

Handbook
on
Applicability of GST
on Agricultural Sector
(January, 2026)



The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
New Delhi

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Foreword

A stable, simple and predictable tax regime is a cornerstone of sustainable economic growth, and the introduction of the Goods and Services Tax (GST) represents India's most transformative step in this direction. India's transition to the GST marked a significant milestone in the rationalisation and modernisation of the country's indirect tax regime. Unlike direct taxes, which are levied on income or profits, indirect taxes apply to goods and services at multiple stages of value addition. The introduction of GST unified multiple indirect taxes into a single framework, thereby simplifying compliance, reducing procedural hurdles and facilitating a seamless flow of input tax credits. By empowering both the Central and State Governments to levy tax on a common transaction, GST has established a more cohesive, uniform and transparent taxation structure. Today, GST plays a vital role in fostering economic growth by enhancing efficiency, accountability and promoting ease of doing business across the country.

The Institute of Chartered Accountants of India (ICAI) has been a key stakeholder in India's GST ecosystem right from its inception. Through its GST & Indirect Taxes Committee, ICAI has consistently supported the Government by providing valuable technical inputs and constructive suggestions on policy and procedural matters. The Committee also undertakes extensive capacity-building initiatives, including certificate courses, seminars, conferences, webcasts and specialised programmes for Government bodies, and regularly brings out technical publications to keep stakeholders abreast of legislative amendments, judicial developments and practical aspects of GST.

I am happy to note that the **GST & Indirect Taxes Committee of ICAI**, in continuation of its proactive efforts to strengthen the GST framework, has brought out yet another publication titled "**Handbook on Applicability of GST on Agricultural Sector**". The Handbook aims to provide clear, structured and practical guidance on the application of GST provisions to agriculture and allied activities, thereby addressing sector-specific issues in a comprehensive manner. Given the unique nature of agricultural activities and the frequent interpretational challenges surrounding their taxability, this Handbook assumes particular significance for practitioners, policymakers and other stakeholders.

I appreciate the efforts of CA. Rajendra Kumar P, Chairman, CA. Umesh Sharma, Vice-Chairman, and all others who have contributed in developing this valuable Handbook. I am confident that this publication will serve as a reliable reference for members in practice, industry professionals, policymakers and other stakeholders associated with the agricultural sector, and will contribute meaningfully to an improved understanding and effective compliance of GST law, in furtherance of the objective of a transparent and efficient tax regime.

CA. Charanjot Singh Nanda
President, ICAI

Date: 28.01.2026
Place: New Delhi

Preface

The completion of eight years of the Goods and Services Tax (GST) regime marks a significant milestone in India's journey towards a unified, transparent and technology-driven indirect tax system. Implemented with effect from 1st July 2017, GST subsumed multiple Central and State levies with the objective of eliminating the cascading effect of taxes, ensuring a seamless flow of input tax credit and fostering a common national market. While the GST framework is founded on the principle of tax neutrality, the agricultural sector continues to receive distinct policy consideration in view of its critical socio-economic importance and the Government's sustained focus on safeguarding farmers' interests.

In this backdrop, the Handbook on Applicability of GST on the Agricultural Sector seeks to provide a comprehensive and structured understanding of the GST framework as it applies to agriculture and allied activities. The publication examines the relevant statutory provisions, notifications, circulars and judicial pronouncements, with particular emphasis on practical issues relating to registration, classification of goods and services, taxability, exemptions, reverse charge mechanism, input tax credit and refunds. The contents are intended to assist professionals, taxpayers and other stakeholders in navigating the GST law in the agricultural context with clarity and confidence. This Handbook incorporates the legislative amendments, notifications, and circulars issued up to 31st December 2025.

We express our sincere gratitude to CA. Charanjot Singh Nanda, President, ICAI, and CA. Prasanna Kumar D, Vice-President, ICAI, for their constant encouragement and support to the initiatives of the GST & Indirect Taxes Committee. We are deeply grateful to the members of Maharashtra Study Group* for preparing the initial draft that formed the foundation of this publication. The draft was subsequently enriched, refined and reviewed by CA. Ashit Shah, CA. Venugopal Gella, CA. Manish Raj Dhandharia, CA. Mandar Telang, CA. Sanchit Agrawal, CA. Manish Bansal, CA. Sanjaykumar Sumatilal Burad and CA. Atul Chhotalal Doshi. We also appreciate the sincere efforts put in by CA. Kapil Kumar Sharma and CA. Madhav Kumar Jha in finalising this publication.

While every effort has been made to ensure accuracy and completeness, the subject matter may be susceptible to differing interpretations. Readers are

advised to apply professional judgment while using this Handbook. Suggestions for improvement or intimation of any inadvertent errors may be shared with the Committee at gst@icai.in. Readers are also encouraged to visit the official website of the GST & Indirect Taxes Committee of ICAI (<https://idtc.icai.org>) for regular updates, publications and developments in the field of indirect taxation.

CA. Rajendra Kumar P

Chairman

GST & Indirect Taxes Committee

CA. Umesh Sharma

Vice-Chairman

GST & Indirect Taxes Committee

Date: 28.01.2026

Place: New Delhi

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Chapter 1

Introduction

Agriculture is an important part of the Indian economy and social life. India has been known to be an agrarian country or an agrarian economy. The vitality of the agricultural sector can be estimated with the fact that Indian agriculture sector provides livelihood support to about 42.3 per cent of the population and has a share of 18.2 per cent in the country's GDP at current prices for the period 2023-24, according to the Economic Survey 2023-24. The socio-economic impact of agriculture and its allied sectors being far-reaching, the developments in this sector are keenly watched by policy makers, businesses, stakeholders and public at large.

1.1 Meaning of Agriculture

The term 'Agriculture' has not been defined under the Central Goods and Services Tax Act, 2017 (CGST Act), Integrated Goods and Services Tax Act, 2017 (IGST Act), State Goods and Services Tax Act, 2017 (SGST Act) or Union Territory Goods and Services Tax Act, 2017 (UTGST Act). However, the term agricultural produce has been defined under Notification No. 11/2017- Central tax (Rate) and 12/2017- Central tax (Rate) dated 28-6-2017.

Thus, According to the notifications, "agricultural produce" means any produce out of 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, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.

Moreover, prima facie, agriculture has a wider coverage that includes not only the cultivation of crops (such as agriculture, floriculture, etc.) but also animal husbandry i.e. cattle farming, poultry farming, sericulture, pisciculture, etc. Each of these forms of agriculture may have different usage in terms of providing food, raw materials, etc.

1.2 Agriculture and Taxation

Agriculture has been the major source of earnings for the large population of India. Owing to such a vast socio-economic impact, agriculture enjoys a special status in the minds of the policy makers. The same can be clearly seen from the various policy decisions taken by the Government since Independence – wherein agriculture and allied sectors have enjoyed benefits in the policies of the Government including taxation.

The same have been inter-alia summarized as under:

1.2.1 Income Tax Act, 1961

Section 10(1) of the Income Tax Act, 1961 exempts agricultural income from taxability under the said law. The term agricultural income includes income derived from renting of land in India used for agricultural purposes, income from such land by way of agriculture, income from sale of the produce by the cultivator, etc. As per Section 2(14) of the Act, the term “Capital Asset” explicitly excludes rural agriculture land in India and therefore the sale of rural agriculture land is exempt. However, when urban agricultural land is sold, it qualifies as transfer of a capital asset under Section 45. Thus, the gains from such sales are subject to tax.

1.2.2 Wealth Tax Act, 1957

Under the erstwhile Wealth Tax Act, agricultural land used for agriculture purposes was not eligible to wealth tax.

1.2.3 Central Excise Act, 1944

The erstwhile Central Excise Act levied Central Excise Duty on the manufacture or production of goods. Agricultural produce such as crops (grains, cereals, vegetables, fruits, etc.), live animals, meat/fish/dairy produce, etc. were prima facie exempted from levy of excise duty. In fact, allied sectors enjoyed either exemptions or lower rates of excise duty.

1.2.4 Service Tax Law

The erstwhile Service Tax which was being levied on the provision of services in India also kept services related to agriculture and its allied activities outside its ambit. Services related to agriculture and agricultural produce such as agricultural operations related cultivation and related activities of agricultural produce, supply of farm labour, post-harvest activities

related to agricultural produce including loading, unloading, packing, storage, etc. were kept outside the scope of service tax.

1.2.5 Value Added Tax / Central Sales Tax

Before the introduction of GST, Value Added Tax (VAT), a state levy, and Central Sales Tax (CST), a central levy, were applied to the sale of goods within and outside the state, respectively. Under these laws, while agricultural produce and goods related to the agriculture sector were sometimes subject to lower tax rates or exemptions, they were generally not fully exempt. Farmers often sold their produce through commission agents, who charged VAT and remitted it to the government. For example, agricultural products like mustard seed, wheat, and raw cotton were taxed at the first point of sale in many states, including Haryana and Punjab.

Examples of VAT rates on agricultural goods include:

1. Seeds were taxable under Haryana VAT - Schedule C, and paddy under Schedule D.
2. Oilseeds were taxed at 5% under the MP VAT.
3. Barley and wheat were taxed at 5% under the West Bengal VAT.

1.2.6 Goods and Services Tax Law

The Goods and Services Tax (GST) has been implemented in whole of India w.e.f. 1st July 2017. It has subsumed majority of the indirect tax laws then-applicable at the central, state and local level with an intent to provide common national market for goods and services supplied in India. The Statement of Objects and Reasons for The Constitution (One Hundred and First Amendment) Act, 2016 states that “.... *The goods and services tax shall replace a number of indirect taxes being levied by the Union and the State Governments and is intended to remove cascading effect of taxes and provide for a common national market for goods and services. ...*”.

Thus, the introduction of GST does provide for sub-summation of plethora of indirect tax laws in India with an intent to remove cascading effect to indirect taxes and thereby allowing free flow of tax credits in the supply chain.

In line with the policy makers decision to provide benefits to agriculture and allied sectors, the GST law which was implemented w.e.f. 1st July 2017 continues to retain majority of the exemptions provided under the erstwhile Indirect tax laws.

Handbook on Applicability of GST on Agricultural Sector

Such exemptions may seem to be relevant and important from a policy-maker perspective, but they also pose various challenges from a tax compliance perspective for the taxpayers engaged in this sector.

Business is dynamic and with the advent of technology – the business practices/ methods and modes are evolving like never before. Thus, applicability of exemptions in such a changing landscape often becomes a bone of contention – thereby posing risks to the businesses.

Further, exemptions from tax under the GST law are coupled with blockage/denial of tax credits on the inward supplies. This deviates from the very object of removing cascading effects of taxes by allowing free flow of credits.

Additionally, procedural changes and their impacts are also required to be factored in by the taxpayers in the said sectors.

In this book, we shall dwell upon in detail, the various aspects of the GST law w.r.t. the agriculture and allied sector.

Chapter 2

Relevant Definitions

The term “Agriculture” is not defined under the GST Law. When a word is not defined in the law itself, it is permissible to refer to dictionaries to find out the general sense in which that word is understood in common parlance.

- **Finance Act, 1994** - According to this Act, agriculture means the cultivation of plants and rearing of all life forms of animals except the rearing of horses for food, fibre, fuel from material or other similar products.
- **Merriam Webster dictionary** Agriculture is “science, art, or practice of cultivating the soil, producing crops, and raising livestock and in varying degrees the preparation and marketing of the resulting products”
- **Cambridge Dictionary** - Agriculture is “the business, science, or activity of farming” or “the practice or work of farming”
- **Collins Dictionary** – Agriculture is farming and the methods that are used to raise and look after crops and animals.

Other terms which are used in this book and are defined under the CGST Act, 2017 are:

Section	Definition of	Definition
2(5)	Agent	means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another.
2(6)	aggregate turnover	means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same

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		Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess
2(7)	Agriculturist	means an individual or a Hindu Undivided Family who undertakes cultivation of land— (a) by own labour, or (b) by the labour of family, or (c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family
2(17)	business	includes — (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit; (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a); (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction; (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business; (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members; (f) admission, for a consideration, of persons to any premises; (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;

Relevant Definitions

		<p>(h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and</p> <p>(i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;</p>
2(19)	capital goods	means goods, the value of which is capitalised in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business
2(31)	consideration	<p>in relation to the supply of goods or services or both includes–</p> <p>(a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;</p> <p>(b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:</p> <p>Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;</p>

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2(47)	exempt supply	means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply
2(49)	family	means, — (i) the spouse and children of the person, and (ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person;
2(52)	goods	means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply
2(59)	Input	means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business
2(60)	Input service	means any service used or intended to be used by a supplier in the course or furtherance of business
2(78)	non-taxable supply	means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act
2(84)	Person	includes— (a) an individual; (b) a Hindu Undivided Family; (c) a company; (d) a firm; (e) a Limited Liability Partnership; (f) an association of persons or a body of individuals, whether incorporated or not, in

Relevant Definitions

		<p>India or outside India;</p> <p>(g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013;</p> <p>(h) any body corporate incorporated by or under the laws of a country outside India;</p> <p>(i) a co-operative society registered under any law relating to co-operative societies;</p> <p>(j) a local authority;</p> <p>(k) Central Government or a State Government;</p> <p>(l) society as defined under the Societies Registration Act, 1860;</p> <p>(m) trust; and</p> <p>(n) every artificial juridical person, not falling within any of the above</p>
2(98)	reverse charge	<p>means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or subsection (4) of section 5 of the Integrated Goods and Services Tax Act;</p>
2(102)	services	<p>means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged</p> <p>[Explanation.—For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities;]</p>

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2(108)	Taxable supply	means a supply of goods or services or both which is leviable to tax under this Act;
Notes on Interpretation, classification and valuation of entries under Notification No 11/2017 and 12/2017 dated 28-6-2017		
	Agricultural extension	means application of scientific research and knowledge to agricultural practices through farmer education or training
7	Agricultural produce	<p>means any produce out of 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, on which either no further processing is done or such processing is done as is usually done by cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.</p> <p>Hence, essential elements are –</p> <ol style="list-style-type: none"> i. It must be produced out of cultivation of plant and rearing of all life forms of animals ii. On which no further processing is done or such processing is done as usually done by the cultivator or producer which does not alter its essential characteristics iii. Most importantly the processing done should be such as is usually done by the cultivator or producer which should only help it to attain marketability at primary market.
	Agricultural produce Marketing Committee or Board	means any committee or board constituted under a state law for the time being in force for the purpose of regulating the marketing of agricultural produce.

Chapter 3

Registration

GST registration is a process by which a taxpayer gets himself registered under GST regime. Once a business is successfully registered, a unique registration number is assigned to it known as the Goods and Services Tax Identification Number (GSTIN). This is a 15-digit number assigned by the central government after the taxpayers obtain registration.

Under GST regulations, businesses with an annual turnover of more than Rs.40 lakh (or Rs.20 lakh for some special category states) for goods and Rs. 20 Lakhs (or Rs.10 lakh for some special category states) for services, must register as regular taxable entities. The registration threshold varies on the basis of business type and location. Mandatory GST registration applies to businesses surpassing these limits, and failure to comply can lead to legal action and penalties as stipulated under GST law.

- (i) As per Section 24 of the CGST Act, 2017, Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this Act. Persons making any inter-State taxable supply
- (ii) Casual taxable persons making taxable supply
- (iii) Persons who are required to pay tax under the reverse charge mechanism
- (iv) Person who are required to pay tax under sub-section (5) of section 9
- (v) Non-resident taxable persons making taxable supply
- (vi) Persons who are required to deduct tax under Section 51, whether or not separately registered under this Act
- (vii) Persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;
- (viii) Input service Distributor, Whether or not separately registered under this Act
- (ix) Persons who supply goods or services or both, other than supplies specified under subsection (5) of section 9, through such electronic

commerce operator who is required to collect tax at source under Section 52.

- (x) every electronic commerce operator who is required to collect tax at source under Section 52
- (xi) Every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered person
- (xia) every person supplying online money gaming from a place outside India to a person in India; and
- (xii) Such other person or class of persons as may be notified by the Government on the recommendations of the Council.

3.1 Types of GST registration

1. Normal taxpayers

Under GST law, most businesses in India are required to register based on their annual turnover. Businesses with an aggregate turnover exceeding Rs. 40 lakh (for goods) or Rs. 20 lakh (for services) within a financial year must register as regular taxable entities. For businesses located in special category states, including the northeastern states, Jammu & Kashmir, Himachal Pradesh, and Uttarakhand, the threshold limit is reduced to Rs. 20 lakh for goods and Rs. 10 lakh for services. This type of registration is commonly referred to as turnover-based registration.

Taxpayer also has an option to register himself voluntarily irrespective of the turnover of his business. In other words, if his aggregate turnover is less than Rs. 40 Lakhs or Rs. 20 Lakhs, if tax payer wishes to register under the law, he can register himself and such kind of registration is also known as voluntary registration.

2. Casual Taxable Person

Businesses operating occasionally or seasonally are required to register for GST under this category. Businesses need to make an advance deposit equal to the estimated GST liability from the occasional operations. Initially GST registration can be obtained for a period of up to ninety days. However, upon showing sufficient cause, they may apply for a renewal or extension of

this registration for an additional period not exceeding 90 days, subject to the approval of the proper officer.

3. Non-Resident Taxable Person

Individuals who reside outside India but occasionally supply goods or services as agents, principals or in other capacities to Indian residents are liable to file for registration under this category.

The business owner must pay a deposit equal to the expected GST liability during the GST active tenure. The normal tenure is ninety days. However, individuals can extend or renew the registration for an additional period not exceeding ninety days, subject to the approval of the proper officer if required.

4. Composition registration

Businesses with an annual aggregate turnover of up to Rs 1.5 crore/75 Lakhs in some states in the preceding financial year are eligible to opt for registration under the Composition Scheme. Under this scheme, suppliers have an option to pay tax at a concessional rate of 1% (CGST + SGST/UTGST) of the turnover and restaurant service providers (not supplying alcoholic liquor for human consumption) have an option to pay tax @ 5% (CGST + SGST/UTGST) of their turnover. In order to provide benefit of composition scheme to persons engaged exclusively in the supply of services other than restaurant service whose aggregate turnover in the preceding financial year is up to 50 lakhs, a scheme to pay tax @ 6% of the turnover was introduced subsequently. The GST rate under composition scheme is not a fixed amount but rather a percentage of the turnover.

S. No	Particular	States
1.	State with Threshold Limit 10 lakh (covering Goods and /or services)	Manipur, Mizoram, Nagaland and Tripura
2.	State with Threshold Limit 20 lakh (covering goods and/or services)	Arunachal Pradesh, Meghalaya, Sikkim, Uttarakhand, Puducherry, and Telangana
3.	State with Threshold Limit 20 lakh (covering both goods and services)	Jammu & Kashmir, Assam, Himachal Pradesh and all other states

4.	State with Threshold Limit 40 lakh (covering goods only for intra state sale)	Jammu & Kashmir, Assam, Himachal Pradesh and all other states
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3.2 Exemption from GST Registration

As per Section 23 of the CGST Act, 2017, there are certain categories of persons who are not liable for registration, either by law or by notification.

- **Persons engaged in exempt or nil-rated supplies:**

No GST registration is needed for persons who exclusively supply goods or services or both which are not liable to tax or are wholly exempt from tax under this Act. For instance, fresh fruits and vegetables sellers are exempt from GST.

- **Agriculturists**

An agriculturist is a person who cultivates land personally or through hired labor under the personal supervision of themselves or any member of the family, to produce agricultural produce. Such a person is exempt from GST registration to the extent of the supply of produce out of the cultivation of land. For instance, in the case of pepper of the genus Piper, whether green (fresh), white, or black, which is classified under HSN 0904 and attracts a 5% GST rate as per S. No. 38 of Schedule I of Notification No. 1/2017-Central Tax (Rate) dated 28th June 2017(now superseded by Notification No.09/2025-Central Tax (Rate), dated 17-9-2025), an agriculturist supplying dried pepper from their plantations is not liable to be registered under Section 23(1) of the CGST Act and is exempt from GST.

Further, as per the recommendation of the GST Council, it is hereby clarified that an agriculturist supply of dried pepper from their plantation to the extent of the supply of produce out of cultivation of land is not liable to take registration under Section 23(1) of CGST Act. It is also clarified that an agriculturist supplying raisins is not liable to be registered under Section 23(1) of the CGST Act, and is exempt from GST. *Circular No.247/04/2025-GST dated 14.02.2025*

However, if an agriculturist engages in any other taxable activity, such as processing, packaging, or trading of agricultural produce, etc., then

he or she will be liable to register under GST based on the taxability of those activities.

GST on Leasing of Agricultural Land

Leasing of **agricultural land** enjoys a GST exemption, but only when the land is **actually used for agricultural purposes**. Entry 54 of Notification No. 12/2017-CT (Rate) exempts services relating to cultivation, including **renting or leasing of agricultural land**. Thus, when land is leased for farming, nurseries, floriculture, sericulture, or animal rearing, **no GST is payable**. However, if the land is leased for **non-agricultural, commercial or industrial activities**, the exemption does not apply. Even land classified as "agricultural" in records becomes **taxable at 18%** if used for warehouses, factories, coaching classes, construction, or other commercial purposes. Several AAR rulings have emphasised that **actual use**, not land classification, decides GST liability.

Example

A landowner leases agricultural land to a food-processing company that grows tomatoes for the **first 6 months** and later uses the same land area to **construct a storage shed** for packing and dispatch.

- For the first 6 months (agricultural cultivation) → **No GST Registration as it not taxable**
- From the date commercial shed construction starts → **GST Registration is applicable (if turnover is above 20 lakhs) as the transaction is taxable.**
- Even if the land remains "agricultural" in revenue records, the **change in actual use** triggers GST

Leasing of agricultural land is **GST-exempt** only when the land is used for genuine agricultural operations. Any diversion for commercial use—fully or partly—attracts **GST at 18%**. **3.3 Important feature of registration to be understood before applying:**

3.3 PAN-Based and State-Specific Registration:

GST registration is based on the applicant's Permanent Account Number (PAN) and is valid only for the state or union territory where the business operates. Therefore, a business entity with multiple branches across different

states or union territories must obtain separate GST registrations for each state or union territory using the same PAN.**3.3.2 Registration for Each State or Union Territory:**

If a business operates in multiple states or union territories, it must register separately in each state or union territory where it has a business establishment, regardless of its turnover of individual branch. According to Section 25(4) of the CGST Act, 2017, each registration will be treated as a distinct person. This is to ensure that the GST is collected and appropriately distributed among the states or union territories according to the place of supply rules.

3.4 Separate Registration for SEZ Units

A business entity with a unit in a Special Economic Zone (SEZ) or an SEZ developer will have to obtain a separate GST registration for the SEZ unit or the SEZ area, as the case may be. This is because the SEZ units or areas are treated as separate territories for GST and are eligible for certain exemptions and concessions.

3.5 Single GSTIN for Each State

A registered person is allotted a unique GSTIN for each state or union territory where he is registered, However, within the same State or Union Territory, a person may obtain separate GST registrations for different places of business. The GSTIN uniquely identifies the registered person, the State or Union Territory, and the PAN of the registered person. The GSTIN can be verified online through the GST portal or a GSTIN verification app.

3.6 Non-Tax-Specific Registration

GST registration is not specific to any particular tax, such as Central GST, State GST, Integrated GST or Cess. A registered person is liable to pay all the applicable taxes under the GST regime, depending on the nature and location of the supply. A registered person can also claim input credit for the taxes paid on the purchases, subject to certain conditions and restrictions.

3.7 For Farmers exporting agricultural produce

Generally, a person engaged **exclusively in agricultural activities** (such as cultivation of crops, horticulture, nurseries, or rearing of animals) is **not required to obtain GST registration**, because:

- Supply of unprocessed agricultural produce is **exempt**, and
- There is **no GST liability** on such outward supplies.

However, certain agricultural exporters or agricultural service providers may **need GST registration only to claim refund**, particularly when:

1. **They export agricultural produce**, and
2. They incur **input GST** on packing materials, fertilizers, pesticides, machinery repairs, cold-storage services, transportation, etc.

Under section 23 of the CGST Act, they are not required to register if dealing exclusively in exempt supplies.

But under section 24 and refund rules, **a person who wants to claim refund must be a registered person**.

Therefore, If an agriculturist wishes to **claim refund of input tax credit (ITC)** on exports or zero-rated supplies, **GST registration becomes mandatory**, even though they have no tax liability on outward supplies.

Chapter 4

Classification

4.1 Introduction to Classification

The classification of goods and services under the Goods and Services Tax (GST) regime is a fundamental aspect of the tax system. It serves as the bedrock for determining taxability, tax rates, exemptions, and compliance requirements. The process of classification involves the systematic categorization of the supplies (i.e., goods or services) based on their inherent characteristics, nature of use, and other relevant factors (and of course in line with the terms defined under the Act). This classification is crucial not only for taxation purposes but also for ensuring clarity, consistency, and uniformity in the application of tax laws across the country.

In the context of the agriculture sector, the importance of classification cannot be overstated. Agriculture is a vital sector of the Indian economy, employing a significant portion of the population and contributing significantly to the country's GDP. Given the diverse range of goods and services involved in agriculture, proper classification is essential for determining the tax implications (if any) for farmers, agribusinesses, and other stakeholders in the sector.

The classification of goods is guided by the Harmonized System of Nomenclature (HSN), an internationally accepted system for classifying goods. Each category of goods is assigned a specific HSN code, which helps in harmonizing the classification of goods across countries and facilitating international trade. Similarly, the classification of services is based on the Services Accounting Code (SAC) system (referred to as HSN Codes), which provides a standardized method for categorizing various services.

In this chapter, we will delve into the classification of goods and services under GST for the agriculture sector. We will explore the different categories of goods and services relevant to agriculture, their corresponding HSN and SAC codes, and the tax implications associated with each category. Understanding the classification of goods and services is crucial for businesses and individuals operating in the agriculture sector, as it helps in ensuring compliance with GST provisions.

4.2 Importance of Classification

The classification of goods and services under GST is of paramount importance for several reasons:

- **Tax Liability:** Correct classification determines the tax liability of the supply made (i.e. the goods or services or both). Different goods and services or their combination thereof will have separate classification based on various parameters and would attract different tax rates under GST. Accurate classification ensures that the correct tax amount is discharged / exemption is claimed.
- **Input Tax Credit (ITC):** Proper classification enables businesses to claim ITC on taxes paid on inward supplies used in the production of goods or services. This helps in avoiding double taxation/cascading effect and reducing the overall tax burden.
- **Compliance Requirements:** Proper classification ensures that businesses comply with the applicable rules in terms of record keeping and reporting in the returns/forms.
- **Uniformity and Transparency:** The HSN and SAC codes provide a uniform and transparent system for classifying goods and services, reducing ambiguity and ensuring consistency in taxation. This promotes fairness and equity in the tax system.

4.3 Background of HSN Code for Goods and Services

The Harmonized System of Nomenclature (HSN) is an internationally accepted system for classifying goods, developed and maintained by the World Customs Organization (WCO). The HSN is used by more than 200 countries, including India, for the classification of goods for customs and taxation purposes.

In India, the HSN system was adopted for the levy of GST to ensure a uniform classification of goods across the country. The HSN code consists of a six-digit code for goods, with additional digits for further classification. The first two digits represent the chapter, the next two digits represent the heading, and the last two digits represent the sub-heading. The HSN code

provides a systematic and structured way of classifying goods, making it easier to determine the applicable tax rates and compliance requirements.

The 8-digit HSN code is primarily used for export and import transactions to align with international standards, where the first two digits represent the chapter number, the next two digits represent the heading number, the following two digits comprise the sub-heading, and the last two digits are the tariff item.

For services, the Services Accounting Code (SAC) system is used for classification under GST. The SAC system is a hierarchical classification system for services, similar to the HSN code for goods. It helps in identifying the nature of services provided and determining the applicable tax rates.

The adoption of the HSN and SAC codes has brought about several benefits for businesses and the government. It has helped in harmonizing the classification of goods and services, reducing ambiguity and disputes related to classification. It has also facilitated trade by providing a common language for describing goods and services, making it easier for businesses to comply with tax laws and regulations.

The HSN and SAC codes play a crucial role in the GST regime by providing a standardized and structured way of classifying goods and services. The adoption of these codes has helped in simplifying the tax system, reducing compliance costs, and promoting transparency and uniformity in taxation.

Taxation of any goods or services or both under the GST law is dependent on their classification under the appropriate HSN and SAC Codes. Based on the said classification, taxpayers will have to refer to the appropriate rate notifications for determining the applicability of taxes/exemptions thereof.

4.4 Classification of Goods

Goods related to the agriculture sector are classified under specific HSN codes based on their characteristics and use. Some of the common categories of goods in the agriculture sector include:

- **Agricultural Produce:** Cereals, pulses, fruits, vegetables, milk, eggs, fish and other agricultural produce are primarily classified under specific HSN codes from Chapter 1 to Chapter 14 depending on the type of goods.

- **Fertilizers and Pesticides:** Fertilizers, pesticides, and other agrochemicals are primarily classified under specific HSN codes in Chapter 28, Chapter 29, Chapter 31 and similar Chapters depending on their chemical characteristics and composition.
- **Agricultural Machinery and Equipment:** Tractors, harvesters, plows, irrigation equipment, and various other machinery are classified under specific HSN codes such as Chapter 82, Chapter 84, Chapter 85, Chapter 87. Rubber and plastic agricultural equipment might fall under Chapter 39 and Chapter 40, depending on their composition, etc.
- **Processed Agricultural Produce / Intermediates:** Wide range of post-agriculture goods/ products ranging from polished grains, split pulses, processed items (viz. flour, extracted oils, roasted coffee beans, cleaned bones/skin/fur, frozen edible items), leather sheets, etc. can be considered under this category. These are primarily classified under specific HSN codes such as Chapters 9 to 24, Chapters 41 to 44, Chapters 50 to 53, etc. depending on the type of goods.

4.5 Classification of Services

Services related to the agriculture sector are classified under specific SACs based on their nature and scope. These have been defined as SAC Codes under Chapter 99. Some of the common categories of services in the agriculture sector include:

- **Agricultural Services and Support Services:** Services such as cultivation, harvesting, threshing and other related/support services to the primary activity of agriculture are classified under specific SAC Groups – 99861, 99851, 99854, etc.
- **Agricultural Land or Machinery Renting Services:** Services related to the renting of agricultural machinery and implements are primarily classified under specific SAC Groups.
- **Research, Consultancy, and Extension Services:** Services such as agricultural research, consultancy, soil testing, and agricultural extension services are classified under specific SAC Group such as 99811, 99814, 99834, etc.

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- **Transportation and Storage Services:** Services related to the transportation and storage of agricultural products are classified based on the mode of transportation and storage facilities. These are classified under specific SAC Heading such as 9965, 9967, etc.
- **Leasing of Agricultural land -** Services relating to the leasing of vacant land incidental to agricultural operations are classifiable under SAC 998619 (Support services to agriculture, forestry, fishing, and animal husbandry), whereas leasing of land for commercial or non-agricultural use is classifiable under SAC 997212 (Renting of non-residential property)
- Each category of services in the agriculture sector is assigned a specific SAC, which determines the applicable tax rate under GST.

Chapter 5

Taxability of Goods & Services

5.1 Legal Provisions on Taxability

The taxability of goods and services under GST is governed by various provisions of the Central Goods and Services Tax (CGST) Act 2017. The agriculture sector also involves goods or services or both. Let us look into the various relevant provisions under the law regarding taxability:

5.2 Charging Provision

Chapter III of the CGST Act covers various Sections related to 'Levy and Collection of Tax'. Section 9 of the CGST Act is the charging provision which reads as under:

“Section 9: Levy and Collection.

(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State “supplies” of “goods” or “services” or both, except on the supply of alcoholic liquor for human consumption and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent, as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

(2) The central tax on the supply of petroleum crude, high-speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

(3) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.

(5) The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.”

Similar charging provisions exist under the SGST/UTGST Acts. Section 5 of the IGST Act also contains similar provisions that deal with Inter-state supply of goods or services or both. For the sake of brevity, these provisions have not been reproduced here.

Based on the above charging provisions following are the important definition to be analysed:

A. Goods

Section 2(52) – “goods” means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;

Section 2(52) of the CGST Act defines goods. It includes every kind of movable property subject to specified inclusions and exclusions.

Thus, goods are first 'property', whether (i) tangible or intangible (ii) animate or inanimate (iii) incorporeal but vested indefeasible rights. Any article that is not 'property' cannot be goods, whether or not it is tangible.

Such property has to be movable i.e. the one which has the capability of being moved from one place to another. The term movable or immovable has not been defined under the GST Act. Accordingly, reference from the various other laws, including General Clauses Act may be taken for the same.

Section 3(26) of The General Clauses Act, 1897 defines immovable property to include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth.

Section 2(6) of The Registration Act, 1908 defines Immovable Property to include land, building, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth but not standing timber, growing crops nor grass.

The definition of goods specifically includes growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

Thus, from an agriculture sector perspective – agriculture land itself may not be considered as goods since the same is an immovable property. However, growing crops, trees, timber (which are agreed to be severed before or under a contract of supply), livestock animals, fishes, etc. would be covered in the definition of goods.

B. Services

Section 2(102) of the CGST Act, 2017 defines "services" to mean anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

Explanation. – For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities.

The definition of services is wide enough to include anything other than goods subject to specified inclusions and exclusions. The word “anything” appears to cover wide spectrum of activities or acts encompassing everything that is not categorised as goods and thus would fall in the residuary category of services.

Having understood the meaning of goods and services, let us understand the scope of definition of supply:

C. Supply

Relevant statutory provisions under the CGST Act, 2017:

Section 7: Scope of supply.

Schedule I: Activities to be treated as Supply even if made Without Consideration

Schedule II: Activities or transactions to be treated as supply of goods or supply of services

Schedule III: Activities or transactions which shall be treated neither as a supply of goods nor a supply of services

For any transaction to be taxed under the GST law the first and foremost condition is that such a transaction should fall under the scope of supply as defined under Section 7.

Section 7 for the purpose of this Act explicitly states that “*supply includes*”. Thus, the definition of the word ‘supply’ is inclusive in nature and it can be said that the legislature in its wisdom has intentionally crafted this definition to encompass all possible forms of supply under the GST law, ensuring that no relevant transactions are excluded.

Section 7(1)(a) of the CGST Act, 2017 explicitly defines supply as including *all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in course of furtherance of business*. While this may seem to an exhaustive list – yet the words used in the provision suggests that the definition is inclusive. The word ‘supply’ is all-encompassing, subject to exceptions carved out in the relevant provisions of the Act.

As per Section 2(31) of the CGST Act, 2017, “consideration” includes any payment (made or to be made) in money or otherwise (including monetary value of any act or forbearance) in respect of, or in response to, or for inducement of, the supply of goods or services or both, whether by the recipient of supply or by any other person but shall not include subsidy given by the Central or State Government.

In addition to the above, Schedule I of the Act specifies list of activities which are considered to be supply even if made without consideration. Conversely, there are certain activities and transactions as specified in Schedule III that shall be treated neither as a supply of goods nor a supply of services.

Further, Schedule II provides guidelines for classifying specific transactions as either a supply of goods or a supply of services. This Schedule helps in determining the appropriate classification of the specified transactions.

Summarising the above, for a transaction to be taxed under the charging provisions of the GST law, following conditions should be fulfilled:

- (i) it should be a transaction in goods or services or both;
- (ii) it should be in the form of a supply;
- (iii) it should be for a consideration (except transactions specified in Schedule I);
- (iv) it should be in the course or furtherance of business except import of services for a consideration.
- (v) it should not be covered in Schedule III.

Once the above conditions are fulfilled, the same would be covered in the charging sections of the CGST and SGST/ UTGST or IGST Act. Thus, the said transactions would be taxable based on whether the same is intra-state or inter-state supply.

Let us analyse certain transactions as to whether the same qualify as supply of goods or supply of services or none in light of the above provisions:

Transactions	Analysis
Sale of food grains, fruits, vegetables, etc.	Supply of goods – sale
Sale of pesticides, fertilisers, etc.	Supply of goods – sale

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Distribution of free seeds, organic fertilizers by Govt., NGOs, etc.	Not a supply – no consideration
Exchange of food grains and pulses between farmers	Supply of goods – barter / exchange
Provision of farm labour by agency	Supply of services
Provision of farm labour by individual for salary	Not a supply – covered under Schedule III
Renting of agricultural machinery	Supply of services
Storage of agricultural produce in warehouse / cold storage	Supply of services
Sorting / grading of agricultural produce for consideration	Supply of services
Grinding of grains / pulses or processing of agricultural produce on job work basis	Supply of services
Giving sample of harvest by farmers to traders	Not a supply – no consideration
Sale of agricultural land by farmer	Not a supply – Schedule III

In lines with the power given under Section 9 – Notification No. 1/2017-Central Tax (Rate) dated 28-6-2017 (now superseded by Notification No.09/2025-Central Tax (Rate), dated 17-9-2025) and Notification No. 11/2017-Central Tax (Rate) dated 28-6-2017 have been issued notifying the rates of GST under the CGST Act for intra-state supply of goods and intra-state supply of services respectively.

5.3 Exemption Provisions

Section 11 of the CGST Act gives power to the Government to provide exemption from tax on any supply of goods or services or both. Section 11 reads as under:

(1) 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 notification, exempt generally, either absolutely or subject to such conditions

as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.

(2) 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 in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.

(3) The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

Explanation.—For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.

Thus, where a transaction is covered under Section 9, i.e., the charging provisions, and is taxable under the GST law – the Government, vide its powers provided in Section 11, can exempt supply of goods or services, or both, from whole or part of the applicable taxes.

Such exemption can be subject to certain conditions or can be absolute i.e. without any conditions, procedures, etc.

In lines with the power given under Section 11 – Notification No. 2/2017-Central Tax (Rate) dated 28-6-2017(now superseded by Notification No.10/2025-Central Tax (Rate), dated 17-9-2025) and Notification No. 12/2017-Central Tax (Rate) dated 28-6-2017 have been issued notifying the list of supply of goods and supply of services respectively which are exempt from tax under the CGST Act.

5.4 Taxability of Goods in Agriculture Sector

Illustrative list of goods taxable (as per Notification No. 1/2017-Central Tax (Rate) dtd. 28-6-2017) (now Superseded by Notification No.09/2025-Central Tax (Rate), dated 17-9-2025) under the agriculture sector is as follows:

Schedule I – 2.5% CGST (i.e. 5% GST)

Sl. No.	Chapter/Heading/ Subheading	Description of goods
1	0101 21 00, 0101 29	Live horses
2	0202, 0203, 0204, 0205, 0206, 0207, 0208, 0209, 0210	All goods other than fresh or chilled, pre-packaged and labelled.
3	0303, 0304, 0305, 0306, 0307, 0308, 0309	All goods other than fresh or chilled, pre-packaged and labelled
4	0402	Milk and cream, concentrated or containing added sugar or other sweetening matter, including condensed milk
9	0408	Birds' eggs, not in shell, and egg yolks, fresh, dried, cooked by steaming or by boiling in water, moulded, frozen or otherwise preserved, whether or not containing added sugar or other sweetening matter.
10	0409	Natural honey, pre-packaged and labelled
22	0801	Cashew nuts, whether or not shelled or peeled, desiccated coconuts; Brazil nuts, dried, whether or not Shelled or Peeled
26	0804	Dates (soft or hard), figs, pineapples, avocados, guavas, mangoes and mangosteens, dried
28	0806	Grapes, dried, and raisins

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34	0902	Tea, whether or not flavoured [other than unprocessed green leaves of tea]
74	1302	Vegetable saps and extracts; pectic substances, pectinates and pectates; agar-agar and other mucilages and thickeners, whether or not modified, derived from vegetable products including tamarind kernel powder
76	1404 [other than 1404 90 40, 1404 90 60]	Vegetable products not elsewhere specified or included such as, Cotton linters, Soap nuts, Hard seeds, pips, hulls and nuts, of a kind used primarily for carving, Rudraksha seeds, bidi wrapper leaves(tendu), Indian katha [other than betel leaves, coconut shell unworked]
89	1512	Sunflower-seed, safflower or cotton-seed oil and fractions thereof, whether or not refined, but not chemically modified
105	1701	Cane or beet sugar and chemically pure sucrose, in solid form including refined sugar containing added flavouring or colouring matter, sugar cubes [other than jaggery of all types, khandsari sugar, rab]
120	1903	Tapioca and substitutes therefor prepared from starch, in the form of flakes, grains, pearls, siftings or in similar forms (sabudana)
126	2002	Tomatoes prepared or preserved otherwise than by vinegar or acetic acid
237	3101	All goods i.e. animal or vegetable fertilisers or organic fertilisers prepackaged and labelled
238	3102	Mineral or chemical fertilisers, nitrogenous, other than those which are clearly not to be used as fertilizers

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427	8414 20 20	Other hand pumps
430	8424	Nozzles for drip irrigation equipment or nozzles for sprinklers
431	8424	Sprinklers; drip irrigation system including laterals; mechanical sprayers
432	8432	Agricultural, horticultural or forestry machinery for soil preparation or cultivation; lawn or sports-ground rollers; Parts [8432 90]
433	8433	Harvesting or threshing machinery, including straw or fodder balers; grass or hay mowers; parts thereof
434	8436	Other agricultural, horticultural, forestry, poultry-keeping or beekeeping machinery, including germination plant fitted with mechanical or thermal equipment; poultry incubators and brooders; parts thereof

Schedule III – 9% CGST (i.e. 18% GST)

Sl. No.	Chapter/ Heading/ Subheading	Description of goods
39	3102	Mineral or chemical fertilisers, nitrogenous, which are clearly not to be used as fertilizers
40	3103	Mineral or chemical fertilisers, phosphatic, which are clearly not to be used as fertilizers
137	4011	New pneumatic tyres, of rubber (other than of a kind used on/in bicycles, cycle-rickshaws and three wheeled powered cycle rickshaws; rear tractor tyres; and of a kind used on aircraft)

5.5 Illustrative list of services taxable (as per Notification No. 11/2017-Central Tax (Rate) dated 28-6-2017) under the agriculture sector is as follows:

Sl. No.	Chapter/ Section / Heading/	Description of Services	GST Rate
5	9961	<p>Services in wholesale trade.</p> <p>Explanation- This service does not include sale or purchase of goods but includes:</p> <ul style="list-style-type: none"> - Services of commission agents, commodity brokers, and auctioneers and all other traders who negotiate wholesale commercial transactions between buyers and sellers, for a fee or commission - Services of electronic wholesale agents and brokers, - Services of whole sale auctioning houses. 	18%
9	9965	(i) Transport of goods by rail (other than services specified at item No. (iv)).	5%
	9965	<p>Services of Goods Transport Agency (GTA) in relation to transportation of goods (including used house hold goods for personal use) supplied by a GTA where,-</p> <p>(a) GTA does not exercise the</p>	5% 5% or 18%

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		option to itself pay GST on the services supplied by it; (b) GTA exercises the option to itself pay GST on services supplied by it.	
	9965	(iv) Transport of goods in containers by rail by any person other than Indian Railways.	5%
17	9973	Leasing or renting of goods	Same rate of GST as applicable on supply of like goods involving transfer of title in goods
24	9986 (Support services to agriculture, hunting, forestry, fishing, mining and utilities)	(i) Support services to agriculture, forestry, fishing, animal husbandry. Explanation. – “Support services to agriculture, forestry, fishing, animal husbandry” mean – (i) Services relating 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 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	Nil

		<p>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;</p> <p>(d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;</p> <p>(e) loading, unloading, packing, storage or warehousing of agricultural produce;</p> <p>(f) agricultural extension services;</p> <p>(g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.</p> <p>(ii) 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.</p> <p>(iii) Carrying out an intermediate production process as job work in</p>	
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		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.	
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5.6 Clarifications

- 1. Is GST applicable on warehousing of agricultural produce such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (de-husked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc.?**

Tea used for making the beverage, such as black tea, green tea, white tea is a processed product made in tea factories after carrying out several processes, such as drying, rolling, shaping, refining, oxidation, packing etc. on green leaf and is the processed output of the same. Thus, green tea leaves and not tea is the “agricultural produce” eligible for exemption available for loading, unloading, packing, storage or warehousing of agricultural produce. Same is the case with coffee obtained after processing of coffee beans.

Similarly, processing of sugarcane into jaggery changes its essential characteristics. Thus, jaggery is also not an agricultural produce.

Pulses commonly known as dal are obtained after dehusking or splitting or both. The process of de-husking or splitting is usually not carried out by farmers or at farm level but by the pulse millers. Therefore pulses (dehusked or split) are also not agricultural produce. However whole pulse grains such as whole gram, rajma etc. are covered in the definition of agricultural produce.

In view of the above, it is hereby clarified that processed products such as tea (i.e. black tea, white tea etc.), processed coffee beans or powder, pulses (de-husked or split), jaggery, processed spices, processed dry fruits, processed cashew nuts etc. fall outside the definition of agricultural produce given in Notification No. 11/2017-CT(Rate) and 12/2017-CT(Rate) and corresponding notifications issued under IGST and UGST Acts and therefore the exemption from GST is not available to their loading, packing,

warehousing etc. and that any clarification issued in the past to the contrary in the context of Service Tax or VAT/ Sales Tax is no more relevant.

[Circular No. 16/16/2017 – GST, dated 15-11-2017]

2. Fertilizers supplied for use in the manufacture of other fertilizers:

Whether simple fertilizers, such as MOP (Murate of Potash) classified under Chapter 31, and supplied for use in manufacturing of a complex fertilizer, are entitled to the concessional GST rate of 5%, as applicable in general to fertilizers (i.e. fertilizers which are cleared to be used as fertilizers).

The matter has been examined. Chapter 31 of the Customs Tariff Act, 1975 covers Fertilizers. The fertilizers are mostly used for increasing soil and land fertility, either directly, or by use in manufacturing of complex fertilizers.

In the GST regime, tax structure on fertilizers has been prescribed on the lines of pre-GST tax incidence. The wording of the GST notification is similar to the central excise notification except certain changes to meet the requirements of GST. These changes were necessitated as GST is applicable on the supply of goods while central excise duty was applicable on manufacture of goods. Accordingly, fertilizers falling under heading 3102, 3103, 3104 and 3105, other than those which are clearly not to be used as fertilizers, attract 5% GST [S. No. 182A to 182D of the First schedule to the notification No.1/2017-Central Tax (Rate) dated 28.06.2017]. However, the fertilizers items falling under the above-mentioned headings, which are clearly not to be used as fertilizer attract 18% GST [S. No. 42 to 45 of the III schedule to the notification No. 1/2017 Central Tax (Rate) (now superseded by Notification No.10/2025-Central Tax (Rate), dated 17-9-2025). The intention has been to provide concessional rate of GST to the fertilizers which are used directly as fertilizers or which are used in the manufacturing of complex fertilizers which are further used as soil or crop fertilizers. The phrase “other than clearly to be used as fertilizers” would not cover such fertilizers that are used for making complex fertilizers for use as soil or crop fertilizers.

It is clarified that the fertilizers supplied for direct use as fertilizers, or supplied for use in the manufacturing of other complex fertilizers for agricultural use (soil or crop fertilizers), will attract 5% IGST.

[Circular No. 54/28/2018 – GST, dated 09-08-2018]

3. Supply of Seed Certification Tags:

Seed testing and certification is a multi-stage process, the charges for which are collected from the seed producers at different stages. Supply of seed tags to the seed producer is nothing but an element of the one integrated supply of seed testing and certification. All the above charges, including those for issue of seed certificates/tags by the Seed Certification Agency of Tamil Nadu and Uttarakhand to the seed producing organization/ companies are collected for the composite supply of seed testing and certification, which is exempt under Notification No. 12/2017-Central Tax (Rate) Sl. No. 47 (services by Central/State Governments by way of testing/certification relating to safety of consumers and public at large, required under any law).

This clarification would apply to supply of seed tags by seed testing and certification agencies of other states also following similar seed testing and certification procedure.

However, the State Governments/Seed Certification Agencies may get the tags used in seed certification printed from other departments/ manufacturers outside. Supply of seed tags by the other departments/manufacturers to the State Government/Seed Certification Agencies is a supply of goods liable to tax. Whether such tags would be classified under Chapter 49 as tags made of paper or in Textile chapters as tags made of textile would depend upon the predominant material used in the tags.

[Circular No. 100/19/2019 – GST, dated 30-04-2019]

Chapter 6

Reverse Charge Mechanism

6.1 Introduction

The scheme of payment of tax under reverse charge mechanism would prevail under the GST Law, as is existent in specific cases of services, and in case purchases from unregistered dealers/ specific goods under the VAT law. However, in the GST law, the scope of reverse charge is expanded to include:

- (a) Goods (in addition to services) that may be notified, even if the supplier is registered;
- (b) Services (in addition to goods), for taxation on reverse charge basis where the supplier is unregistered and supplied to specified classes of recipients who are registered.

Normally, the supplier of goods and/ or services will be liable to discharge tax on the supplies effected. However, the Central Government is empowered to specify categories of supplies in respect of which the recipient of goods and/ or services will be liable to discharge the tax. Notification No. 13/2017-Central Tax (Rate) dated 28-Jun-17, Notification No. 04/2017-Central Tax (Rate) dated 28-Jun-17 and Notification No. 10/2017-Integrated Tax (Rate) dated 28-Jun-17 (all these are amended from time to time), has been issued to notify the goods and services respectively where tax has to be paid by recipient of supply under reverse charge mechanism.

Where the supplier is located in one state and the place of supply is in another state, the recipient is liable to pay IGST showing the correct place of supply. It may be different from the State in which the recipient is registered.

6.2 Definition of Reverse Charge

Section 2(98) of the CGST Act 2017 defines reverse charge which is reproduced hereunder:“(98) “reverse charge” means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act”.

Hence, by defining reverse charge under CGST Act 2017, Government has made its intention very clear to collect the taxes in case of notified goods or services from the persons who are not actually the supplier of the goods or services but are recipients of goods or service.

6.3 Levy and Collection of Tax under Reverse Charge Mechanism

The Section 9(3) of the CGST Act and Section 5(3) of the IGST Act empowers the Central or State Government by issuing notifications to specify categories of supply of goods or services or both, the tax on which shall be payable on reverse charge basis. The section 9(3) of the CGST Act and Section 5(3) of the IGST Act reads as follows:

Section 9(3) of the CGST Act 2017 :

“The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.”

Section 9(4) of the CGST Act 2017 :

(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both

Section 5(3) of the IGST Act 2017 :

“The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both”.

6.4 Whether Registration required

Notification No 02/2017(now superseded by Notification No.10/2025-Central Tax (Rate), dated 17-9-2025) exempts sale of fruits like Apples, pears and quinces, Grapes, fresh, Melons (including watermelons) and papayas (papayas), fresh, Dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh etc and also sale of fresh vegetables like Potatoes, fresh or chilled, Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled, Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled. Basically, the sale of fresh fruits and Fresh Vegetables are exempt under the GST Regime. Hence, if Agriculturist or any person who proposes to sell the fresh fruits or fresh vegetables in the market or APMC Market it will be fully exempt under GST.

Section 23 of the CGST Act 2017 envisages following persons who are not required to take registration, namely:

- (a) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;
- (b) an agriculturist, to the extent of supply of produce out of cultivation of land.

Further, Section 23(2) envisages that notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act.

Hence, by closely reading the section 23 of the CGST Act 2017, if the Agriculturist undertakes fully exempt supply of goods to the extent of supply of produce out of the cultivation of land, then the Agriculturist is not required to take registration as per Section 23 of the CGST Act 2017.

6.5 Whether Compulsory Registration is required under Section 24 of the CGST Act, when section 23 of the CGST Act provides them exemption from taking Registration?

Section 24 (iii) of the CGST Act 2017 envisages that person who were required to pay tax under reverse charge is compulsorily required to register under GST in accordance with the provisions of CGST Act 2017.

Section 24 of the Act 2017 starts with the wording **“Notwithstanding anything contained in sub-section (1) of section 22 of the CGST Act 2017, the following categories of persons shall be required to be registered under this ACT.”** One of the categories stipulated is person required to pay tax under reverse charge.

Section 22(1) of the CGST Act 2017 says that every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees. Provide that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees.

Provide that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees

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

Section 23 of the CGST Act provides that the following persons shall not be liable to take registration:

- any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;
- an agriculturist, to the extent of supply of produce out of cultivation of land.

Further, Section 23(2) begins with a non obstante clause and provides that:

“Notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act.”

In exercise of this power, the Central Government issued Notification No. 05/2017–Central Tax dated 19 June 2017, effective from 22 June 2017, whereby persons exclusively making supplies on which tax is payable by the recipient under reverse charge under section 9(3) were also exempted from registration.

However, this exemption was partially withdrawn by Notification No. 24/2024–Central Tax dated 9 October 2024, with effect from 10 October 2024, in respect of persons engaged in the supply of metal scrap falling under Chapters 72 to 81.

Hence, now the question arose as to whether an Agriculturist who is completely dealing in exempted goods is required to obtain registration vide section 24 of the CGST Act which envisages compulsory registration when the person is availing any service which is liable to RCM while dealing in exempted goods.

The words “Notwithstanding anything contained” is not defined under the in the CGST Act and hence the same needs to be interpreted in view of the Honorable Supreme Court Judgement in the case of **Chandavarkar Sita Ratna Rao Vs. Ashalata S. Guram AIR 1987 SC 117= (1986)4 SCC**

“It has been explained that when a clause begins with the word “Notwithstanding” the object is to give it overriding effect over other provisions of the Act which is equivalent to saying in spite of those provisions the particular clause would have a full operation. A clause beginning with the expression “notwithstanding anything contained in this Act or in some particular provision in the Act or in some particular Act or in any law for the

time being in force, or in any contract” is more often than not appended to a section in the beginning with a view to give the enacting part of the section in case of conflict an overriding effect over the provision of the Act or the contract mentioned in the non obstante clause. It is equivalent to saying that in spite of the provision of the Act or any other Act mentioned in the non obstante clause or any contract or document mentioned the enactment following it will have its full operation or that the provisions embraced in the non obstante clause would not be an impediment for an operation of the enactment”.

On clear reading of section 24 of the CGST Act 2017, it has been specifically devised to override section 22(1) of the CGST Act 2017 as it starts with the expression notwithstanding anything contained in sub-section (1) of section 22. Hence section 24 will have overriding effect over section 22(1) of the CGST Act 2017. However, section 24 of the CGST Act does not mention anything about section 23 as it is a specific and independent section on its own.

From the above interpretation, it can be very well concluded that legislation has chosen consciously section 24 to override the provisions of section 22(1) and has deliberately left out section 23 from section 24 as section 23 is a specific section. Hence, there can be a view that person who were specifically dealing in exempted goods are not required to take compulsory registration under section 24 of CGST Act 2017.

On a careful reading of Section 23 of the CGST Act, 2017, one possible interpretation is that agriculturists, to the extent of supplies arising from cultivation of land, and persons exclusively engaged in making exempt supplies are not required to obtain GST registration at all. Further, it can be contended that sub-section (2) of Section 23 also extends to persons covered under sub-section (1). In addition to such persons, the Government is empowered to notify other categories of persons who are not required to obtain registration even if their aggregate turnover exceeds the prescribed threshold and notwithstanding the compulsory registration provisions under Section 24 of the CGST Act, 2017.

However, an alternative can be taken that since the non-obstante clause (“notwithstanding anything contained in section 22(1) and section 24”) is expressly provided only in sub-section (2) of Section 23 and not in sub-section (1), unless the Government issues a specific notification, exemption

from registration beyond the cases of reverse charge supplies notified under Section 23(2) cannot be extended.

6.6 Time of Supply

In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earliest of the following dates, namely: —

- (a) the date of the receipt of goods; or
- (b) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
- (c) the date immediately following thirty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b) or clause (c), the time of supply shall be the date of entry in the books of account of the recipient of supply.

6.7 Documentation – Issuance of Invoice

Documents required to be issued in respect of supplies liable to tax under reverse charge mechanism Section 31(3)(f) & (g)]

- (a) If the recipient is liable to pay tax under section 9(3) or 9(4), or the corresponding provisions of the IGST Act, 2017, within the period as may be prescribed he shall issue an invoice (self –invoice) if he receives the supply of goods and/or services from an unregistered supplier. In this regard, the following may be noted:

Document to be issued by recipient	Supplier is registered	Supplier is not registered
Tax invoice	Not required	Required
Payment voucher	Required	Required

- (b) All cases of inward supplies on which tax is payable on reverse charge basis, require the recipient of supply to issue a payment voucher, at the time of making payment to the supplier, containing all the applicable particulars specified in rule 52 of the CGST Rules, 2017.

6.8 Person discharging Tax under Section 10 – Composition Dealer

The composition supplier shall be liable to make payment at the rate applicable on the supply in respect of every inward supply liable to tax under the reverse charge mechanism, regardless of the rate of tax that is applicable on him on the outward supplies affected by him. It may be noted that the value of such inward supplies would not be included in the aggregate turnover of the composition taxpayer although the liability is discharged by him on such inward supplies.

The composition taxpayer is not entitled to claim credit in respect of taxes paid by him on any of the inward supplies effected by him, including inward supplies on which he pays tax under reverse charge mechanism.

6.9 Import of Services

Import of service will be taxable in the hands of the recipient (importer): The word 'supply' includes import of a service, made for a consideration [(as defined in Section 2(31)] and whether or not in the course or furtherance of business. This implies that import of services for a consideration even for personal consumption would qualify as 'supply' and, therefore, would be liable to tax. This would not be subject to the threshold limit for registration, as tax would be payable in case of import of services on reverse charge basis, requiring the importer of service to compulsorily obtain registration in terms of section 24(iii) of the Act. Although, import for personal purposes is included in the definition of supply, entry 10(a) to Notification No. 9/2017-Integrated Tax (Rate), dated 28.6.2017, exempts import of services under entire Chapter 99 from payment of GST. However, the GST law has ensured that persons who are not engaged in any business activities will not be required to obtain registration and pay tax under reverse charge mechanism, and in turn, requires the supplier of services located outside India, to obtain registration for the OIDAR (online information and database access and retrieval) services & online gaming services.

Term "Import of Services" is defined under section 2 (11) of the IGST Act 2017, and it means –

Import of Services means the supply of any service, where,-

- (i) the supplier of service is located outside India;

- (ii) the recipient of service is located in India; and
- (iii) the place of supply of service is in India.

It is pertinent to note that specific exemptions has been provided at S. No. 57 of the Notification No 09/2017 – IGST Rate from the payment of IGST for following specific services and hence automatically exemption is eligible when such services are availed from outside India.

Services relating 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 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.

Hence, any service availed from Foreign Service provider for agricultural operations or process carried out at an agricultural farm then in that case, the Agriculturist need not pay RCM under import of services. Some common examples are:

- (a) Agriculturist comes in collaboration with foreign investor and the foreign investor is providing foreign labor in India to carry out

agricultural operations and processes at the farm so as to give a better yield from the farm.

- (b) Further, the Foreign investor may send scientists in the farm of the Agriculturist who may carry out testing of soils, studying the availability of water, the problems which the farmers may face while growing crops. Thereafter, they may suggest measures like source of procuring seeds, nature of manure to be used, manner of agriculture etc. The said services will fall under the purview of Agricultural Extension Services.

"agricultural extension" means application of scientific research and knowledge to agricultural practices through farmer education or training.

However, if any service is availed from the Foreign Service provider and service is not in relation to agricultural operations or processes carried out at farm or agricultural extension services, then all the said services will be liable to RCM under Import of Services. Some of the examples are as follows:

- (a) Foreign Investor sending the persons to India for inspection whether processes at farms are taking place in an efficient manner and the manner discussed. The Foreign Investor is holding 25% or more shares in the Agriculturist Company.
- (b) Licensing Agreement of the Plant imported from outside India wherein the Agriculturist pays to Foreign Service provider outside India.

These are some of the examples of import of services which are liable to Reverse Charge Mechanism. However, there may be various other services which the Agriculturist avails from outside India. Hence, in every case, the Agriculturist will have to analyze whether the services availed from outside India falls under the exemption clause or not, else the same will be liable to RCM.

6.10 Reverse charge mechanism applicable to goods

(Only relevant to agricultural sector)

As per Notification No. 04/2017 Central Tax (Rate) & Notification No. 04/2017 Integrated Tax (Rate), Central Government, on the recommendations of the

Reverse Charge Mechanism

Council, hereby specifies the supply of goods, the description of which is specified in column (3) of the Table below and falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table, made by the person as specified in the corresponding entry in column (4), in respect of which the central/ integrated tax shall be paid on reverse charge basis by the recipient of the intra/interstate supply of such goods as specified in the corresponding entry in column (5) and all the provisions of the said Act shall apply to such recipient, namely:—

S. No.	Tariff item, sub-heading, heading or Chapter	Description of supply of Goods	Supplier of goods	Recipient of supply
1	2	3	4	5
1	0801	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2	1404 90 10	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3	2401	Tobacco leaves	Agriculturist	Any registered person
3A	3301 24 00, 3301 25 10, 3301 25 20, 3301 25 30, 3301 25 40, 3301 25 90,	<p><i>Following essential oils other than those of citrus fruit namely: -</i></p> <p>(a) <i>Of peppermint (Mentha piperita);</i></p> <p>(b) <i>Of other mints: Spearmint oil (ex-mentha spicata), Water</i></p>	Any unregistered person	Any registered person

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			<i>mint-oil (ex-mentha aquatic), Horsemint oil (ex-mentha sylvestries), Bergament oil (ex-mentha citrate), Mentha arvensis</i>	
4	5004 to 5006	Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person
4A	5201	Raw cotton	Agriculturist	Any registered person

Analysis of the Terms used in above notification:

1. Cashew Nut not shelled or peeled:

Cambridge Dictionary defines Cashew Nut as a small tropical nut from a tropical American tree that can be eaten. It is known as Kaju in Hindi.

Meaning of not Shelled or Peeled:

The word shelled has been defined under Cambridge Dictionary as an activity to remove peas, nuts, etc. from their shells or their natural covering.

The word shelled has been defined under Merriam- Webster Dictionary as having the natural covering removed.

The word Peeled has been defined under Cambridge Dictionary as an activity to remove the skin of fruit and vegetables.

Analysis:

From the meaning of Cashew Nuts, Shelled or Peeled, it is implied that if any registered person purchases raw cashew nuts which are directly derived from the tropical tree from an Agriculturist, only then the registered person is required to pay GST under RCM.

2. Meaning of Bidi Wrapper Leaves (Tendu Leaves):

According to Indira Gandhi National Forest Academy (Dehradun), Tendu Leaves are leaves of tree species *Diospyros Melanoxyion* which are used as wrappers of tobacco to produce bidi. This tree is commonly known as "tendu," but also called "abnus" in Andhra Pradesh, "kendu" in Orissa and West Bengal, "tembru" in Gujarat, "kari" in Kerala, "tembhurni" in Maharashtra, and "bali tupra" in Tamil Nadu. Botanical name of the tree is *Diospyros melanoxylon*. Off-cuts of leaves are burned and the ash is used in tooth powder.

Diospyros Melanoxyion leaf is considered the most suitable wrapper on account of the ease with which it can be rolled and its wide availability. Leaves of many other plants like *Butea monosperma*, *Shorea robusta* etc. also find use as Bidi wrappers in different parts of the country but the texture, flavour and workability of *diospyros* leaves are unmatched. The wide-scale use of *Diospyros melanoxylon* leaves in Bidi industry is mainly based on their enormous production, agreeable flavour, flexibility, resistance to decay and capacity to retain fires.

Analysis:

From the meaning of Bidi Wrapper Leaves, it is implied that if any registered person purchases raw Bidi Wrapper Leaves from the Agriculturist for the purpose of manufacture of Bidi, only then GST under RCM needs to be paid.

3. Meaning of Tobacco Leaves:

According to Collins Dictionary, "Tobacco Leaves" means leaves of the Tobacco Plant used for production of cigarettes and tobacco.

According to Law Insider, "Tobacco Leaves" means tobacco leaf (and resulting tobacco by-products), reconstituted tobacco sheets and

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tobacco work-in-process (as of the Effective Date) used as raw materials for manufacturing tobacco.

Analysis:

From the meaning of “Tobacco Leaves”, it is implied that if a registered person purchases raw tobacco leaves from an Agriculturist for the manufacture of tobacco and cigarettes, only then GST under RCM needs to be paid.

4. Meaning of Raw Cotton:

Raw Cotton means the soft white downy fibre of these plants which are used to manufacture textiles which are extracted from cotton plants

Analysis:

From the meaning of “Raw Cotton”, if a registered person purchases raw cotton from an agriculturist, then GST under reverse charge mechanism is applicable

Reverse charge mechanism applicable to service: (Only relevant to agricultural sector)

As per Notification No. 13/2017 Central Tax (Rate), Central Goods and Services Tax Act, 2017, the Central Government on the recommendations of the Council hereby notifies that on categories of supply of services mentioned in column (2) of the Table below, supplied by a person as specified in column (3) of the said Table, the whole of central tax leviable under section 9 of the said Central Goods and Services Tax Act, shall be paid on reverse charge basis by the recipient of the such services as specified in column (4) of the said Table:—

TABLE

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
1	2	3	4
1	Supply of Services by a goods transport agency (GTA), in respect of transportation of goods	Goods Transport Agency (GTA)	(a) Any factory registered under or governed by the Factories

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	<p>by road to—</p> <p>(a) any factory registered under or governed by the Factories Act, 1948 (63 of 1948); or</p> <p>(b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or</p> <p>(c) any co-operative society established by or under 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</p>	<p>Act, 1948 (63 of 1948); or</p> <p>(b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or</p> <p>(c) any co-operative society established by or under 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</p>
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	<p>firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person:</p> <p>Provided that nothing contained in this entry shall 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, which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 and not for making a taxable supply of</p>		<p>firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person; located in the taxable territory.</p>
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Reverse Charge Mechanism

	<p>goods or services</p> <p>Provided further that nothing contained in this entry shall apply 7where,-</p> <p>i. <i>the supplier has taken registration under the CGST Act, 2017 and exercised the option to pay tax on the services of GTA in relation to transport of goods supplied by him under forward charge; and</i></p> <p>ii. <i>the supplier has issued a tax invoice to the recipient charging Central Tax at the applicable rates and has made a declaration as prescribed in Annexure III on such invoice issued by him.</i></p>		
2	<p>Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly</p> <p><i>Explanation.</i> —"Legal</p>	<p>An individual advocate including a senior advocate or firm of advocates.</p>	<p>Any business entity located in the taxable territory.</p>

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	service" means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.		
3	Services supplied by an arbitral tribunal to a business entity.	An arbitral tribunal.	Any business entity located in the taxable territory.
4	Services provided by way of sponsorship to any body corporate or partnership firm.	Any person [other than a body corporate]	Any body corporate or partnership firm located in the taxable territory.
5	Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, — 1 renting of immovable property, and 2 services specified below— (i) services by the Department of Posts and the Ministry of Railways (Indian Railways)	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory.

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	<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>		
5A	<p>Services supplied by the Central Government [excluding the Ministry of Railways (Indian Railways), State 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 (12 of 2017)</p>	<p>Central Government, State Government, Union territory or local authority</p>	<p>Any person registered under the Central Goods and Services Tax Act, 2017.</p>
5AA	<p><i>Service by way of renting of residential dwelling to a registered person.</i></p>	<p><i>Any person</i></p>	<p><i>Any registered person.</i></p>
6	<p>Services supplied by a director of a company or a body corporate to the said company or the body corporate.</p>	<p>A director of a company or a body corporate</p>	<p>The company or a body corporate located in the taxable territory.</p>
14	<p>Security services (services provided by way of supply of security personnel) provided to a registered</p>	<p>Any person other than a body corporate</p>	<p>A registered person, located in the taxable territory.</p>

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	<p>person:</p> <p>Provided that nothing contained in this entry shall 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; which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 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>		
15	<p>Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel</p>	<p>Any person, other than a body corporate who supplies the service to a body</p>	<p>Any body corporate located in the taxable territory</p>

Reverse Charge Mechanism

	is included in the consideration charged from the service recipient, provided to a body corporate.	corporate and does not issue an invoice charging central tax at the rate of 6 per cent to the service recipient	
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Now in relation to RCM on services covered under IGST Act, we shall consider only entries not covered under Notification No. 13/2017 Central Tax (Rate), Central Goods and Services Tax Act.

As per Notification No. 10/2017 Integrated Tax (Rate), the Central Government on the recommendations of the Council hereby notifies that on categories of supply of services mentioned in column (2) of the Table below, supplied by a person as specified in column (3) of the said Table, the whole of integrated tax leviable under section 5 of the said Integrated Goods and Services Tax Act, shall be paid on reverse charge basis by the recipient of the such services as specified in column (4) of the said Table:—

TABLE

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
1	2	3	4
1	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.
17	Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the	Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging	Any body corporate located in the taxable territory.

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	consideration charged from the service recipient, provided to a body corporate.	integrated tax at the rate of 12 per cent to the service recipient	
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Conclusion:

- No partial reverse charge is applicable under GST as was existed under erstwhile Service Tax Law. 100% tax will be paid by the recipient if reverse charge mechanism applies.
- While, as a general principle, persons liable to pay tax under reverse charge are required to obtain registration irrespective of turnover, this requirement must be read in conjunction with Section 23 of the CGST Act, which grants a specific exemption from registration to agriculturists (to the extent of produce from cultivation of land) and persons exclusively engaged in exempt or non-taxable outward supplies. Since Section 24 overrides only Section 22(1) and does not expressly override Section 23, a logical view can be taken that such persons continue to remain outside the registration requirement even if reverse charge liability arises; however, an alternate interpretation is also possible, and the issue remains capable of litigation.
- Payment of taxes under reverse charge cannot be made with utilization of input tax credit and has to be made in cash.
- The recipient can take the credit of tax paid on inward supplies liable to reverse charge once the payment of tax is made in cash.
- Composition suppliers being recipients of supplies on which tax is payable on reverse charge basis, will have to remit tax at the applicable rates, and not the concessional composition tax rates;
- The recipient paying tax on reverse charge basis, should issue a 'payment voucher' at the time of making payment to the supplier;
- The recipient paying tax on reverse charge basis on account of effecting inward supplies from unregistered persons, should issue an invoice in respect of the goods or services inwarded, at the time of receipt of such goods or services

Reverse Charge Mechanism

- Recipient of notified goods or services who is liable to reverse charge, is required to ensure that tax is not charged on the tax invoice issued by the supplier (marked as payable under RCM) of notified goods or services and all necessary declarations as required under the tax invoice and input tax credit provisions are complied with.

Chapter 7

Input Tax Credit and Reversal Thereof

7.1 Introduction

Input Tax Credit (ITC) has been since the inception of GST the most debatable topic. Ideally the GST Law was designed to remove the cascading effect of taxation by allowing seamless flow of credit. In fact, Article 300A of the constitution states that “No person shall be deprived of his property save by the authority of law”. **However, Hon’ble Kolkata High Court in the matter of BBA Infrastructure Ltd. – MAT No. 1099 of 2023 upheld that 'Input Tax Credit' becomes vested right only if the conditions are fulfilled.**

The provisions of availing ITC in respect to Agricultural Products are basically governed by the following sections and rules:

Sections	Rules
16. Eligibility and conditions for taking input tax credit	36. Documentary requirements and conditions for claiming input tax credit
17. Apportionment of credit and blocked credits	37. Reversal of input tax credit in the case of non-payment of consideration
18. Availability of credit in special circumstances	37A. Reversal of input tax credit in the case of non-payment of tax by the supplier and re-availment thereof.
19. Taking input tax credit in respect of inputs and capital goods sent for job work	39. Procedure for distribution of input tax credit by Input Service Distributor
	40. Manner of claiming credit in special circumstances
	42. Manner of determination of input tax credit in respect of inputs or input services and reversal thereof

Input Tax Credit and Reversal Thereof

	43. Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases
	44. Manner of reversal of credit under special circumstances 1 Inserted vide Notification No. 26/2022 - CT dated 26.12.2022. Ch 6: Input Tax Credit Sec. 16-21 / Rule 36-45 CGST Act 317
	45. Conditions and restrictions in respect of inputs and capital goods sent to the job worker.

7.2 Eligibility of Input Tax Credit (ITC)

ITC is available to the registered person of taxes paid on Inputs, Input Services & Capital Goods which forms part of his purchase/inward supply and are used in the course or furtherance of his business. [Section 16 (1)]. Hence, ITC will also include taxes paid on import of goods and services, taxes paid under reverse charge mechanism (RCM) but do not include any tax paid under the “composition levy” under section 10 of the CGST Act.

The terms ‘goods’ and ‘services’ have been defined vide sections 2(52) and 2(102) of the CGST Act respectively as under:

Goods means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

Services means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination to another form, currency or denomination for which a separate consideration is charged.

[Explanation: For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities;]

Inputs means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business; [Section 2 (59)].

Capital Goods means goods, the value of which is capitalised in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business; [Section 2 (19)]

Once something is identified to be classified as goods, one needs to understand whether the same would be classifiable as inputs or capital goods. The delineation between inputs and capital goods is whether the same has been capitalized in the books of the accounts. If the value of goods has been capitalized in the books of account, these would be considered as capital goods. If the value of goods has not been capitalized, they would be classifiable as inputs. Of course, the same should be used or intended to be used in the course or furtherance of business.

Further to the above, once any supply is identified to be a service, then the same would be classifiable only as input services from the perspective of the recipient even if the cost of such input service is capitalized. Section 2(60) of the CGST Act defines input services as under:

Input Service means any service used or intended to be used by a supplier in the course or furtherance of business. [Section 2 (60)]

The expression “intended for the purpose of furtherance of his business” is having a very wide scope. The purpose shall be for the purpose of the business, that is to say, the expenditure incurred shall be for carrying on the business and the assessee shall incur it in his capacity as a person carrying on the business. This becomes a very important test in agricultural sector one has to see that the Input Tax Credit is available only when it is used for furtherance of business and for effecting taxable supply.

It is important to observe the words ‘input tax charged on any supply of goods or services or both to him and ‘in the course or furtherance of his business’ as appearing in section 16(1). The ‘him’ and ‘his’ refers to the registered (distinct) taxable person claiming input tax credit in question and not the legal entity. So, input tax paid in a State must not be in relation to the business of any other distinct taxable person in another State, albeit belonging to the same legal entity.

Documentary evidence required for claiming input tax credit.

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

Input Tax Credit and Reversal Thereof

- (a) an invoice issued by the supplier of goods or services or both in accordance with the provisions of section 31; If e-invoice is applicable then the same should be in possession;
- (b) an invoice i.e. self-invoice, when goods or services are procured from a specified category of service provided, wherein tax liability have to be discharged under RCM and who are un-registered persons, as provided under section 9 (3) of the CGST Act, 2017, subject to the payment of tax;
- (c) a debit note issued by a supplier in accordance with the provisions of section 34;
- (d) a bill of entry or any similar document prescribed under the Customs Act, 1962 or rules made thereunder for the assessment of integrated tax on imports;
- (e) Input Service Distributor invoice or Input Service Distributor credit note or any document issued by an Input Service Distributor in accordance with the provisions of sub-rule (1) of rule 54.

Moreover, as ITC can be availed only when the invoice/Debit Note is reflecting in GSTR2B and the same is not restricted in the said statement. [Rule 36(4)]

Conditions or entitlement to avail the ITC are:

- (i) Possession of Tax Invoice/Debit Notes issued by Supplier;
- (ii) Details of supply should have been furnished in GSTR-1 by the supplier and communicated to recipient in Form GSTR-2B;
- (iii) Received the Goods or Services or both;

Benefit of deeming provision to this section is also available where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise. Also where the services are provided by the supplier to any person on the direction of and on account of such registered person. Hence receipt of goods is an important condition to claim Input Tax Credit.

- (iv) Details of ITC in respect of such supply is communicated in Form GSTR-2B, should not be restricted under section 38. On the basis of

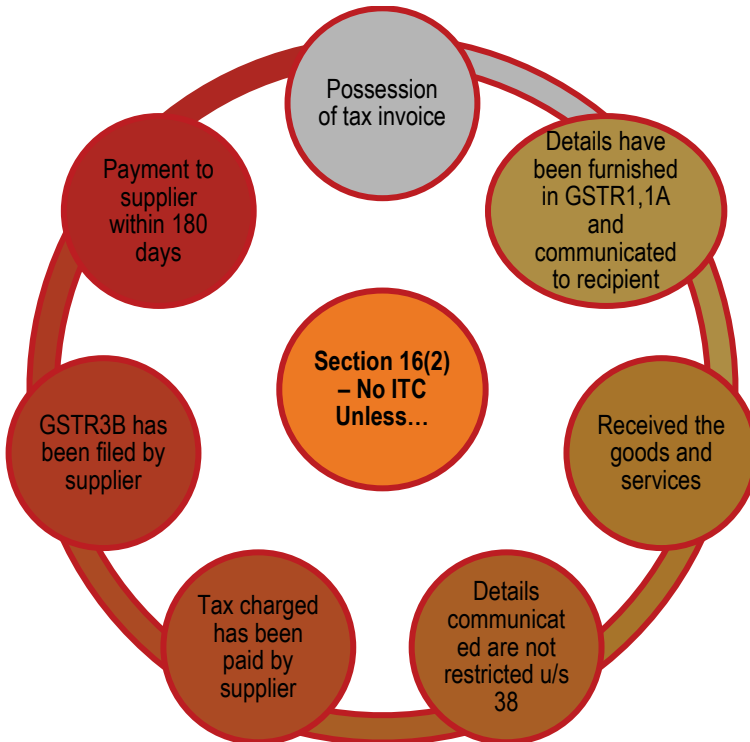
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GSTR-2B, an auto generated statement will be generated pursuant to Section 38, which will consist the details of -

- (a) Details of inward supplies in respect of which ITC may be available to recipient;
- (b) Details of supplies in respect of which such credit cannot be availed, whether wholly or partly, by the recipient, on account of the details of the said supplies being furnished in GSTR-1, GSTR-1A;
 - Prescribed the timeline with which the ITC cannot be availed after the taking of registration by the vendor;
 - If Vendor has defaulted in payment of tax and where such default has continued for such period as may be prescribed;
 - Details of output tax liability submitted in Form GSTR-1, GSTR1A exceeds the output tax liability discharged in Form GSTR-3B during the said period, by such limit as may be prescribed;
 - Vendor during such period as may be prescribed, has availed ITC of an amount that exceeds the credit than can be availed by him, by such limit as may be prescribed.
 - Vendor had defaulted in discharging his tax liability subject to such conditions and restriction as may be prescribed;
 - Such other class of persons as may be prescribed.
- (v) Tax charged in respect of such supplies has been actually paid to the Government Exchequer, either in Cash or through utilization of ITC admissible in respect of such supply by the supplier. It is further provided that when a person avails the ITC on the basis of self-assessed return furnished by him pursuant to Section 39, such ITC will be credited to his Electronic Credit Ledger. If the supplier has not paid the tax on such supply of goods or services, person has to reverse the ITC along with applicable interest pursuant to Section 50. However, person is eligible to re-avail the ITC once the supplier pays the taxes on such supplies of goods or services;
- (vi) Return in Form GSTR3B has to be furnished;

Input Tax Credit and Reversal Thereof

- (vii) Payment to supplier has been done within a period of 180 days from the date of receipt of invoice. However, person would be eligible to re-avail the ITC on payment of amount towards the value of supply of goods or services or both along with tax payable thereon;
- (viii) If the goods are received in instalments, then ITC is eligible on receipt of last instalment;
- (ix) Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income tax Act, 1961 (43 of 1961), the input tax credit on the said tax component shall not be allowed;
- (x) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the 30th November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.



7.3 Apportionment of Credits:[Section 17 and Rule 42 & 43]

ITC is eligible, if it is used or intended to be used in the course or furtherance of business. If such ITC is used partly for non-business purpose, the amount of credit shall be restricted to so much of the input tax as is attributable to the purpose of his business. Similarly, if ITC is used partly for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, then credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero rated supplies.

In agricultural sector, it is common that say in case of trader of agricultural products, one good may be taxable and other exempt. Similarly say in case of a manufacturer using agricultural products as raw material, one product manufactured may be exempt and other taxable. For example, in case of rice milling, rice bran is taxable but rice if packed above 25 kgs is exempt. Here ITC in full will not be allowed and provisions of Rule 42 and 43 will come into play read with Sec. 17.

Sections	Particulars	Remarks
Section 17(1)	Supply is used partly for business & other purpose i.e. non business purpose	ITC would not be eligible to the extent attributable to the purpose of other purpose i.e. non business purpose.
Section 17(2)	Supplies used partly for effecting taxable supplies (includes zero-rated) and partly for exempt supply.	ITC would not be eligible to the extent attributable to the exempt supply.

Value of exempt supplies will include –

- (a) Supplies on which the recipient is liable to pay tax under RCM;
- (b) Transaction in Securities. Meaning of Securities to be construed from S. 2 (h) of the Securities Contracts (Regulation) Act, 1956. It will be valued at 1% of the sales value of such security [Explanation 2(b) of chapter V of CGST Rules];
- (c) Sale of Land and Building. It will be valued at same value which is adopted for the purpose of levy of stamp duty. It will not cover under-

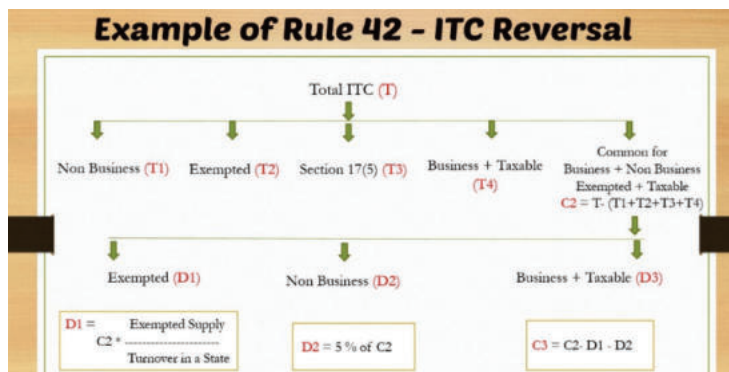
construction property as provided under Schedule II at Paragraph 5 (b);

- (d) Value of activities or transactions specified in Schedule III except Sale of Land and Building;
- (e) Supplies which attracts Nil rate of tax;
- (f) Supplies which are wholly exempt from tax u/s. 11 of CGST Act or u/s. 6 of IGST Act; and
- (g) Supplies on which no tax is leviable i.e. non-taxable supplies.

Value of exempt supply shall exclude:

- (a) the value of services by way of accepting deposits, extending loans or advances in so far as the consideration is represented by way of interest or discount, except in case of a banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances;
- (b) the value of supply of services by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India; and
- (c) value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule.
- (d) the value of supply of Duty Credit Scrips specified in the notification of the Government of India, Ministry of Finance, Department of Revenue No. 35/2017-Central Tax (Rate), dated 13/10/2017.

The detailed mode of calculation has been prescribed in rule 42 of CGST Rules. Initially, input tax used exclusively for taxable or exempt supplies are segregated. Then, for common input tax, eligible credit is calculated on ratio basis. Non-eligible ITC is reversed. Final calculations are made at end of financial year of eligible ITC before the due date for filing the return for the month of September following the end of the financial year, on same basis.



Let us consider a rice mill unit. In case of rice miller, the rice above 25 kg packing is exempt. However, rice upto 25 kg packing is taxable as well as rice bran is taxable. Let us see reversal calculations in such cases.

Sl. No	Particulars	Reference	CGST	SGST/UTGST	IGST
1	Total input tax on inputs and input services for the tax period May 2023	T	1,00,000	1,00,000	50,000
	Out of the total input tax (T):				
2	Input tax used exclusively for non-business purposes (Note 1)	T1	10,000	10,000	5,000
3	Input tax used exclusively for effecting exempt supplies (e.g., packing material for	T2	10,000	10,000	5,000

Input Tax Credit and Reversal Thereof

	packing 50 kg exempt rice) (Note 1)				
4	Input tax ineligible under Section 17(5) (e.g., motor car/building material etc.) (Note 1)	T3	5,000	5,000	2,500
	Total Ineligible		25,000	25,000	12,500
	ITC credited to Electronic Credit Ledger (Note 1)	$C1 = T - (T1 + T2 + T3)$	75,000	75,000	37,500
	Input tax credit used exclusively for taxable supplies (e.g., packing material for packing 20 kg taxable rice) (including zero rated supplies)	T4	50,000	50,000	25,000
	Common credit	$C2 = C1 - T4$	25,000	25,000	12,500
	Aggregate value of exempt supplies for the tax period	E	25,00,000	25,00,000	25,00,000

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May 2023 (e.g., 50 kg packing exempt rice) (Note 2 and 3)					
Total Turnover of the registered person for the tax period May 2023 (Note 2)	F	1,00,00,00 0	1,00,00,00 0	1,00,00,00 0	1,00,00,00 0
Credit attributable to exempt supplies	$D1 = (E/F) * C2$	6,250	6,250	6,250	3,125
Net eligible common credit	$C3 = C2 - (D1 + D2)$	18,750	18,750	18,750	9,375
Total credit eligible (Exclusive + Common)	$G = T4 + C3$	68,750	68,750	68,750	34,375

Note 1: If the registered person does not have any turnover for May 2023, then the value of Exempt Supplies (E) and Total Turnover (F) shall be considered for the last tax period for which such details are available.

Note 2: Aggregate value excludes taxes.

- (xi) Note 3: The registered person is expected to make such computation for each tax period and reverse the same in the periodic returns being filed by such registered person. However, on completion of the financial year, input tax credit shall be determined accurately based on actuals, in the same manner as provided in Rule 42. A true up is required to be done on an annual basis (between the amounts reversed for each tax period during the year and the amount

Input Tax Credit and Reversal Thereof

determined at the end of the financial year) and any excess credit availed needs to be reversed along with interest in case the said has been utilized while short credit, if any, needs to be reclaimed by the 30th November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.

From the above illustration, it is clear that:

- Credit will first need to be identified where it is 'wholly' not allowed (T1, T2 and T3);
- Remainder is credit 'wholly' allowable PLUS 'common credits' (C1);
- Out of this, credit 'wholly' allowable is identified and allowed (T4);
- From the revised remainder i.e., common credit (C2) is re-allocated to:
 - Specially 'exempt supply' (D1) which is a pro-rata of the revised remainder of credit in the ratio of specially 'exempt supply' by 'total turnover in the State';
 - Non-business end-use (D2), which is a allocation of 5% of C2;
 - Adjusted remainder will be 'allowable' (C3).

The above computation is required to be carried out monthly and then again at the end of the financial year (not later than Sept following end of year). No variation is expected in T1, T2 and T3 in this year-end review. Variation in D1 and D2 are relevant and upward or downward revision is permitted. In case of upward revision (aggregate of monthly calculation is less than amount arrived by annual calculation), the additional amount that ought to be reversed along with interest under section 50(1) from April to September (or earlier when reversals are finally revised) after end of financial year to which such credit relates. In case of downward revision (aggregate of monthly calculation is greater than amount arrived by annual calculation), the excess reversal may be reclaimed as credit in any month (when reversals are finally revised) but not later than returns for the month of September following end of financial year to which such credit relates.

7.4 Reversal of credit based on ‘condition of end-use’ – capital goods: Rule 43

Input tax credit in respect of capital goods is also fettered with the same conditions (refer discussion on ‘vesting conditions’ for input tax credit under section 16(2) (above) which comprises of precedent conditions or subsequent conditions). Registered person continue to be responsible for meeting all requirements to correctly claim input tax credit even on capital goods as per section 155. Now, unlike inputs and input services, end-use of capital goods is more objective because output for each month can be determined.

When capital goods are NOT USED in making taxable outward supplies, then they too come in for review of credit. Capital goods ‘used’ do not get ‘used up’. Hence, the computations applicable to input and input services cannot be applied to capital goods.

Description of outward supplies	Credit on capital goods	End-use ‘swap’
Non-business	Not credited to ECL; ‘ineligible’ capital goods	Credit on ‘all’ capital goods deemed to accrue on ‘5% per quarter’ (or part). Swap of end use from ineligible to eligible and vice versa will be available to the extent accrued as per rate above.
Specially ‘exempt supplies’*		
Taxable	Credited to ECL; ‘eligible’ capital goods	
Zero-rated		
End-use not identified exclusive to either of above	Credited to ECL (A) and subject to adjustment under rule 43; ‘common’ capital goods	

*interpretation of specially ‘exempt supplies’ is same for rule 42 and rule 43.

In case of agricultural sector Supplies, full credit of ‘eligible’ and ‘common’ capital goods will be taken in the month in which they are received by the registered person.

- (a) Credit related to capital goods exclusively used to make taxable outward supplies including zero-rated is ‘wholly’ available;

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- (b) Credit related to capital goods exclusively used to make non-business and special 'exempt supplies' are 'wholly' NOT available;
- (c) Credit related to capital goods that are not identified exclusively to either of the above will be taken as credit subject to treatment under this rule (TC);
- (d) Credit subject to treatment will be divided by 60 for each month (TM) of the deemed useful file of 5 years being 60 months (rule 43(1)(c) is prescribed useful life for all capital goods);
- (e) Each such capital goods will have its own TM for a given month. Now monthly TM of all such capital goods must be aggregated (TR);
- (f) Credit liable to reversal is computed on the ratio of 'specially exempt supplies' by 'total turnover in the State' for the registered person (TE); and
- (g) Amount so arrived will need to be reversed. Interest will be applicable because total capital goods credit (A) would have been taken in the month of receipt of capital goods (and credited to ECL) and now a 'new TE' would be computed each month based on the ratio.

Illustration (Rule 43): Manner of determination of reversal amount on capital goods which were used partly for business purposes and partly for taxable supplies including zero rated supplies. [Rule 43]

Sl. No.	Particulars	Reference	IGST
1	ITC on capital goods used exclusively for non-business purposes (Note 1)	T1	10,000
	Total		20,000
3	ITC on capital goods used exclusively for taxable supplies (including zero-rated supplies) (Note 1)	T3	50,000
4	ITC on capital goods (other than T1, T2 and T3) (Annexure A)	A= B+F	3,90,000
5	ITC on capital goods whose residual life remain in beginning of tax period (Annexure A)	Tr	6,500

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6	Aggregate value of exempt supplies for the tax period May 2020 (Note 2 and 3)	E	25,00,000
7	Total Turnover of the registered person for the tax period May 2020 (Note 2)	F	1,00,00,000
9	Credit attributable to exempt supplies	$T_e = (E/F) * T_r$	1,625

Note 1: T1, T2 and T3 should be declared at summary level in Form GSTR-3B. T3 (being ITC on capital goods used for taxable supplies) and A (being common credit in respect of capital goods) shall only be credited to the electronic credit ledger.

Note 2: If the registered person does not have any turnover for May 2020, then the value of E and F shall be considered for the last tax period for which such details are available.

Note 3: Aggregate value excludes taxes.

ITC on capital goods whose residual life is remaining.

Sl. No	Particulars	Reference	Amount
For May 2020			
1	Inward supply value of Machinery X	A	12,50,000
	IGST @ 12%	B	1,50,000
	Invoice Value		14,00,000
	Date of inward supply		12 April 2020
	Life of the capital goods (in months) – for GST purpose is 5 years	C	60
	ITC attributable for 1 month	$T_m1 = b/c$	2,500
2	Inward supply value of Machinery Y	E	20,00,000
	IGST @ 12%	F	2,40,000
	Invoice Value		22,40,000
	Date of inward supply		21 May 2018

Input Tax Credit and Reversal Thereof

	Life of the capital goods (in months) – for GST purpose is 5 years	G	60
	ITC attributable for May 2020 (1 month)	$Tm2=f/g$	4,000
	Aggregate of ITC on common credits	$Tt=Tm1+Tm2$	6,500

Note: It is important to note that unlike Rule 42 which mandates determination of the actual amount of reversal on the completion of the financial year, Rule 43 does not prescribe any re-computation at the end of the financial year. This could be presumed to be due to the fact that reversal of input tax credits under Rule 43 is based on number of tax periods unlike that of Rule 42. But considering the fact that reversal of common credits under Rule 43 is also based on the proportion of turnover of exempt supplies to the total turnover in the State for that tax period, due consideration should be given to the fact that any shortage of ITC on account of any reason cannot be subsequently availed under Rule 43. On the other hand, any excess credit availed would promptly be subject to scrutiny by the proper officer.

7.5 Blocked Credit: Section 17(5)

This section commences with a non-obstante clause “notwithstanding anything contained in sub section (1) of section 16 and sub section (1) of section 18, input tax credit shall not be available in respect of the following, namely: -”. It clearly means that the provision of section 17(5) overrides sections 16(1) and 18(1). Further, section 17(5) uses the expression “in respect of” which connotes a broader meaning.

Input tax credit shall not be available in respect of the following, namely: -

- (a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:-
 - (A) further supply of such motor vehicles; or
 - (B) transportation of passengers; or
 - (C) imparting training on driving such motor vehicles;

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- (aa) vessels and aircraft except when they are used—
- i. for making the following taxable supplies, namely:-
 - A. further supply of such vessels or aircraft; or
 - B. transportation of passengers; or
 - C. imparting training on navigating such vessels; or
 - D. imparting training on flying such aircraft;
 - ii. for transportation of goods;
- (ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):
- Provided** that the input tax credit in respect of such services shall be available-
- i. where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;
 - ii. where received by a taxable person engaged-
 - I. in the manufacture of such motor vehicles, vessels or aircraft; or
 - II. in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;
- (b) the following supply of goods or services or both-
- (i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa), life insurance and health insurance.
 - (ii) membership of a club, health and fitness centre; and
 - (iii) travel benefits extended to employees on vacation such as leave or home travel concession

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provided that the input tax credit shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.

- (c) works contract services when supplied for construction of an immovable property (other than plant and machinery)
- (d) goods or services or both received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.
- (e) goods or services or both on which tax has been paid under section 10 (composition scheme);
- (f) goods or services or both received by a non-resident taxable person except on goods imported by him;
- (fa) goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013
- (g) goods or services or both used for personal consumption;
- (h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples;

Meaning of Term “Lost”

When goods are missing, not traceable or inexplicable absence, they are treated as lost. Word ‘lost’ is not to be confused with ‘loss’. Explicable loss is in-process loss which may be normal loss. Explicable losses do not attract reversal of credit under this clause (h) because the ‘credit condition’ accepted and agreed at the time of taking credit was that the said goods WILL BE USED. Lost, on the other hand, is a clear indication due to the inexplicable nature of this situation that the said goods ARE NOT USED as accepted and agreed. As such, ‘lost’ attracts reversal of credit but not ‘loss’.

Meaning of Term “Stolen”

When any goods are found to be less upon physical verification, it may be considered as stolen. This will require reversal of any input tax credit taken earlier.

Meaning of Term “Destroyed”

Any goods which get destructed due to any natural calamity like flood, earthquake or a manmade event like fire, water leakage etc. However, if the goods reach to a certain level of destruction that it cannot be possibly reversed, then this clause gets attracted.

Meaning of Term “Written off”

If any goods are having a certain value as per the books of accounts but are completely written off due to any reason, this clause will get attracted. This can include goods getting written off due to obsolescence or lapse of time.

Meaning of Term “Disposed of by way of gift or free samples”

Disposed is akin to discard or get-rid-off or clear away and implies articles that are ‘unfit for supply’. ‘By way of’ is an expression that refers to ‘the way of doing something’. Hence, ‘disposed off by way of’ means ‘gift or free sample’ are the ‘ways’ in which goods that are ‘unfit’ are given away.

- (i) any tax paid in accordance with the provisions of section 74 in respect of any period upto Financial Year 2023-24.

7.6 ITC when the capital goods are sold [Section 18(6)]:

In case of supply of capital goods or plant and machinery, on which input tax credit has been taken, the registered person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery determined under section 15, whichever is higher.

The amount of credit in the case of supply of capital goods or plant and machinery, for the purposes of sub-section (6) of section 18, shall be calculated by reducing the input tax on the said goods at the rate of five

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percentage points for every quarter or part thereof from the date of the issue of the invoice for such goods.

Sl. No	Particulars	Date	ITC
1	Tractor Purchased	01-04-2020	50,000
	Tractor Sold	01-10-2023	
	No. of quarters used – A	14	
	% of ITC to be reversed – B	5%	
	Total ITC to be reversed – C 50,000 * 70% (A x B)		35,000

7.7 ITC on Job work

This is governed by Section 19 of the Act. Two types of RP are involved – Principal who is the one who sends goods for job work and Job-worker who provides the services of job-work. ITC is available to both of them. ITC of inputs to the principal and ITC of goods & services consumed in providing the service of Job-work to the Job worker. Details of Goods sent and received back needs to be filed in Form ITC-04 by the Manufacturer of the Principal. **Thus, if a manufacturer of Fertilizer sends the inputs for some chemical process on the fertilizer, then the ITC of raw material is available to the manufacturer which is sent to the Job worker and the ITC of any goods & services consumed is available to the job worker.**

7.8 Impact Analysis

We all know as per Sec. 2(7) “agriculturist” means an individual or a Hindu Undivided Family who undertakes cultivation of land– (a) by own labour, or (b) by the labour of family, or (c) by servants on wages payable in cash or kind or by hired labour under personal supervision or the personal supervision of any member of the family.

Further as per Section 23, an agriculturist, to the extent of supply of produce out of cultivation of land is not liable for registration. Hence it is amply clear that an individual or HUF agriculturist who undertake cultivation as provided above is not liable for registration under GST. Majority of farmers in India are small farmers doing farming in individual or HUF capacity. They will thus not be covered under GST.

If an agriculturist undertakes supplies which are not linked to the cultivation of land, he will fall within the provisions of sections 22 and may have to take registration in respect of such supplies. It is important to consider the nature of activities undertaken by the agriculturist. If the process deviates from 'cultivation' it will travel outside the scope of this exclusion from registration

It should be noted that the exclusion from the requirement to be registered does not result in non-collection of tax on agricultural produce. In this case as per Section 9(3) of the CGST Act & as per Notification No. 4/2017 Central Tax (Rate) on supply of certain goods by agriculturist, the recipient has to pay tax under Reverse Charge.

The exemption from registration is dependent on status of the supplier and not based on the commodity involved. Person other Individual or HUF does not enjoy this exemption and will be liable for registration as well as payment of tax if the agricultural produce grown by them is not exempt from tax. In this case one will have to check if goods produced by them fall under exemption as per Notification No. 2/2017 Central Tax (Rate) (now superseded by Notification No.10/2025-Central Tax (Rate), dated 17-9-2025). If no, then they will have to pay tax on forward charge. Here availability of ITC will be there subject to fulfilment of conditions under Section 16 and subject to restrictions under Section 17 read with rules made thereunder as discussed above in this chapter.

Many services applicable to agricultural sector are covered under exemption notification No. 12/2017 Central Tax (Rate) are exempt from tax. Major Sr. No. of entries in relation to services that enjoy exemption are entry no. 10A, 20, 21, 54, 55 etc. Here some exemptions are provided to services in relation to 'agricultural produce'. It is pertinent to note that agricultural produce is defined under this notification means any produce out of 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, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market. Hence to determine whether the goods are agricultural produce or not, essential characteristic is to be looked into. In case of goods, it is dependent on whether it is produced by agriculturist or not.

8.1 Introduction

India is one of the largest agricultural product exporters in the world. In FY 2024-25, the value of India's agricultural and allied exports reached approximately US \$ 51.2 – 51.9 billion, marking a healthy growth compared to previous years and setting a new high for the sector.

Rice continues to be the largest single export item, with exports in FY 24-25 alone valued at around US \$ 12.47 billion; other significant segments such as coffee also registered strong performances, with exports rising to US \$ 1.81 billion.

The largest importers of India's agricultural products are USA, Bangladesh, China, UAE, Indonesia, Vitenam, Saudi Arabia, Iran, Nepal and Malaysia.

Increasing exports ranks among the highest priorities of any government for stimulating economic growth. However, the most important factor in business is the demand for the goods with a competitive price tag. This is possible when the local taxes are not added to the cost of such goods and incentivize export transactions by creating conducive environment by announcing drawbacks and tax claims.

8.2 Refund under Agricultural Sector

Refund is governed by Chapter XI of the CGST Act which covers Section 54 to Section 58 and governing rules are provided in Chapter X of CGST Rules which covers Rule 89 to Rule 97A.

Timely refund mechanism is essential in tax administration, as it facilitates trade through release of blocked funds for working capital, expansion and modernization of existing business. The provisions pertaining to refund contained in the GST law aim to streamline and standardise the refund procedures under GST regime.

8.3 Circumstances under which refund claims can be filed:

A claim for refund may arise on account of-

1. Export of Goods or services;
2. Supplies to SEZs units and developers;
3. Deemed Export supplies;
4. Refund of taxes on purchase made by UN or embassies etc.;
5. Refund arising on account of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court;
6. Refund of accumulated Input Tax Credit on account of inverted duty structure;
7. Finalization of provisional assessment;
8. Refund of pre-deposit;
9. Excess payment due to mistake;
10. Refunds to International tourists of GST paid on goods in India and carried abroad at the time of their departure from India
11. Refund on account of issuance of refund vouchers for taxes paid on advances against which goods or services have not been supplied
12. Refund of CGST & SGST paid by treating the supply as intra-State supply which is subsequently held as inter-State supply and vice versa.

8.4 Relevant Definitions under the GST Law:

“Refund” includes refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilised input tax credit as provided under sub-section (3). [Explanation 1 to Section 54]

“export of goods” with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India. [Section 2(5) of IGST Act, 2017]

"export of services" means the supply of any service when,—

- (i) the supplier of service is located in India;
- (ii) the recipient of service is located outside India;
- (iii) the place of supply of service is outside India;
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India; and
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;

"India" means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 and the air space above its territory and territorial waters. [Section 2 (56) of CGST Act, 2017]

8.5 Time limit for filing refund claim:

The GST law requires that every claim for refund is to be filed within 2 years from the relevant date. However, the time limit of two years does not apply to the claim application filed for the reason of excess balance in the electronic cash ledger. It is to be noted that if the refund amount is less than INR 1,000/- the one cannot file the refund application.

Relevant date: [Explanation: 2 of Section 54 of CGST Act, 2017]

It means-

- (a) in the case of **goods exported out of India** where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods,-
 - (i) if the goods are **exported by sea or air**, the date on which the ship or the aircraft in which such goods are loaded, **leaves India**; or
 - (ii) if the goods are **exported by land**, the date on which such goods **pass the frontier**; or

- (iii) if the goods are **exported by post**, the **date of dispatch** of goods by the Post Office concerned to a place outside India;
- (b) in the case of supply of goods regarded as **deemed exports** where a refund of tax paid is available in respect of the goods, the date on which the **return** relating to such deemed exports **is furnished**;
- (ba) in case of zero-rated supply of goods or services or both to a **Special Economic Zone** developer or a Special Economic Zone unit where a refund of tax paid is available in respect of such supplies themselves, or as the case may be, the inputs or input services used in such supplies, the due date for **furnishing of return** under section 39 in respect of such supplies;]
- (c) in the case of **services exported out of India** where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of-
 - (i) receipt of payment in convertible foreign exchange [or in Indian rupees wherever permitted by the Reserve Bank of India], where the supply of services had been completed prior to the receipt of such payment; or
 - (ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice
- (d) in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;
- (e) in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;
- (f) in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;
- (g) in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and
- (h) in any other case, the date of payment of tax.

8.6 Documents required for claiming Refund:

1. Purchase register – Annexure B –

Sr. No.	GSTIN of the Supplier	Name of the Supplier	Invoice Details			Category of Input supplies		Taxable Value	Integrated Tax	Central Tax	State Tax	Eligible for ITC		2A Matching
			Invoice No.	Date	Gross Value	Inputs/Input Services/capital goods	HCM/SAC					Amount of Eligible ITC	Yes/No/Partially	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

2. Sales Register – Statement 03

Sr. No.	Document Details					Goods/ Services (C/S)	Shipping bill/ Bill of export/ Endorsed Invoice no.				EGM Details	
	Type of Document	No.	Date: (dd-mm-yyyy)	Invoice No.	Value		Part Code	No.	Date: (dd-mm-yyyy)	FOB Value	Ref No.	Date: (dd-mm-yyyy)

3. Various declaration needs to be attached with Refund claim -

Sl. No.	Type of Refund	Declaration / Statement / Undertaking / Certificates to be filled online	Supporting documents to be additionally uploaded
1	Refund of unutilized ITC on account of exports without payment of tax	Declaration under second and third proviso to section 54(3)	[***]
		<u>3</u> [Undertaking in relation to section 16(2)(c)]	Statement of invoices (Annexure-B)
		Statement 3 under rule 89(2)(b) and rule 89(2)(c)	[***]
		Statement 3A under rule 89(4)	BRC/FIRC in case of export of services and shipping bill (only in case of exports made

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			through non-EDI ports) in case of goods
2	Refund of tax paid on export of services made with payment of tax	Declaration under second and third proviso to section 54(3)	BRC/FIRC/any other document indicating the receipt of sale proceeds of services
		<i>Undertaking in relation to section 16(2)(c)</i>	[***]
		Statement 2 under rule 89(2)(c)	Statement of invoices (Annexure-B)
			[***]
			Self-declaration regarding non-prosecution under sub-rule (1) of rule 91 of the CGST Rules for availing provisional refund
3	Refund of unutilized ITC on account of Supplies made to SEZ units/developer without payment of tax	Declaration under third proviso to section 54(3)	[***]
		Statement 5 under rule 89(2)(d) and rule 89(2)(e)	Statement of invoices (Annexure-B)
		Statement 5A under rule 89(4)	[***]
		Declaration under rule 89(2)(f)	Endorsement(s) from the specified officer of the SEZ regarding receipt of goods/services for authorized operations under second proviso to rule 89(1)

		<i>Undertaking in relation to section 16(2)(c)</i>	
		Self-declaration under rule 89(2)(1) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	
4	Refund of tax paid on supplies made to SEZ units/developer with payment of tax	Declaration under second and third proviso to section 54(3)	Endorsement(s) from the specified officer of the SEZ regarding receipt of goods/services for authorized operations under second proviso to rule 89(1)
		Declaration under rule 89(2)(f)	[***]
		Statement 4 under rule 89(2)(d) and rule 89(2)(e)	Self-declaration regarding non-prosecution under sub-rule (1) of rule 91 of the CGST Rules for availing provisional refund
		<i>Undertaking in relation to section 16(2)(c)</i>	
		Self-declaration under rule 89(2)(1) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	

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5	Refund of ITC unutilized on account of accumulation due to inverted tax structure	Declaration under second and third proviso to section 54(3)	[***]
		Declaration under section 54(3)(ii)	Statement of invoices (Annexure-B)
		<i>Undertaking in relation to section 16(2)(c)</i>	[***]
		Statement 1 under rule 89(5)	
		Statement 1A under rule 89(2)(h)	
		Self-declaration under rule 89(2)(1) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	
6	Refund to supplier of tax paid on deemed export supplies	Statement 5(B) under rule 89(2)(g)	Documents required under Notification No. 49/2017-Central Tax dated 18.10.2017 and Circular No. 14/14/2017-GST dated 06.11.2017
		Declaration under rule 89(2)(g)	
		<i>Undertaking in relation to section 16(2)(c)</i>	
		Self-declaration under rule 89(2)(1) if amount claimed does not exceed two lakh rupees, certification	

		under rule 89(2)(m) otherwise	
7	Refund to recipient of tax paid on deemed export supplies	Statement 5(B) under rule 89(2)(g)	Documents required under Circular No. 14/14/2017-GST dated 06.11.2017
		Declaration under rule 89(2)(g)	
		<i>Undertaking in relation to section 16(2)(c)</i>	
		Self-declaration under rule 89(2)(1) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	
8	Refund of excess payment of tax	Statement 7 under rule 89(2)(k)	
		<i>Undertaking in relation to section 16(2)(c)</i>	
		Self-declaration under rule 89(2)(1) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	
9	Refund of tax paid on intra-state supply which is subsequently held to be an inter-state supply and vice versa	Statement 6 under rule 89(2)(j)	
		<i>Undertaking in relation to section 16(2)(c)</i>	

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10	Refund on account of assessment/assessment/appeal/any other order	<i>Undertaking in relation to section 16(2)(c)</i>	Reference number of the order and a copy of the Assessment/Provisional Assessment/Appeal/Any Other Order
		Self-declaration under rule 89(2)(1) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	Reference number/proof of payment of pre-deposit made earlier for which refund is being claimed
11	Refund on account of any other ground or reason	<i>Undertaking in relation to section 16(2)(c)</i>	Documents in support of the claim
		Self-declaration under rule 89(2)(1) if amount claimed does not exceed two lakh rupees, certification under rule 89(2)(m) otherwise	

Physical copy of export invoices, shipping bill, EGM from ICEGATE site and purchase invoice

8.7 Manner in which exporters are eligible for refund:

Under the GST regime, export of goods or services is treated as zero-rated supplies. An exporter of goods or services has the following options, namely:

- (a) Make export of goods or services or both without payment of tax under Letter of Undertaking or Bond and claim refund of input tax credit; or
- (b) Pay IGST on export of goods and services or both and claim refund of the same.

There is no refund of unutilized input tax credit where the goods exported out of India are subjected to export duty or the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

However, in case of export of Agriculture produce, most of products are exempt or having NIL rate of GST and in turn exporter cannot use route of with payment of IGST and take direct refund. Exporter of Agricultural produce is left with only option i.e. to export without payment of tax under Letter of Undertaking or Bond and claim refund of input tax.

"Zero rated supply" means any of the following supplies of goods or services or both, namely:—

- (a) export of goods or services or both; or
- (b) supply of goods or services or both for authorised operations to a Special Economic Zone developer or a Special Economic Zone unit.
[Section 16(1)]

Zero-rating means that the entire supply chain is exempt from tax. This implies that not only is the final output free from tax liability, but there is also no restriction on claiming input tax credit for taxes paid on inputs used in producing or providing the zero-rated supply. This approach ensures that goods or services are truly zero-rated.

8.8 How to claim the refund and how much refund is available in agricultural produce?

1. Export of goods under bond or Letter of Undertaking (LUT):

- 1.1. Any registered person availing the option to supply goods or services for export without payment of integrated tax can file a refund application for accumulated amount of Input Tax Credits (ITC) available or un-utilized in his Electronic Credit Ledger (ECL).
- 1.2. Applicant shall furnish, prior to export, a bond or a Letter of Undertaking in FORM GST RFD-11 to the jurisdictional Commissioner, binding himself to pay the tax due along with the interest specified under sub-section (1) of section 50 within a period of -

- (a) fifteen (15) days after the expiry of three (3) months or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the goods are not exported out of India;
- (b) fifteen (15) days after the expiry of one year, or the period as allowed under the Foreign Exchange Management Act, 1999 (42 of 1999) including any extension of such period as permitted by the Reserve Bank of India, whichever is later, from the date of issue of the invoice for export, or such further period as may be allowed by the Commissioner, if the payment of such services is not received by the exporter in convertible foreign exchange or in Indian rupees, wherever permitted by the Reserve Bank of India..

- 1.3 However, any person who has been prosecuted for tax evasion for an amount of Rs. 2.5 Crores or above under the act is not eligible to furnish LUTs.

The validity of such LUT's is for a period of one year (till the end of financial year). An exporter furnishing LUT's is required to furnish fresh LUT for each financial year. If the conditions mentioned in LUT are not satisfied within the time-limit, the privileges are revoked, and the exporter will have to furnish bonds.

For all the other assesses (along with the ones who have been prosecuted for tax evasion of Rs. 2.5 Crores or above under the GST laws), bonds should be furnished if the export is being made without payment of IGST. The Letter of undertakings can be furnished and submitted online through the GST portal.

At the same time, the bonds are required to be furnished manually as the hardcopy of the same has to be remitted to the department.

1.4 LUT is not required in case of exempt commodity

It is clarified by "Master circular-refund 125/44/2019 that, in case of zero-rated supply of exempted or non-GST goods, the requirement for furnishing a bond or LUT cannot be insisted

upon. It is thus, clarified that in respect of refund claims on account of export of non-GST and exempted goods without payment of Integrated tax; **LUT/bond is not required**. Further, the exporter would be eligible for refund of unutilized input tax credit of Central tax, State tax, Union Territory tax, Integrated tax and compensation cess in such cases.

1.5 Amount of refund:

Refund of unutilized ITC has to be computed as per the method prescribed under Rule 89(4) of the CGST Rules 2017. The formula in the rules is based on the principle of proportionately disallowing the refund of ITC on those inputs and inputs services which are not utilised for making Zero rated supplies.

In case of Zero rated supplies under LUT, applicants are not eligible to claim the refund ITC of capital goods even if they are utilised in making the Zero rated supplies.

1.6 Formula for refund calculation

(Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover.

"Net ITC" means input tax credit 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 or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less.

It is interesting to note that "value which is 1.5 times the value of like goods domestically supplied by the same or similarly placed supplier, as declared by the supplier, whichever is less" which was introduced by amending Rule 89 (4) (c) vide Notification No. 14/2022 – Central Tax, dated 05-07-2022, was challenged before the Hon'ble Karnatak High Court in the matter of **Tonbo Imaging India Pvt Ltd vs. Union of India [W.P.C No. 13185 of 2020 dated February 16, 2023]**. Hon'ble High Court had observed –

Availability of rotation of funds is essential for business to thrive - Entire concept of refund of unutilized input tax credit relating to zero-rated supply would be obliterated in case department was permitted to put any limitation and condition that would take away petitioner's right to claim refund of all taxes paid on domestic purchases used for purpose of zero-rated supplies - Amendment of rule 89(4C) is arbitrary and unreasonable inasmuch as possibility of taking undue benefit by inflating value of zero-rated supply of goods could not be a ground to amend rule - Said rule deserves to be declared invalid.

Hon'ble Delhi High Court in the matter of Indian Herbal Stores (P) Ltd. – Write Petition No. 9908 & 9912 of 2021, it was upheld the amendment is procedural in nature and hence this amendment is prospective in nature. Further, the right for refund of the accumulated ITC stands crystallised on the date when the subject goods are exported.

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 is the total of turnover of goods and services as calculated above excluding the value of exempt supplies other than zero-rated supplies.

Value of goods exported out of India shall be taken as – (i) the Free on Board (FOB) value declared in the Shipping Bill or Bill of Export form, as the case may be, as per the Shipping Bill and Bill of Export (Forms) Regulations, 2017; or (ii) the value declared in tax invoice or bill of supply, Whichever is less.

1.7 Realisation of exports proceeds

CBIC vide Notification No 16/2020-Central Tax, dated March 23, 2020 has inserted Rule 96B in the CGST Rules which provides the sale proceed in respect of export of goods have to

be realised within the time period allowed under Foreign Exchange Management Act, 1999 ('FEMA'). In case the sale proceed is not realised within the prescribed time limit, the refund amount sanctioned to the extent of non-realisation of export proceeds shall have to be refunded along with applicable interest. Rule 96B of the CGST Rules 2017 applies to both type of exports with and without payment of IGST.

Provided that where sale proceeds, or any part thereof, in respect of such export goods are not realized by the applicant within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), but the Reserve Bank of India writes off the requirement of realisation of sale proceeds on merits, the refund paid to the applicant shall not be recovered.

Where the sale proceeds are realised by the applicant, in full or part, after the amount of refund has been recovered from him under sub-rule (1) and the applicant produces evidence about such realisation within a period of three months from the date of realisation of sale proceeds, the amount so recovered shall be refunded by the proper officer, to the applicant to the extent of realisation of sale proceeds, provided the sale proceeds have been realised within such extended period as permitted by the Reserve Bank of India.

1.8 Realization of export proceeds in Indian Rupee – In case exports to Nepal and Bhutan

The acceptance of LUT for supplies of goods to Nepal or Bhutan will be permissible irrespective of whether the payments are made in Indian currency or convertible foreign exchange as long as they are in accordance with the applicable RBI guidelines. [N. No. 37/2017 – Central Tax, dated 04-10-2017 and Circular No. 88/07/2019 – GST, dated 01-02-2019]. The supply of services, however, to Nepal or Bhutan will be deemed to be export of services only if convertible foreign exchange.

1.9 Period for refund claim:

CBIC vide Circular No. 125/44/2019-GST, dated 18.11.2019 (“**Master Circular-Refund**” or “**Circular 125/44/2019**”), and

clarifies that the applicant, at his option, may file a refund claim for a tax period or by clubbing successive tax periods. The period for which refund claim has been filed, however, cannot spread across different financial years. There is a practical difficulty in those cases where the ITC is taken in months where there are no exports and the exports happen in the subsequent year. In such cases, the claimant applied for a lesser refund as compared to refund admissible. There is no restriction on clubbing of financial years to claim the refund.

Refund claim is allowed only when the applicable GST returns pertaining to those tax periods have been filed.

1.10 Procedure to be followed for claiming refund:

- a. The details of the export invoices contained in FORM GSTR-1 furnished on the common portal shall be electronically transmitted to the system designated by Customs and a confirmation that the goods covered by the said invoices have been exported out of India shall be electronically transmitted to the common portal from the said system.
 - (a) LUT number should be specifically mentioned on export invoice
 - (b) Declaration on export invoice - "Supply meant for export under bond or letter of undertaking without payment of integrated tax"
 - (c) While uploading GSTR-1 return, the details of zero-rated supplies declared in Table 6A of return in GSTR-1 details required are shipping bill no, date of invoice, port code and invoice amount.
 - (d) For Refund application, EGM number and EGM date is compulsory, and it is matched with ICEGATE portal along with shipping details by the proper officer.
 - (e) There should not be any mismatch in GSTR-1 and GSTR-3B. Export sales mentioned in Table 3.1.b of GSTR-3B should be matching with invoice-wise details mentioned in GSTR-1.

- (f) Invoices on which we are claiming ITC and applying for refund should be matching with GSTR-2B.
- (g) Correct filling of GSTR-3B - To claim eligible credit related to export and also proportionate ITC related to common services as discussed above.
- (h) Quantum of refund amount

In case of refunds pertaining to unutilised ITC, the common portal calculates the refundable amount as the least of the following amounts:

- (a) The maximum refund amount as per the formula in rule 89(4) of the CGST Rules [formula is applied on the consolidated amount of ITC, i.e. Central tax + State tax/Union Territory tax + Integrated tax];
- (b) The balance in the electronic credit ledger of the applicant at the end of the tax period for which the refund claim is being filed after the return inform GSTR-3B for the said period has been filed; and
- (c) The balance in the electronic credit ledger of the applicant at the time of filing the refund application.

After calculating the least of the three amounts, as detailed above, the equivalent amount is to be debited from the electronic credit ledger of the applicant in the following order:

- (a) Integrated tax, to the extent of balance available;
- (b) Central tax and State tax/Union Territory tax, equally to the extent of balance available and in the event of the shortfall in the balance available in a particular electronic credit ledger (say, Central tax), the differential amount is to be debited from the other electronic credit ledger (i.e., State tax/Union Territory tax, in this case).

2. Export of goods on payment of IGST

- 2.1 Any person availing option to export goods on payment of IGST is not required to file separate application for refund u/s 54 of

the CGST Act 2017. Applicants have to comply with following procedure for export of goods on payment of IGST:

- i. A registered person is required to file shipping bill showing prescribed details.
 - ii. Details of goods exported is to be reported in Table 6A of Form GSTR-1 i.e. Shipping Bill Number, Shipping Bill Date and Port code;
 - iii. Summary details of goods exported are to be reported in Table 3.1(b) of Form GSTR-3B.
 - iv. The amount disclosed in GSTR-3B should not be less than the same shown in GSTR-1.
- 2.2 Upon matching the above details on the GSTIN and ICEGATE portal, Custom Authority will issue the refund and the refund of IGST paid would automatically get credited to the designated bank account of the exporter. Accordingly, a registered person is required to take utmost care at the time of uploading exports details at the time of filing GST returns in Form GSTR-1 and GSTR-3B.
- 2.3 Exporters of goods have to determine the value of taxable goods exported in accordance with rate of exchange notified by the Customs Department on fortnight basis pursuant to S. 14 of the Customs Act, 1962, for the time of supply of goods. [Rule 34 of CGST Rules, 2017]
- 2.4 The Government is empowered under Section 16(4) of the IGST Act, 2017, on the recommendation of the GST Council and subject to prescribed conditions, safeguards and procedures, to notify a class of persons and a class of goods or services that may make zero-rated supplies on payment of integrated tax and claim refund of the tax so paid in accordance with Section 54 of the CGST Act and the rules made thereunder. Pursuant to the amendment to Section 16(4), only such goods or services as are specifically notified are eligible for export with payment of IGST. In exercise of this power, vide Notification No. 01/2023-Integrated Tax dated 31.08.2023, the Government has notified that all goods and services, except the goods specified in

column (3) of the Table to the said notification, may be exported on payment of integrated tax and the supplier shall be eligible to claim refund of the tax so paid.

S. No	Chapter/ Heading/ Sub- heading/Tariff item	Description of Goods
(1)	(2)	(3)
1.	2106 90 20	Pan-masala
2.	2401	Unmanufactured tobacco (without lime tube) - bearing a brand name
3.	2401	Unmanufactured tobacco (with lime tube) - bearing a brand name
4.	2401 30 00	Tobacco refuse, bearing a brand name
5.	2403 11 10	'Hookah' or 'gudaku' tobacco bearing a brand name
6.	2403 11 10	Tobacco used for smoking 'hookah' or 'chilam' commonly known as 'hookah' tobacco or 'gudaku' not bearing a brand name
7.	2403 11 90	Other water pipe smoking tobacco not bearing a brand name.
8.	2403 19 10	Smoking mixtures for pipes and cigarettes
9.	2403 19 90	Other smoking tobacco bearing a brand name
10.	2403 19 90	Other smoking tobacco not bearing a brand name
11.	2403 91 00	"Homogenised" or "reconstituted" tobacco, bearing a brand name
12	2403 99 10	Chewing tobacco (without lime tube)

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13.	2403 99 10	Chewing tobacco (with lime tube)
14.	2403 99 10	Filter khaini
15.	2403 99 20	Preparations containing chewing tobacco
16.	2403 99 30	Jarda scented tobacco
17.	2403 99 40	Snuff
18.	2403 99 50	Preparations containing snuff
19.	2403 99 60	Tobacco extracts and essence bearing a brand name
20.	2403 99 60	Tobacco extracts and essence not bearing a brand Name
21.	2403 99 70	Cut tobacco
22.	2403 99 90	Pan masala containing tobacco 'Gutkha'
23.	2403 99 90	All goods, other than pan masala containing tobacco 'gutkha', bearing a brand name
24.	2403 99 90	All goods, other than pan masala containing tobacco 'gutkha', not bearing a brand name
25.	3301 24 00, 3301 25 10, 3301 25 20, 3301 25 30, 3301 25 40, 3301 25 90	Following essential oils other than those of citrus fruit namely: — Of peppermint (<i>Mentha piperita</i>); Of other mints: Spearmint oil (<i>ex-mentha spicata</i>), Water mint-oil (<i>ex-mentha aquatic</i>), Horsemint oil (<i>ex-mentha sylvestries</i>), Bergament oil (<i>ex- mentha citrate</i>), <i>Mentha arvensis</i>

2.5 Preparation of Commercial Invoice and Tax Invoice

In order to export the goods the following documents are mandatorily required as specified in Foreign Trade Policy vide chapter 2, para 2.06:

- (a) Bill of Lading/ Airway Bill/ Lorry Receipts/ Railway Receipts/ Postal Receipts;
- (b) Commercial Invoice cum Packing List. Separate commercial Invoice and Packing List are allowable;
- (c) Shipping Bill/ Bill of Export/ Postal Bill of Export.

It is the obligation to the exporter to prepare commercial invoice which is denominated in foreign currency. However, Indian rupee is permissible in case of export to Nepal and Bhutan. This commercial Invoice will be dispatched along with the goods being exported.

Exporter shall also prepare a Tax Invoice in rupee terms referring the exchange rate as published under customs notification for export of goods for GST compliance. Exporter shall endorse in the tax invoice that "Supply Meant for Export on Payment of Integrated Tax".

It is desirable for the exporter to keep the same invoice number in both tax invoice and commercial invoice so that there will be no issue in filing of Shipping Bill and refund of IGST thereof. Exporter shall charge GST extra in tax invoice after converting the basic amount in Indian rupee.

3. Refund not eligible for input services and capital goods:

Section 2 (59) defines inputs as any goods other than capital goods used or intended to be used by a supplier in the course of furtherance of business. Thus, inputs do not include services or capital goods. Therefore, the intent of the law is not to allow refund of tax paid on input services or capital goods as part of refund of unutilized ITC when the refund application is under "inverted rate duty structure".

4. Relevant date for filing refund application:

Refund application have to filed within a period of two (2) years from the end of due date of return filing of the period for which the refund is claimed. Thus if the refund is claimed for FY 2023-24, Due date for April 2023 will be 20th May 2025.

CBIC vide Circular no. 135/05/2020 – GST 31.03.2020 has inter alia clarified that refund of accumulated ITC under Section 54(3)(ii) of the CGST Act would not be applicable in cases where the input and the output supplies are the same.

5. Refund mechanism: Rule 89 (5)

Maximum Refund Amount =

$\{(\text{Turnover of inverted rated supply of goods and services}) \times \text{Net ITC} \div \text{Adjusted Total Turnover}\} - \text{tax payable on such inverted rated supply of goods and services} \times (\text{Net ITC} \div \text{ITC availed on Inputs \& Input services})$

Where the

(A) “Net ITC” means ITC availed on inputs during the relevant period

6. Once the refund application is uploaded on the portal in RFD-01, the Proper Officer will verify for any defect. If he finds any defect, then he will issue a defect memo in RFD-03. Once the defect memo is issued then the refund application has to be uploaded again. The same can be issued only once.

Acknowledgement in RFD-02 is issued once the refund application is accepted. The said refund application may be withdrawn before issuance of any order or notice in RFD-01W.

Proper officer can grant up to 90% refund on provisional basis in RFD-04. This provisional order is issued within 7 days of issue of acknowledgement in RFD-02. Where on the examination of the application, if the proper officer is not satisfied with any point, show cause notice in RFD-08 is issued asking for satisfactory reply to the query raised in the point. Reply needs to be submitted in RFD-09. On receipt of reply to the SCN and on examining the application, if the proper officer is satisfied then order sanctioning the refund is passed in RFD-06. This order needs to be passed within 60 days of the receipt of application. Once the order is issued payment advice in RFD-05 is issued for sanctioning the payment of the refund to the assessee. The refund can be withheld in RFD-07 if the proper officer has reason to believe that the same cannot be granted. If

the refund claim is rejected then the ITC amount is re-credited in the electronic credit ledger.

8.9 Forms prescribed under the GST law related to refund

Form	Particulars
FORM-GST- RFD-01	Application for Refund
FORM-GST- RFD-01W	Application for Withdrawal of Refund Application
FORM-GST- RFD-02	Acknowledgment
FORM-GST- RFD-03	Deficiency Memo
FORM-GST- RFD-04	Provisional Refund order
FORM-GST- RFD-05	Payment Order
FORM-GST- RFD-06	Refund Sanction/Rejection Order
FORM-GST- RFD-07	Order for Complete adjustment of sanctioned Refund, Order for withholding the refund,
FORM-GST- RFD-08	Notice for rejection of application for refund
FORM-GST- RFD-09	Reply to Show cause Notice

Chapter 9

Documentation

It is pertinent to note that the GST Law has set a common standard in relation to maintenance of the books of accounts, irrespective of the type of industry, nature of the product (say, goods or services), size of the operations etc., subject to a few exceptions. Further, the accounts and records required to be maintained under GST Law are more relatable to the Central Excise and Service Tax regime, when compared with the State VAT regime. This uniform framework has brought greater consistency and transparency in record-keeping practices across businesses, thereby facilitating better tax administration and compliance.

On the part of the tax authorities, the information provided by the registered person in the self-assessed tax returns shall be corroborated with the books of accounts and such other records through scrutiny, audits or investigations. Hence the obligation has been casted on the registered person to maintain the accounts and records under the provision of the GST Law, similar to the requirement under the other legislations such as the Income Tax Act, 1961, the Companies Act, 2013 etc.

Statutory Provisions coverage

Section 35 – Accounts and Other Records

Section 36 – Period of Retention of accounts

Rule 56 – Maintenance of accounts by registered person

Rule 57 – Generation and maintenance of electronic records

Rule 58 - Records to be maintained by owner or operator of godown or warehouse and transporters

9.1 Person responsible for maintaining books of accounts and other documents

Every registered person shall keep and maintain, in addition to the particulars mentioned in sub-section (1) of section 35, a true and correct account of the –

- (i) goods or services imported or exported; or

- (ii) of supplies attracting payment of tax on reverse charge along with the relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers;
- (iii) accounts of stock in respect of goods received and supplied by him, and such accounts shall contain particulars of the opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and the balance of stock including raw materials, finished goods, scrap and wastage thereof;
- (iv) separate account of advances received, paid and adjustments made thereto;
- (v) details of tax payable including tax payable under reverse charge mechanism, tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period;
- (vi) particulars of—
 - (a) names and complete addresses of suppliers from whom he has received the goods or services chargeable to tax under the Act;
 - (b) names and complete addresses of the persons to whom he has supplied goods or services, where required under the provisions of this Chapter;
 - (c) the complete address of the premises where goods are stored by him, including goods stored during transit along with particulars of the stock stored therein.

Section 35 envisages that every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of—

- (a) production or manufacture of goods;
- (b) inward and outward supply of goods or services or both;
- (c) stock of goods;
- (d) input tax credit availed;

- (e) output tax payable and paid; and
- (f) such other particulars as may be prescribed

9.2 Agent of the Principal shall maintain books of accounts and other records

Agents have to maintain accounts depicting the—

- (a) particulars of authorization received by him from each principal to receive or supply goods or services on behalf of such principal separately;
- (b) particulars including description, value and quantity (wherever applicable) of goods or services received on behalf of every principal;
- (c) particulars including description, value and quantity (wherever applicable) of goods or services supplied on behalf of every principal;
- (d) details of accounts furnished to every principal; and
- (e) tax paid on receipts or on supply of goods or services effected on behalf of every principal.

9.3 Manufacturer of goods

Every registered person manufacturing goods shall maintain apart from above mentioned books of accounts and records, monthly production accounts showing quantitative details of raw materials or services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof.

9.4 Provider of Services

Every registered person supplying services shall maintain the accounts showing quantitative details of goods used in the provision of services, details of input services utilised and the services supplied.

9.5 Person executing Works Contract Services

Every registered person executing works contract shall keep separate accounts for works contract showing—

- (a) the names and addresses of the persons on whose behalf the works contract is executed;
- (b) description, value and quantity (wherever applicable) of goods or services received for the execution of works contract;
- (c) description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract;
- (d) the details of payment received in respect of each works contract; and
- (e) the names and addresses of suppliers from whom he received goods or services.

9.6 Owner of Warehouse, Transporter & Job Worker

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

Every owner or operator of warehouse or godown or any other place used for storage of goods, whether registered or not, is required to keep the following over and above the regular records to be maintained-

- Particulars of the dispatch, movement, receipt and disposal of the goods.
- To facilitate any physical verification or inspection by proper officer.
- Facility to identify the goods stored owner wise and item-wise.

Any person engaged in business of transporting goods shall maintain records of

- Goods transported and goods delivered.
- Goods stored in transit
- GSTIN of the registered consignor and consignee

The said records are to be maintained for each of his branches.

It is duty of the principal for maintaining adequate records in respect of the following –

- Particulars of the goods dispatched to the job worker.
- Particulars of the goods received from job worker.
- Particulars of goods sent from one job worker to another.
- Particulars of goods directly supplied from the premises of job worker.
- Details of wastage or scrap generated during job work done and the manner how the same was disposed off.

The above records are to be maintained for each job worker separately and by every registered person having a different GSTIN.

9.7 Place of maintaining books of accounts

Every registered person shall keep the books of account at the principal place of business and books of account relating to additional place of business mentioned in his certificate of registration and such books of account shall include any electronic form of data stored on any electronic device.

Where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such place of business. Say the registered person in addition to principal place of business, has other place of business such as manufacturing unit, godowns, branches etc. under a common GSTIN and are mentioned in the registration certificate, then the records relating to such additional locations shall be maintained at the respective locations.

If a registered person having multiple GSTIN, for each of the separate GSTIN the records and accounts are to be maintained at the principal place of business as mentioned in that particular GSTIN registration certificate.

Unless proved otherwise, if any documents, registers, or any books of account belonging to a registered person are found at any premises other than those mentioned in the certificate of registration, they shall be presumed to be maintained by the said registered person.

9.8 Manner of maintaining books of accounts

Any entry in registers, accounts and documents shall not be erased, effaced or overwritten, and all incorrect entries, otherwise than those of clerical nature, shall be scored out under attestation and thereafter, the correct entry

shall be recorded and where the registers and other documents are maintained electronically, a log of every entry edited or deleted shall be maintained. Moreover, each volume of books of account maintained manually by the registered person shall be serially numbered.

Books of accounts and records may be maintained in electronic form and the record so maintained shall be authenticated by means of a digital signature.

9.9 When books of accounts and other records are maintained in electronic form

The registered person maintaining electronic records shall produce, on demand, the relevant records or documents, duly authenticated by him, in hard copy or in any electronically readable format.

Proper electronic back-up of records shall be maintained and preserved in such manner that, in the event of destruction of such records due to accidents or natural causes, the information can be restored within a reasonable period of time.

Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and explanation for codes used, where necessary, for access and any other information which is required for such access along with a sample copy in print form of the information stored in such files.

9.10 Preservation of books of accounts and other records

Accounts maintained by the registered person together with all the invoices, bills of supply, credit and debit notes, and delivery challans relating to stocks, deliveries, inward supply and outward supply shall be preserved for the period until the expiry of seventy-two months (72 months) from the due date of furnishing of annual return for the year pertaining to such accounts and records.

Period	Annual Return filing due date	Retention up to
April 2017 to June 2017	N.A.	NA

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01-07-2017 to 31-3-2018	Category A	05-02-2020	05-02-2026
	Category B	07-02-2020	07-02-2026
01-04-2018 to 31-3-2019	31-12-2020		31-12-2026
01-04-2019 to 31-3-2020	31-03-2021		31-03-2027
01-04-2020 to 31-3-2021	28-02-2022		28-02-2028
01-04-2021 to 31-3-2022	31-12-2022		31-12-2028
01-04-2022 to 31-3-2023	31-12-2023		31-12-2029
01-04-2023 to 31-3-2024	31-12-2024		31-12-2030

* Please refer Notification No. 6/2020-Central Tax, Dated 03-02-2020.

In respect of persons involved in an appeal, revision or any proceedings before any appellate authority or revisionary authority or appellate tribunal or court, or investigation for an offence under Chapter XIX of the CGST Act, 2017, the accounts and records related to the subject involved shall be retained up to the date, which is later of the following:

- Up to 72 months from the due date of furnishing of the annual return.
- Up to 1 year from the final disposal of the appeal, revision or proceedings or investigation.

Eg. A registered person is in appeal for the matter of FY 2020-21

Appeal /Revision disposal date	Annual Return due date	Retention up to
30-11-2024	28-02-2022	28-02-2028
31-05-2025	28-02-2022	28-02-2028
30-09-2026	28-02-2022	28-02-2028
15-03-2027	28-02-2022	15-03-2028
31-03-2027	28-02-2022	31-03-2028

where such accounts and documents are maintained manually, be kept at every related place of business mentioned in the certificate of registration and shall be accessible at every related place of business where such accounts and documents are maintained digitally.

Every registered person shall, on demand, produce the books of account which he is required to maintain under any law for the time being in force.

9.11 Consequence of non-maintenance of the books of accounts

In case of failure in maintaining books of accounts as per section 35(1), the proper officer will determine the tax payable on unaccounted goods/ services under provisions of section 73 or section 74 or section 74A.

Further, as per penalty section 122(1)(xvi), failure in keeping/ maintaining the books of accounts will be liable to a penalty higher of INR 10,000 or an amount of tax involved.

9.12 Confiscation provisions

Provisions of section 130 of the Central Goods and Services Tax Act, 2017 empowers the confiscation of goods as well as levy of penalty. Accordingly, as per provisions of section 130(1)(ii), the defaulter will be liable to confiscation of goods and penalty under section 122, if the person fails to account for any goods, on which the person is liable to pay tax.



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