual Cost	Actual Cost
Cost Not Ascertainable	20% of Customs FOB Value	20% of Customs FOB Value	1.125% of Customs FOB Value
FOB not ascertainable	20% of (Customs FOB Value + Cost of Insurance)	20% of (Customs FOB Value + Cost of Insurance)	1.125% of (Customs FOB Value + Cost of Freight)

Note

- The cost of transport includes ship demurrage charges on chartered vessels, lighterage or barge charges.
- In the case of goods imported by sea or air and transhipped to another customs station in India, the cost of insurance, transport, loading, unloading, handling charges associated with such transshipment shall be excluded.
- Customs FOB = FOB Value + Additions under Rule 10(1)

Valuation Methods

Rule 2(1)(d): Identical goods	Rule 2(1)(f): Similar goods
means imported goods <ul style="list-style-type: none"> ➤ which are same in all respects, ➤ including physical characteristics, quality and reputation as the goods being valued ➤ except for minor differences in appearance that do not affect the value of the goods 	means imported goods <ul style="list-style-type: none"> • which although not alike in all respects, • have like characteristics and like component materials • which enable them to perform same functions and • to be commercially interchangeable with the goods being valued having regard to the quality, reputation and the existence of trade mark
<ul style="list-style-type: none"> • produced in the country in which the goods being valued were produced and • produced by the same person who produced the goods, or where no such goods are available, goods produced by a different person • shall not include imported goods where engineering, development work, art work, design work, plan or sketch undertaken in India were completed directly or indirectly by the buyer on these imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of these imported goods. 	

Rule 4: Transaction value of identical goods / Rule 5: Transaction value of similar goods

- Value of imported goods shall be the transaction value of identical goods sold for export to India and imported **at or about the same time** as the goods being valued.
- Transaction value of identical goods in a sale at the **same commercial level** and in **substantially the same quantity** as the goods being valued shall be used to determine the value of imported goods. (Adjustments shall be made if not at the **same commercial level** and in **substantially the same quantity**)
- Also, adjustments shall be made as per Rule 10(2)

Rule 6: Determination of value where value cannot be determined under rules 3, 4 and 5

If the value of imported goods cannot be determined under the provisions of rules 3, 4 and 5, the value shall be determined under the provisions of rule 7 or, when the value cannot be determined under that rule, under rule 8. At the request of the importer, and with the approval of the proper officer, the order of application of rules 7 and 8 shall be reversed.

Rule 7: Deductive value

If the goods being valued or identical or similar imported goods are **sold in India**, in the condition **as imported** or **after processing**, the value shall be based on the **unit price** at which the imported goods or identical or similar imported goods are **sold in the greatest aggregate quantity** to persons who are **not related to the sellers** in India as reduced by

- commission usually paid
- Additions for profits and general expenses
- Usual costs of transport and insurance
- Customs duties and other taxes payable in India
- Value added by processing, if any

Value can be taken if the goods are resold before the expiry of **90 days** after such importation

Rule 8: Computed value

The value of imported goods shall be based on a computed value, which shall consist of the sum of:-

- Cost or value of materials / fabrication or other processing employed in producing the imported goods
- Amount for profit and general expenses
- cost or value of all other expenses under rule 10(2).

Rule 9: Residual method - the value shall be determined using **reasonable means** consistent with the **principles and general provisions** of these rules and on the basis of data available in India

Section 19 of the Customs Act: Classification of Sets of Articles

Articles liable to duty with reference to quantity	Duty as per quantity
Articles liable to duty with reference to value a) if they are liable to duty at the same rate b) if they are liable to duty at different rates	duty at that rate duty at <u>highest</u> of such rates
Articles not liable to duty	duty at the rate at which articles liable to duty with as above
If the importer produces evidence or the evidence is available regarding the value of any of the articles liable to different rates of duty such article	Duty shall be calculated separately at the rate applicable to each article.

Classification of accessories and spare parts

Accessories and spare parts or maintenance and repairing implements for any article if a) such accessories are imported along with that article b) they are compulsorily supplied c) no separate charge is made for such supply i.e. price is included in the price of main article	Duty on article is same as that of duty on the main product
Optional Accessories	Classification shall be done independently

Rule 3: Determination of the method of valuation

- Value of export goods shall be the transaction value. The transaction value shall be accepted even where the buyer and seller are related, provided that the relationship has not influenced the price.
- If value cannot be determined, it shall be determined by proceeding sequentially through rules 4 to 6.

Rule 4: Determination of export value by comparison

The value of the export goods shall be based on the transaction value of goods of like kind and quality exported at or about the same time to other buyers in the same destination country of importation or in its absence another destination country of importation adjusted to differences in dates, commercial levels etc.

Rule 5: Computed value method

If the value cannot be determined under rule 4, it shall be based on a computed value, which shall include:

- a) cost of production , manufacture or processing of export goods
- b) charges, if any, for the design or brand
- c) an amount towards profit.

Rule 6: Residual method

Value shall be determined using reasonable means consistent with the principles and general provisions of these rules provided that local market price of the export goods may not be the only basis for determining the value of export goods.

Section 3(8A)/3(10A) of Customs Tariff Act

Where the goods deposited in a warehouse are **sold to any person before clearance for home consumption or export**, the value of such goods for the purpose of calculating the integrated tax under section 3(7) / goods and services tax compensation cess under section 3(9) shall be

where the whole of the goods are sold	(Assessable Value + Basic Customs Duty + Social Welfare Surcharge) or the transaction value of such goods, whichever is higher
where any part of the goods is sold	Proportionate value of (Assessable Value + Basic Customs Duty + Social Welfare Surcharge) or the transaction value of such goods, whichever is higher
Where whole or any part of such goods are sold more than once before such clearance	The transaction value to considered in above cases is that of the last such transaction.

Note

- In respect of warehoused goods which remain unsold, the value or the proportionate value, as the case may be, of such goods shall be determined in accordance with the provisions of section 3(8)/3(10) i.e. (Assessable Value + Basic Customs Duty + Social Welfare Surcharge) or the transaction value of such goods, whichever is higher.
- Transaction value, in relation to warehoused goods, means the amount paid or payable as consideration for the sale of such goods.

Chapter 17 : Baggage

Section 77: Entry of baggage by owner

Under this section the owner of the baggage has to make a declaration of its contents to the proper officer of customs, for the purpose of clearing it. This is known as Baggage Declaration Form.

Section 80: Temporary detention of baggage

- Where the baggage of a passenger contains any article which is dutiable or the import of which is prohibited and in respect of which a true declaration has been made under section 77,
- the proper officer may, at the request of the passenger, detain such article
- for the purpose of being returned to him on his leaving India and
- if for any reason, the passenger is not able to collect the article at the time of his leaving India the article may be returned to him through any other passenger authorised by him and leaving India or as cargo consigned in his name.

Exemption to laptop Computer (Notification no. 11/2004)

Laptop Computer (notebook computer) brought as baggage by person over 18 years of age (other than members of crew) is fully exempt from customs duty.

Baggage Rules, 2016

Rule 3: Passengers arriving from countries other than Nepal, Bhutan or Myanmar

- An Indian resident or a foreigner residing in India or a tourist of Indian origin, not being an infant, arriving from any country other than Nepal, Bhutan or Myanmar, shall be allowed clearance free of duty articles in his bona fide baggage, i.e. used personal effects, travel souvenirs and articles other than those mentioned in Annexure I, upto the value of Rs.50,000 if these are carried on the person or in the accompanied baggage of the passenger.
- Tourist of foreign origin, not being an infant, shall be allowed clearance free of duty articles in his bona fide baggage, i.e. used personal effects, travel souvenirs and articles other than those mentioned in Annexure I, upto the value of Rs.15,000 if these are carried on the person or in the accompanied baggage of the passenger:
- Where the passenger is an infant, only used personal effects shall be allowed duty free.
- Free allowance of a passenger shall not be allowed to be pooled with the free allowance of any other passenger.
- Infant means a child not more than two years of age.

Rule 4: Passengers arriving from Nepal, Bhutan or Myanmar

- An Indian resident or a foreigner residing in India or a tourist, not being an infant, arriving from Nepal, Bhutan or Myanmar, shall be allowed clearance free of duty articles in his bona fide baggage i.e. used personal effects, travel souvenirs and articles other than those mentioned in Annexure I upto the value of Rs. 15,000 if these are carried on the person or in the accompanied baggage of the passenger:
- Where the passenger is an infant, only used personal effects shall be allowed duty free.
- Where the passenger, is arriving by land, only used personal effects shall be allowed duty free.
- Free allowance of a passenger shall not be allowed to be pooled with the free allowance of any other passenger

Annexure-I Goods

- Fire arms.
- Cartridges of fire arms exceeding 50.
- Cigarettes exceeding 100 sticks or cigars exceeding 25 or tobacco exceeding 125 gms.
- Alcoholic liquor or wines in excess of two litres.
- Gold or silver in any form other than ornaments.
- Flat Panel (Liquid Crystal Display/Light-Emitting Diode/ Plasma) television.

Rule 5: Jewellery

A passenger residing abroad for more than one year, on return to India, shall be allowed clearance free of duty in his bona fide baggage of jewellery

- upto a weight of 20 grams with a value cap of Rs. 50,000 if brought by a gentleman passenger, or
- 40 grams with a value cap of Rs. 1,00,000 if brought by a lady passenger.

Rule 6: Transfer of residence

A person, who is engaged in a profession abroad, or is transferring his residence to India, shall, on return, be allowed clearance free of duty in addition to what he is allowed under rule 3 or 4, articles in his bonafide baggage to the extent given below

Duration of stay abroad	Articles allowed free of duty	Conditions	Relaxation
From 3 months upto 6 months	Used personal and household articles, other than in Annexure I or II but including in Annexure III upto an aggregate value of Rs. 60,000	Indian passenger	-
From 6 months upto 1 year	Used personal and household articles, other than in Annexure I or II but including in Annexure III, upto an aggregate value of Rs.1,00,000	Indian passenger	-
Minimum stay of 1 year during preceding 2 years.	Used personal and household articles, other than in Annexure I but including articles mentioned in Annexure II or Annexure III, upto Rs.2 Lacs	The Indian passenger should not have availed this concession in the preceding three years.	-
Minimum stay of 2 years or more.	Used personal and household articles, other than in at Annexure I but including in Annexure II or III, upto a value limit of Rs.5,00,000	<ol style="list-style-type: none"> Minimum stay of two years abroad, immediately preceding the date of his arrival on transfer of residence Total stay in India on short visit during the two preceding years should not exceed six months Passenger has not availed this concession in the preceding three years. 	See Note

Note

- For condition (i), shortfall of upto two months in stay abroad can be condoned by Deputy Commissioner of Customs or Assistant Commissioner of Customs if the early return is on account of -
 - terminal leave or vacation being availed of by the passenger or
 - any other special circumstances for reasons to be recorded in writing.
- For condition (ii), the Principal Commissioner or Commissioner of Customs may condone short visits in excess of six months in special circumstances for reasons to be recorded in writing
- For condition (iii), no relaxation.

Annexure II Goods	Annexure III Goods
1. Colour Television. 2. Video Home Theatre System. 3. Dish Washer. 4. Domestic Refrigerators of capacity up to 300 litres or its equivalent. 5. Deep Freezer. 6. Video camera or the combination of any such Video camera with one or more of the following goods, namely:- (a) television receiver (b) sound recording or reproducing apparatus (c) video reproducing apparatus. 7. Cinematographic films of 35mm and above. 8. Gold or Silver, in any form, other than ornaments.	1. Video Cassette Recorder or Video Cassette Player or Video Television Receiver or Video Cassette Disk Player. 2. Digital Video Disc player. 3. Music System. 4. Air-Conditioner. 5. Microwave Oven. 6. Word Processing Machine. 7. Fax Machine. 8. Portable Photocopying Machine. 9. Washing Machine. 10. Electrical or Liquefied Petroleum Gas Cooking Range 11. Personal Computer (Desktop Computer) 12. Laptop Computer (Note book Computer) 13. Domestic Refrigerators of capacity up to 300 litres or its equivalent.

Rule 8: Provisions regarding unaccompanied baggage

- These rules shall apply to unaccompanied baggage except where they have been specifically excluded.
- Unaccompanied baggage had been in the possession, abroad, of the passenger and is dispatched within one month of his arrival in India or within such further period as the AC/DC of Customs may allow:
- It may land in India upto two months before the arrival of the passenger or within such period, not exceeding one year, as AC/DC of Customs may allow, if he is satisfied that the passenger was prevented from arriving in India within the period of two months due to circumstances beyond his control, such as sudden illness of the passenger or a member of his family, or natural calamities or disturbed conditions or disruption of the transport or travel arrangements in the country or countries concerned or any other reasons, which necessitated a change in the travel schedule of the passenger.

Rule 9: Application of these rules to members of the crew

- These rules shall also apply to the members of the crew engaged in a foreign going conveyance for importation of their baggage at the time of final pay off on termination of their engagement.
- A member of crew of a vessel or an aircraft other than those referred above, shall be allowed to bring articles like chocolates, cheese, cosmetics and other petty gift items for their personal or family use which shall not exceed the value of Rs 1,500.

Chapter 18 : Customs Procedures

Import Procedure

Procedure 1: Arrival of vessels and aircraft in India at customs port or a customs airport (**Section 29**)

Procedure 2: Delivery of Arrival Manifest or import manifest or report (details of goods / passengers on board) (Sec 30)

The person-in-charge is required to file

Conveyance	Vessel or Aircraft	Vehicle
Document to be filed	Import Manifest / Arrival Manifest	Import Report
Time Limit to file	Prior to the arrival	within 12 hours after its arrival
Type of filing	Electronically Principal Commissioner or Commissioner of Customs may allow it by any other mode	It can be submitted in such form and manner as may be prescribed

Section 30A: Passenger and Crew Arrival Manifest and Passenger Name Record Information

The person-in-charge of a conveyance that enters India from any place outside India of any other person as may be specified by the Central Government, shall deliver to the proper officer

- a) the passenger and crew arrival manifest before arrival in the case of an aircraft or a vessel and upon arrival in the case of a vehicle and
- b) the passenger name record information of arriving passengers, in such form, containing such particulars, in such manner and within such time, as may be prescribed.

Procedure 3: Entry inwards granted (Section 31)

The master of a **vessel** shall not permit the unloading of any imported goods until an order has been given by the proper officer **granting entry inwards**. (Vessel found a berthing place for discharge of cargo)

Procedure 4: Unloading of Goods

Goods shall be unloaded subject to

- a) Imported goods shall be unloaded only if they are mentioned in Arrival Manifest or Import Manifest or Report (Section 32)
- b) Unloading and loading of goods shall be done at approved places only. (Section 33)
- c) They shall be unloaded from or loaded on any conveyance under the supervision of proper officer.(Section 34)

Procedure 5: Restrictions on custody and removal of imported goods (Section 45)

- All imported goods unloaded in a customs area shall remain in the **custody of person called as Custodian** who shall be approved by the Commissioner of Customs.
- if any imported goods are **pilfered in his custody**, he shall be **liable to pay duty** on such goods (Rate as on the date of delivery of an Arrival Manifest or import manifest or report to the proper officer)

Procedure 6: Entry of goods on importation (Section 46)

- The importer of any goods, other than goods intended for transit or transshipment, shall present a bill of entry for home consumption or warehousing electronically on the customs automated system in such form and manner as may be prescribed.
- Principal Commissioner or Commissioner of Customs may allow it by any other mode in cases where it is not feasible to make entry by presenting electronically on the customs automated system.

• **Time limit to present Bill of entry**

- The importer shall present the bill of entry before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing.
- A bill of entry may be presented at any time not exceeding thirty days prior to the expected arrival of the aircraft or vessel or vehicle by which the goods have been shipped for importation into India.
- Where the bill of entry is not presented within the time so specified and the proper officer is satisfied that there was no sufficient cause for such delay, the importer shall pay such charges for late presentation of the bill of entry as may be prescribed.

Option 1: Clearance for home consumption (Section 47)

- In case the importer files the Bill of Entry for home consumption and the proper officer may make an order permitting clearance of the goods for home consumption.
- Such order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria.
- The importer shall pay the import duty
 - on the date of presentation of the bill of entry in the case of self-assessment or
 - within one day (excluding holidays) from the date on which the bill of entry is returned to him by the proper officer for duty payment in case of assessment, reassessment, provisional assessment;
 - in the case of deferred payment from such due date as may be specified by rules
- and if he fails to pay the duty within the time so specified, he shall pay interest on the duty not paid or short-paid till the date of its payment, at 15% p.a.
- Compulsory e-payment of duty on ICEGATE website
 - a) Importers registered under Accredited Clients Programme
 - b) Importers paying customs duty of Rs. 10,000 or more per bill of entry.

Option 2: Warehousing of imported goods

The importer shall file an **Into-Bond Bill of Entry** for warehousing and shall execute a bond binding himself in a sum equal to **THRICE the amount of the duty assessed** on such goods. The proper officer shall make an order permitting the deposit of the goods in a warehouse. Subsequently, the importer of any warehoused goods may clear them for home consumption provided:-

- a) an **ex-Bond Bill of Entry** has been presented to the proper officer and duty is assessed and paid by him
- b) rent and warehousing charges along with any penalty have been paid by importer
- c) an order for clearance of such goods for home consumption has been made by the proper officer

Option 3: Transit of goods (Section 53)

Where any goods are mentioned, in the import manifest/import report/arrival manifest, as for transit in the same conveyance to any place outside India or any customs station, they may be allowed to be so transited without payment of duty.

Option 4: Transshipment of goods (Section 54)

Where any goods are mentioned in the import manifest/import report, as for transshipment to any place outside India or to any major port/other port as notified /any other customs station, they may be allowed to be so transhipped **without payment of duty**. The importer shall present the **Bill of transhipment** to the proper officer.

Option 5: Relinquishment of title

The owner may, at any time before an order for clearance of goods for home consumption or an order for permitting warehousing has been made, relinquish his title to goods. He shall not be liable to pay the duty

Option 6: Goods not cleared, warehoused or transhipped within 30 days after unloading (Section 48)

Any goods brought into India may be sold by the Custodian if they are not cleared for home consumption or warehoused or transhipped **within 30 days** from the date of the unloading or further allowed time or if the title to any imported goods is relinquished such goods. Notice to the importer and permission of the proper officer is required. Animals, perishable goods and hazardous goods may be sold at any time. Arms and Ammunition may be sold as the Central Government may direct.

Deferred Payment of Import Duty Rules, 2016

1. **Notified Importers:** Importers certified under Authorized Economic Operator Programme as AEO (Tier-Two) and AEO (Tier-three). AEO means Authorized Economic Operator certified by the Directorate General of Performance Management under CBEC.
2. **Information about intent to avail benefit of notification to be** intimated to the Principal Commissioner/Commissioner of Customs
3. **Compulsory Electronic payment of duty.** However, AC/DC of Customs may for reasons to be recorded in writing, allow payment of duty by any mode other than electronic payment.
4. **Deferred payment not to apply in certain cases:** If there in default in payment of duty by due date more than once in three consecutive months, this facility of deferred payment will not be allowed unless the duty with interest has been paid in full. The benefit of deferred payment of duty will not be available in respect of the goods which have not been assessed or not declared by the importer in the entry.
5. **Due dates for deferred payment of import duty:** The eligible importer has to pay the duty by the dates mentioned below inclusive of the period (excluding holidays) as mentioned in section 47(1):

For goods corresponding to bill of entry returned for payment from	Duty to be paid by
1st to 15th day of any month	16th day of that month
16th day till the last day of any month other than March	1st day of next month
16th day till the 31th day of March	31st March

Export Procedure

Procedure 1: Entry of goods for exportation (Section 50)

The exporter shall make entry by presenting

- a) **Vessel or Aircraft:** Shipping bill (electronically on the **customs automated system**; Principal Commissioner or Commissioner may allow to submit in other manner if it is not feasible to make entry by presenting electronically on the **customs automated system**
- b) **Vehicle:** Bill of Export (**in such form and manner as may be prescribed**)

Procedure 2: Clearance of goods for exportation (Section 51)

Proper officer may make an order permitting clearance and loading of the goods for exportation.

Such order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria.

Procedure 3: Entry Outward (Section 39)

A vessel intending to start loading of export goods must be first granted an 'Entry Outwards' by the proper officer. Export goods shall not be loaded on vessel until entry-outwards granted to such vessel.

Procedure 4: Loading of goods on conveyance (Section 40)

Export goods shall not be loaded unless export has been duly permitted by proper officer

Procedure 5: Delivery of export manifest or export report or departure manifest (Section 41)

The person-in-charge of a conveyance carrying export goods shall, before departure of the conveyance from a customs station, deliver to the proper officer

- vessel or aircraft: an export manifest or departure manifest
- vehicle: an export report

If the person-in-charge fails to deliver the departure manifest or export manifest or the export report or any part thereof within such time, and the proper officer is satisfied that there is no sufficient cause for such delay, such person-in-charge shall be liable to pay penalty not exceeding Rs. 50,000.

Section 41A: Passenger and crew departure manifest and passenger name record information.

The person-in-charge of a conveyance that departs from India to a place outside India or any other person as may be specified by the Central Government, shall deliver to the proper officer

- i. the passenger and crew departure manifest; and
- ii. the passenger name record information of departing passengers, in such form, containing such particulars, in such manner and within such time, as may be prescribed.

Penalty on Person-in-charge for non-filing / delay in filing above documents – upto Rs. 50,000

Chapter 19 : Refund and Duty Drawback

Section 26: Refund of Export duty	Section 26A: Refund of Import duty
<p>On the exportation of any goods if duty has been paid, such duty shall be refunded if</p> <p>a) the goods are returned to such person otherwise than by way of resale</p> <p>b) the goods are re-imported within 1 year from the date of exportation and</p> <p>c) an application for refund is made within 6 months from the date of order for the clearance of the goods.</p>	<p>If on import of goods, duty has been paid on clearance for home consumption, such duty shall be refunded if</p> <ul style="list-style-type: none"> • goods are defective or not as per specifications (goods have not been worked, repaired or used after importation except if it was indispensable to discover the defects or non-conformity with the specifications) • importer does not claim drawback under any other provisions of this Act and <ol style="list-style-type: none"> a) the goods are exported b) importer relinquishes his title to the goods and abandons them to customs c) such goods are destroyed or rendered commercially valueless in the presence of the proper officer, within a period not exceeding 30 days of order for the clearance for home consumption (extension by Principal Commissioner or Commissioner of Customs upto 3 months) • Refund is not available for the goods <ol style="list-style-type: none"> a) regarding which an offence appears to have been b) in respect of perishable goods and goods which have exceeded their shelf life or their recommended storage-before-use period. • An application for refund of duty shall be made before the expiry of six months from the date of order of exportation or relinquishment or destruction of goods.

Section 27 of the Customs Act, 1962: Refund of Duty

The refund claim can be filed **within one year from the relevant date.**

Where the amount of refund of Customs Duty claimed is less than Rs. 100, the same shall not be refunded.

Refund will be allowed in following cases

1. if the importer has not passed on the incidence of such duty and interest to any other person
2. if imports were made by an individual for his personal use
3. if the buyer who has borne the duty and interest, has not passed on the incidence of such duty and interest to any other person
4. if amount found refundable relates to export duty paid on goods which has returned to exporter as specified in section 26
5. if amount relates to drawback of duty payable under section 74 and 75
6. if the duty or interest was borne by a class of applicants which has been notified for such purpose in the Official Gazette by the Central Government
7. if the duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made where
 - i. such excess payment of duty is evident from bill of entry in the case of self-assessed bill of entry or
 - ii. the duty actually payable is reflected in the reassessed bill of entry in the case of reassessment

Consumer Welfare Fund

- Assistant Commissioner shall make an order that the whole or any part of the duty is refundable and the amount so determined shall be credited to the "Consumer Welfare Fund".

- Any money credited to the Fund shall be utilized by the Central Government for the welfare of the consumers.
- Central Government shall maintain proper and separate account and other relevant records in relation to the Fund in such form as may be prescribed in consultation with the Comptroller and Auditor- General of India

Section 27A of the Customs Act: Interest on Delayed Refund

- If any duty ordered to be refunded has not been refunded within 3 months from the date of receipt of the refund application, interest at **6% p.a.** shall have to be paid on such duty from the date immediately after the expiry of three months from the date of receipt of application till the date of refund of such duty.
- Where any order of refund is made by Commissioner (Appeals) or Tribunal or Court the said order shall be deemed to be a refund order.
- Interest is always with reference to date of application and not with reference to the date of passing of order.

Section 74: Drawback Allowable on Re-Export of Duty Paid Goods

- The goods should have been imported into India and duty of customs should be paid thereon.
 - The goods should be capable of being **easily identified as the goods**, which were originally imported.
 - The goods should have been entered for export
 - Proper officer after proper examination of the goods and after ensuring that there is no prohibition or restriction on their export should have permitted clearance of the goods for export.
 - Goods are identified to the satisfaction of AC/DC as the goods, which were imported
 - Goods are entered for export **within 2 years from date of payment of duty** on the importation thereof
- If these conditions are satisfied, then the export goods are entitled to **drawback of 98%**.
 If sufficient reason is shown by the importer as to why he was prevented from exporting the goods within the said period of two years, **CBEC may extend the period** further depending upon the merits of each case.

Amount of Drawback where Imported Goods are used before Re exportation

Period between date of clearance for home consumption and the date when the goods are placed under Customs control for export	% of import duty as Drawback
Not more than three months	95%
More than three months but not more than six months	85%
More than six months but not more than nine months	75%
More than nine months but not more than twelve months	70%
More than twelve months but not more than fifteen months	65%
More than fifteen months but not more than eighteen months	60%
More than eighteen months	0

Even if imported goods are merely tested though not used, it will be treated as used after importation

Special rate of drawback in respect of motor vehicles and goods imported by the person for his personal and private use.

- If the car or specified goods are re-exported immediately = 98% of the duty paid is refundable.
- If the car or specified goods are re-exported after being used = Percentage of reduction of the drawback is related to use of the motor vehicle per quarter as under:-

Year	Drawback of duty shall be calculated by reducing the import duty by
1st	4% per quarter or part thereof
2nd	3% per quarter or part thereof
3rd	2.5% per quarter or part thereof
4th	2% per quarter or part thereof

Where such cars are exported after two years, the drawback would be allowed only if CBEC extends the period for expiry beyond two years. No drawback shall be allowed if such motor car or goods have been used for more than four years.

List of goods which are not entitled to drawback at all under this notification

No drawback of import duty will be allowed for goods, if they **have been used** after their importation in India

Wearing Apparel	Tea Chests	Exposed cinematograph films passed by Board of Film Censors in India.	Unexposed photographic films, paper, plates, and X-ray films.
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Section 75: Drawback on Imported Materials used in the Manufacture of Export Goods

All Industry Rate	Brand Rate	Special Brand Rate
Drawback may be allowed at such amounts and such rates determined by Government and reduced by any amount of exemption availed on the export of goods.	Where no amount or rate of drawback has been determined for any goods	Where the rate is lower than 4/5 of the duty/taxes paid on duties paid on the materials or components used in the production or manufacture of the said goods

Rule 8: Minimum amount of duty drawback	Rule 8A: Upper Limit
No amount or rate of drawback shall be determined a) if the export value is less than the value of the imported materials used or b) if the export value is not more than notified percentage of the value of the imported materials used	The upper limit of drawback money or rate should not exceed one third of the market price of the export product.

Section 76: No drawback

- on goods if its market price (as prevailing in India) is less than drawback
- if drawback is less than Rs. 50.

Section 75A: Interest on Drawback

Any drawback payable to a claimant under section 74 or 75 is not paid within a period of one month from the date of filing a claim for payment of such drawback,	Where any drawback has been paid to the claimant erroneously or it becomes otherwise recoverable under this Act or the Rules,
Interest at the rate of 6% p.a. from the date after the expiry of the said period of one month till the date of payment of such drawback.	Interest at the rate of 15% p.a. from the date of payment of such drawback to the claimant till the date of recovery of such drawback.

Chapter 20 : Foreign Trade Policy

New Foreign Trade Policy 2015-2020 has come into effect from April 1, 2015 for the period between 01.04.2015 and 31.03.2020. The main legislation is the **Foreign Trade (Development and Regulation) Act, 1992** (For Nov 2020 exam, new FTP will apply)

Administration of the FTP

1. Director General of Foreign Trade (DGFT)
2. Central Board of Excise and Customs (CBEC)
3. Reserve Bank of India (RBI)
4. State VAT Departments

ITC(HS) are Indian Trade Classification Code based on Harmonized System of Coding. Indian custom uses eight digit ITC-HS Codes to suit the national trade requirements. The codes are divided into two schedules.

ITC(HS) Import Schedule I	ITC(HS) Import Schedule II
It describes the rules and guidelines related to import policies. Presently, most of the goods can be imported without any authorization.	It describes the rules and regulation related to export policies. Schedule II contains very few products, where export is prohibited or restricted. Excluding those items, export of all other goods is free.

Powers of Director General of Foreign Trade

1. Interpretation of policy
2. Issue of Import Export Code
3. Specifying Procedure
4. Exemption from Policy/Procedure
5. Principles of Restriction
6. Export/import of restricted goods/services – Issuing Authorization

Authorization

Every Authorization shall be valid for prescribed period of validity and shall contain such terms and conditions as may be specified by Regional Authority (RA).

No person may claim an Authorization as a right and DGFT or RA shall have power to refuse to grant or renew the same in accordance with provisions of FT(D&R) Act, rules made there under and FTP.

Mandatory documents

for export of goods from India	for import of goods into India
1. Bill of Lading/Airway Bill/Lorry Receipt/Railway Receipt/Postal Receipt	1. Bill of Lading/Airway Bill/Lorry Receipt/Railway Receipt/Postal Receipt
2. Commercial Invoice cum Packing List	2. Commercial Invoice cum Packing List*
3. Shipping Bill/Bill of Export	3. Bill of Entry

Violation of FTP

- Every exporter or importer shall comply with the provisions of the FT (D&R) Act, the rules and orders made there-under, the FTP and terms and conditions of any authorization granted to him.

- All imported goods shall also be subject to domestic laws, rules, orders, regulations, technical specifications, environmental and safety norms as applicable to domestically produced goods unless specifically exempted.
- Violations would cover situations when import or export has been made by unauthorized persons who are not legally allowed to carry out import or export or when any person carries out or admits to carry out any import or export in contravention of the basic FTP.

Penal Provisions in case of violation

- IEC number can be cancelled by the office of DGFT and thereupon that exporter or importer would not be able to transact any business in export or import.
- The premises can be searched and the suspicious material seized.

Special Provisions relating to Imports

- **Second hand goods**

Category	Import Policy	Condition
<u>Second hand Capital Goods</u>		
a) Personal computers / laptops including their refurbished/ re-conditioned spares b) Photocopier machines/ Digital multifunction Print & Copying Machines c) Air conditioners d) Diesel generating sets	Restricted	Importable against Authorisation
Refurbished / re-conditioned spares of Capital Goods	Free	Subject to production of Chartered Engineer certificate to the effect that such spares have at least 80% residual life of original spare.
All other second hand capital goods	Free	==
Second Hand Goods other than capital goods i.e. Inputs	Restricted	Importable against Authorisation
Second Hand Goods imported for the purpose of repair / refurbishing / reconditioning or reengineering	Free	Subject to the condition that waste generated during repair / refurbishing of imported items is treated as per domestic law / Rules / Orders / Regulations / technical specifications / Environmental / safety and health norms and the imported item is re-exported back as per Customs Notification

- **Removal of scrap/ waste from SEZ**

It shall be allowed to be disposed in DTA freely, subject to payment of applicable customs duty.

- **Import of goods used in projects abroad**

After completion of projects abroad, project contractors may import, **without an Authorization**, goods including capital goods used in the project provided they have been used for **at least one year**.

- **Import under lease financing**

It is freely permitted. Permission of Regional Authority is not required for import of capital goods under lease financing. However, RBI approval is required in some cases.

- **Clearance of goods from customs**

Goods already imported/ shipped/ arrived, in advance, but not cleared from customs may also be cleared against an Authorization issued subsequently. However, this facility will not be available to restricted items or items traded through STEs.

- **Execution of BG/ LUT**

Whenever goods are imported duty free or otherwise specifically stated, importer shall execute prescribed LUT (Letter of Undertaking)/ BG (Bank Guarantee)/ Bond with Customs Authority before clearance of goods. In case of indigenous sourcing, Authorization holder shall furnish LUT/ BG/ Bond to RA concerned before sourcing material from indigenous supplier/ nominated agency.

Special Provisions relating to Exports

- **Export of spares**

Warranty spares (whether indigenous or imported) of plant, equipment, machinery, automobiles or any other goods, [except restricted] may be exported along with main equipment or subsequently, but within contracted warranty period of such goods subject to approval of RBI.

- **Third party exports**

Third-party exports means exports made by an exporter or manufacturer on behalf of another exporter(s). Export documents such as shipping bills shall indicate name of both manufacturing exporter/manufacturer and third party exporter(s). BRC, GR declaration, export order and invoice should be in the name of third party exporter. Such third party exports shall be allowed under FTP.

- **Export of imported goods**

Goods imported may be exported in same or substantially the same form without an Authorization, if it is not restricted. Exports against payment in freely convertible currency would be permitted provided export proceeds are realized in freely convertible currency. However export to notified countries will be permitted in Indian rupees subject to at least 15% value addition. Such exports shall not be eligible for any export incentives.

- **Export of replacement goods**

Goods or parts thereof on being exported and found defective/ damaged may be replaced free of charge by the exporter. They shall be allowed clearance by customs authorities, if they are not restricted.

- **Denomination of export contracts**

All export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realised in freely convertible currency.

Export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan.

- **Non-realisation of export proceeds**

If an exporter fails to realise export proceeds within time specified by RBI, he shall be liable to action in as per FT(D&R) Act, rules, orders and provisions of FTP.

- **Free movement of export goods**

Consignments of items meant for exports shall not be withheld/ delayed for any reason by any agency of Central/ State Government. In case of any doubt, authorities concerned may ask for an undertaking from exporter and release such consignment.

- **No seizure of export related stock**

No seizure of stock shall be made by any agency so as to disrupt manufacturing activity and delivery schedule of exports. In exceptional cases, concerned agency may seize the stock on basis of prima facie evidence of serious irregularity. However, such seizure should be lifted within 7 days unless the irregularities are substantiated.

Import of Samples	Export of Samples
Authorisation for import of samples is required only in case of vegetable seeds, bees and new drugs. Samples of tea upto Rs. 2,000 (CIF) per consignment will be allowed without authorization. Samples upto Rs. 3,00,000 can be imported by all exporters without duty.	Export of bona fide trade and technical samples of freely exportable item shall be allowed without any limit. In case of restricted items, application should be made to DGFT. Such samples can be exported as part of passenger baggage without an Authorisation.

Import of Gifts	Export of Gifts
Import of gifts shall be permitted where such goods are otherwise freely importable under ITC(HS). In other cases, a Customs Clearance Permit (CCP) shall be required from DGFT.	Goods, including edible items, of value not exceeding Rs. 5,00,000 in a licensing year, may be exported as a gift. However, items mentioned as restricted for exports in ITC(HS) shall not be exported as a gift, without an Authorization.

Re-import of goods repaired abroad	Re-export of Repaired Goods
Capital goods, equipments, components, parts and accessories, whether imported or indigenous, except those restricted under ITC(HS) may be sent abroad for repairs, testing, quality improvement or upgradation or standardization of technology and re-imported <u>without an Authorization.</u>	Goods or parts exported and found defective, damaged or otherwise unfit for use may be imported for repair and subsequent re-export. Such goods shall be allowed clearance <u>without an Authorization.</u> However, re-export of such defective parts/spares by the Companies/firms and Original Equipment Manufacturers shall not be mandatory if they are imported exclusively for undertaking root cause analysis, testing and evaluation purpose.

Export Promotion Schemes

Duty Exemption Scheme ➤ Advance Authorisation Scheme ➤ Duty Free Import Authorisation Scheme	Duty Remission Scheme Duty Drawback	Reward Schemes ➤ Merchandise Exports from India Scheme ➤ Service Exports from India Scheme	Status Holder	Export Promotion Capital Goods Scheme (EPCG) It allows duty free import of Capital Goods
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Reward Schemes

- They are the schemes which entitle the exporters to duty credit scrips subject to various conditions.
- These scrips can be used for
 - a) payment of customs duties on import of inputs/goods
 - b) payment of excise duties on domestic procurement of inputs/goods including capital goods
 - c) payment of service tax on procurement of services.
- These scrips are transferable, i.e. they can be sold in market, if the holder of duty credit scrip does not intend to import goods against the scrips. Goods imported under the scrip are also freely transferable.
- Duty credit scrip shall be permitted to be utilized for payment of customs duty in case of import of capital goods under lease financing.

Merchandise Exports from India Scheme (MEIS)	Service Exports from India Scheme (SEIS)
Under MEIS, exports of notified goods/products to notified markets shall be eligible for reward at the specified rate(s) on lower of a) on realised FOB value of exports in free foreign exchange or b) on FOB value of exports as given in the Shipping Bills in free foreign exchange Exports of notified goods through courier or post of FOB value upto Rs. <u>5,00,000</u> per consignment shall be entitled for rewards under MEIS. If the value of exports is more than Rs <u>5,00,000</u> per consignment then MEIS reward would be calculated on the basis of FOB value of Rs. <u>5,00,000</u> only.	A service provider (with active IEC at the time of rendering services) located in India, providing notified services rendered in the specified manner shall be eligible for reward at the notified rate(s) on net foreign exchange earned provided the minimum net free foreign exchange earnings of such service provider in preceding financial year is: a) individual service providers and sole proprietorship: \$ 10,000 b) other service providers: \$ 15,000 Net Foreign exchange earnings = Gross Earnings of Foreign Exchange minus Total expenses/ payment/ remittances of Foreign Exchange by the IEC holder, relating to service sector in the financial year.

Duty Exemption Scheme

Advance Authorization Scheme	Duty Free Import Authorization (DFIA) Scheme
INPUTS which are used in the export product can be imported without payment of customs duty. Advance Authorization is issued for inputs in relation to the resultant product on the basis of a) As per SION notified b) On the basis of self declaration c) Applicant specific prior fixation of norm by the Norms Committee. d) On the basis of Self Ratification Scheme	DFIA shall be issued on post export basis for products for which SION have been notified. Duty Free Import Authorisation (DFIA) is issued to allow duty free import of inputs. Also, import of oil and catalyst which is consumed / utilised in the process of production of export product, may also be allowed.

The goods imported are exempt from basic customs duty, additional customs duty, education cess, anti-dumping duty and safeguard duty, IGST and GST Compensation Cess have been exempted upto 31.3.2020.	The goods imported are exempt ONLY from basic customs duty. Additional customs duty/excise duty, shall be adjusted as CENVAT credit or Input Tax Credit
Minimum value addition required to be achieved under Advance Authorization is 15% . For tea, minimum value addition required shall be 50%.	Minimum value addition required to be achieved under DFIA is 20%
Actual user condition: It will not be transferable even after completion of export obligation. However, there will be an option to dispose off product manufactured out of duty free inputs once export obligation is completed.	No DFIA shall be issued for an export product where SION prescribes 'Actual User' condition for any input.

Eligibility Condition to obtain Advance Authorisation for Annual Requirement

- Exporters having past export performance (in at least preceding two financial years) shall be entitled for Advance Authorisation for Annual requirement.
- Entitlement in terms of CIF value of imports shall be upto 300% of the FOB value of physical export and / or FOR value of deemed export in preceding financial year or Rs 1 crore, whichever is higher.
- Authorisation for Annual Requirement shall be issued only where SIONs or valid Ad hoc norms exists on the date of issue of Authorisation. It is not available on self-declaration basis.

Export Promotion Capital Goods Scheme (EPCG)

- EPCG permits exporters to import capital goods for pre-production, production and post-production at zero customs duty or procure them indigenously without paying duty in the prescribed manner. Capital Goods are also **exempt from whole of Integrated Tax / Compensation Cess upto 31.3.2020.**
- In return, exporter is under an obligation to fulfill the export obligation.
- Import of capital goods shall be subject to Actual User condition till export obligation is completed.
- After export obligation is completed, capital goods can be sold or transferred.
- Import under EPCG scheme shall be subject to an export obligation equivalent to 6 times of duties, taxes and cess of duty saved on capital goods to be fulfilled in 6 years reckoned from the date of issue of authorization. (In case of indigenous goods, 4.5 times of notional customs duty)
- In case integrated tax and compensation cess are paid in cash on imports under EPCG, incidence of the said integrated tax and compensation cess would not be taken for computation of net duty saved provided input tax credit is not availed.

Ineligible capital goods (These are now eligible)

Second hand capital goods and Any capital goods for generation/transmission of power

Specific export obligation	Average export obligation	Incentives for early fulfillment of EO	Post Export EPCG Duty Credit Scrip(s)
6 times of duty saved on capital goods imported under EPCG scheme, to be fulfilled in 6 years reckoned from	Average level of exports made by the applicant in the preceding 3 licensing years for the same and similar products. It has to be achieved within	If Authorization holder has fulfilled 75% or more of specific export obligation and 100% of Average Export Obligation till date, if any, in half or less than half the original export	Capital goods are imported on full payment of applicable duties in cash. Later, basic customs duty paid on Capital Goods is remitted in the form of freely transferable duty credit scrip(s) Specific

Authorization issue-date. Specific EO is over and above Average EO.	the overall EO period (including extended period unless otherwise specified).	obligation period specified, remaining export obligation shall be condoned	EO shall be 85% of the applicable specific EO. Average EO remains unchanged.
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Status Holder

An applicant shall be categorized as status holder upon achieving export performance during **current and previous three financial years**, as indicated below: However, for Gems & Jewellery Sector, the performance during the current and previous two financial years shall be considered for recognition as status holder

Status Category	Export Performance [FOB/ FOR (as converted) Value (US \$ million)] INR should be converted into \$ as per CBEC rate on 1 st April of each FY
One Star Export House	3
Two Star Export House	25
Three Star Export House	100
Four Star Export House	500
Five Star Export House	2000

For calculating export performance for grant of One Star Export House Status category, exports by IEC holders under the following categories shall be granted double weightage:

- Micro, Small & Medium Enterprises (MSME) as defined in Micro, Small & Medium Enterprises Development (MSMED) Act 2006
- Manufacturing units having ISO/BIS
- Units located in North Eastern States and Jammu & Kashmir
- Units located in Agri Export Zones.

Privileges of Status Holders

- Authorisation and custom clearances for both imports and exports on self-declaration basis.
- Fixation of Input Output Norms (SION) on priority i.e. within 60 days.
- Exemption from compulsory negotiation of documents through banks. The remittance receipts, however, would continue to be received through banking channels.
- Exemption from furnishing of Bank Guarantee in Schemes under FTP.
- Two Star Export Houses and above are permitted to establish export warehouses.
- Three Star and above Export House shall be entitled to get benefit of Accredited Clients Programme (ACP) as per the guidelines of CBEC.
- Status holders shall be entitled to export freely exportable items on free of cost basis for export promotion subject to an annual limit of **2%** of average annual export realization during preceding three licensing years, whichever is lower (For exporters of Gems and Jewellery, Articles of Gold and precious metals - 2% **Rs. 1 Crore** or **2%** of average annual export realization during preceding three licensing years, whichever is lower)

Supplies of pharmaceutical products, vaccines and lifesaving drugs to health programmes of international agencies such as UN, WHO-PAHO and Government health programmes - **8%** of the average annual export realisation during preceding three licensing years

EOU, EHTP, STP & BTP Schemes / Deemed Exports / SEZ to be read from our Class Notes

Separate Notes for Customs Case Laws will be provided.