
GST HANDBOOK

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Bringing cascading tax, home

ONE COUNTRY ONE TAX

- The Goods and Services Tax (GST), which will replace the State VAT, Central Excise, Service Tax and a few other indirect taxes, will be a broad-based, single, comprehensive tax levied on goods and services. It will be levied at every stage of the production distribution chain by giving the benefit of Input Tax Credit (ITC) of the tax remitted at previous stages. GST is based on a destination-based taxation system, where tax is levied on final consumption.
- GST will reduce multiplicity of taxes, double taxation, more efficient neutralisation of taxes in case of export, result in uniform prices throughout the country.
- GST is a tax on supply of goods and services rather than the production of goods and services or sale of goods.
- GST subsumes 16 different taxes. It is the biggest tax reform since independence.
- Input Tax Credit is the key element of entire GST.
- France was the first country in the world to introduce GST, today more than 160 countries have GST in place.



Indian Law Watch

GST HANDBOOK

BASICS OF GST

- **Existing Indirect Taxes Levied by Centre:**
 - (a) Additional and special additional Customs Duty
 - (b) Central and Additional Excise Duty
 - (c) Central Sales Tax
 - (d) Service Tax
- **Existing Indirect Taxes Levied by State:**
 - (a) Entry Tax or Octroi
 - (b) Entertainment Tax
 - (c) Electricity Duty
 - (d) Luxury Tax
 - (e) VAT
 - (f) State Levies
- **Constitutional Amendment:** It was required for assigning concurrent powers to Centre and State to Legislate on the subject of GST. It was notified as 101st Amendment Act, 2016 on 08.09.2016 (**Article 246A of the Constitution**).
- **Commencement:** GST became a reality from July 1, 2017.
- **Registration:** GST registration is to be done by any entity:
 - (a) With 10 Lakhs (for exemptions under article 279A of the Constitution)or 20 Lakhs per annum turnover.
 - (b) Inter-state supplier
 - (c) Electronic commerce operator
- **New Invoices:** Under GST regime, the invoices generated will be with more applicable:
 - (a) CGST
 - (b) SGST
 - (c) IGST
 - (d) UTGST
- **IGST:** Centre to levy IGST on supplies in the course of inter-state trade or commerce including

imports (**Article 269A of the Constitution**) from outside India.

- **Aggregate turn over:** It will be computed on All India Basis.
- **Deferred:** GST on petroleum crude, high speed diesel, motor spirit/petrol, natural gas, aviation turbine fuel to be levied on recommendation of GSTC.
- **Schedule II:** Declaration of certain supplies as supply of goods and services.
- **Schedule III:** Power to declare certain activities as neither supply of goods or services.
- **Liability to pay arises:** When the taxable person crosses the exemption threshold.
- **Tax payable:** On transaction value of supply.
- **GST Transactions within the State:** CGST and SGST levied on value of the goods and services. Both the Centre and State will simultaneously levy GST across the value chain.
- **States that have ratified GST as on June 30, 2017:** Barring Jammu and Kashmir have endorsed SGST. While the other states have ratified by law and while Kerala and West Bengal have gone by ordinance. The Central Law cannot be implemented in J & K unless implemented by the State Government.
- **Three returns in a single month and an annual return.**
- **Act Repealed under the CGST:**
 - (a) The Central Excise Act, 1944 (except as respects goods included in entry 84 of the Union List of the Seventh Schedule to the Constitution)
 - (b) The Medicinal and Toilet Preparations (Excise Duties) Act, 1955,
 - (c) The Additional Duties of Excise (Goods of Special Importance) Act, 1957,
 - (d) The Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, and
 - (e) The Central Excise Tariff Act, 1985 (hereafter referred to as the repealed Acts)
- **Dr. Kelkar Committee Report (2004)** for the first time recommended implementation of the GST.
- **Destination based Tax:** GST is destination-based tax based on supply instead of sale. Applicable at every stage with set off.
- **A Taxable Person:** A person who is registered or required to be registered under the schedule V. You can obtain different registration but each registration would be treated as distinct. Different establishments of same person will be treated as distinct engagements.

INSTITUTIONS IN GST

GST COUNCIL

- **Article 279A of the Constitution:** It was to be constituted within 60 days of the Act coming into force. It will to consist of Union Finance Minister (Chairperson) and Union Minister for Revenue. Vice Chairperson is chosen from Minister of State and Quorum is 50% of total members. Decision is taken by majority. The voting power of Centre is 1/3rd and that of state is 2/3rd. The recommendations under GST includes:
 - (a) Taxes to be subsumed in GST.
 - (b) Exemptions and Thresholds
 - (c) Slabs
 - (d) GST Law and Procedures

GST Council came into effect on 12.09.2016.

- **Key Decisions of the Council:**
 - (a) Threshold limit for exemption is Rs. 20 Lakhs and Rs. 10 Lakhs for special category.
 - (b) Four tax rates: 5%; 12%; 18% AND 28%.
 - (c) Cess over and above peak rate of 28% on specified luxury and sin goods.

GST NETWORK

- **Incorporated:** On 28.03.2013 as section 25 Private limited Company with an authorised equity of Rs. 10 Crore with following equity holders:
 - (a) Central Government-24.5%
 - (b) EC and all other state together-24.5%
 - (c) Financial Institutions- 51%
- **Functions:**
 - (a) Submit registration Application
 - (b) File returns will no more be at state level but at Central level through GSTN.
 - (c) Make Tax Payments
- **Infosys:** Managed service provider
- **34 GST Suvidha Providers launched.**

DEFINITIONS IN GST

IMPORTANT DEFINITIONS

- **Bills of Supply:** There is a new concept of Bills of supply when the person has opted in composition scheme or when person who is supplying exempted goods or services or both is required to issue bills of supply. Its optional for a registered person if the value of goods is less than Rs. 200/-
- **Business vertical**” means a distinguishable component of an enterprise that is engaged in supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals. A service provider may opt for multiple registrations if the verticals are actually operating as independent decentralized branches with a difficulty in coordination of related compliances.
- **Composition Levy under CGST:** Subject to the provisions of sub-sections (3) and (4) of Section 9, a registered person, whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him, an amount calculated at such rate as may be prescribed, but not exceeding,—
 - (a) One per cent. of the turnover in State or turnover in Union territory in case of a manufacturer,
 - (b) Two and a half per cent of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and
 - (c) Half per cent of the turnover in State or turnover in Union territory in case of other suppliers

Subject to such conditions and restrictions as may be prescribed. The option availed of by a registered person under composition levy shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified. A taxable person to whom the provisions of sub-section (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax. Penalty for violation are provided under section 73 and 74. Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding one crore rupees, as may be recommended by the Council.

Criteria for the registered person shall be eligible to opt out if:

- (a) He is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of schedule II;
- (b) He is not engaged in making any supply of goods which are not leviable to tax under this Act;
- (c) He is not engaged in making any inter-State outward supplies of goods;
- (d) He is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under Section 52; and
- (e) He is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council:

Provided that where more than one-registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.

- **E-Way Bill:** The Way bill was physical or electronic document which allows movement of goods between states. This is now replaced by E-Way Bill which will allow movement and is to be generated at GSTN portal. The validity period will be 1-15 days depending on transit. Three people eligible to generate the E-Way Bill- Transporter, Consigner, Recipient of goods. The registered person has liability to inform about the movement when the value of consignment exceeds Rs. 50,000/- even if the movement is to the unregistered person.

Distance	Validity period
Less than 100 km	1 day
100 km or more but less than 300 km	3 days
300 km or more but less than 500 km	5 days
500 km or more but less than 1,000 km	10 days
1,000 km or more	15 days

Source: CBEC website

- **Goods:** This should include every kind of moveable property other than money and security but includes actionable claims, growing crops, grass and other things attached to it forming part of the land which are agreed to be severed before supply or under contract of supply. (**Section 2 (5) of CGST Act**).
- **Invoice:** There were two types of invoices under the old regime- Tax invoices (with input tax credit) to registered persons and Retail invoices (no input tax credit) issued to unregistered dealers and consumers. Under GST tax invoice can be issued to both the registered and unregistered user. A registered person supplying taxable goods should issue Tax invoice at the moment when the goods are being removed for supply or delivery of goods and in case of services before or after provision of services within 30 days of supply of services.
 - GSTR1 (Sales return on 10th)
 - GSTR 2(Purchase return on 15th)
 - GSTR 3 (Monthly return on 20th of every month)

Invoices under GST is to be issued in following manner:

- (a) Original to recipient
- (b) Duplicate to Transport
- (c) Triplicate to the supplier

In case of services only (a) and (c).

HSN/SAC Codes required in invoices:

1. Having turnover of Rs. 5 crore and above – 4 digit HSN codes are required
 2. Having turnover between Rs. 1.5 Crore to Rs. 5 crore – 2 digit HSN codes are required
 3. Having turnover below Rs. 1.5 Crore- No need to mention HSN / SAC code in invoice.
- **Reverse Charge:** At present, similar provisions of Reverse Charge are available in Service Tax for the services like- Reverse charge on services under GST
 - (a) Insurance agent
 - (b) Services of a director to a company
 - (c) Manpower supply
 - (d) Goods Transport Agencies
 - (e) Non-resident service providers
 - (f) Any service involving aggregators

Currently there are no reverse charge mechanisms in supply of goods. Reverse charge means the liability to pay tax is by the recipient of goods/services instead of the supplier. Reverse charge may be applicable for both services as well as goods.


1. Unregistered dealer selling to a registered dealer: In such a case, the registered dealer has to pay GST on the supply.

2. Services through an e-commerce operator: If an e-commerce operator supplies services then reverse charge will apply on the e-commerce operator. He will be liable to pay GST.

- **Services:** Under section 2(102) of the CGST means anything that is not goods or money or security but include activity relating to use of money or its conversion by cash or any other mode from one form of currency and denomination to another form for which separate consideration is charged.

REGISTRATION

 Registration based on PAN.

 Registration is to be obtained in each state where the taxable supplies are to be sent.

 A party having multiple business vertical in each state is required to obtain separate registration for each business vertical.

 Voluntary registration is permissible, even though not taxable.

PAYMENT

- System of electronic cash ledger and electronic ITC Ledger.
- Annual return to be filed by 31st December of the following financial year along with reconciliation statement.
- E-Commerce operators facilitating supplies by other suppliers to collect tax at source out of the payment made to the suppliers.
- Time limit for refund of tax or interest is two years.
- 60 days is the period for grant of refund. Interest is payable if not sanctioned within the period.
- It is a wrong impression that the invoices have to be physically uploaded.
- All the tax payers are required to upload the information of their outward supplies by 10th of every month.

AUDIT

- A system of monthly assessment has to be put in place. The verification of compliances can be done through scrutiny of returns for smaller units and audits for larger units.

APPLICABLE RULES

- Valuation Rules
- Transition Rules
- ITC Rules
- Composition Rules
- Invoice Rules
- Payment Rules
- Refund Rules
- Registration Rules
- Accounts and Records
- Advance Rulings
- Assessment and Audit

TAXES NOT SUBSUMED UNDER GST

- Custom Duty
- Export Duty
- Stamp Duty
- Taxes on Profession, trade, callings and employment
- Taxes on Petroleum products
- Tax on alcoholic liquor for human consumption
- Property tax
- Toll tax
- Electricity duty

INPUT TAX CREDIT SYSTEM

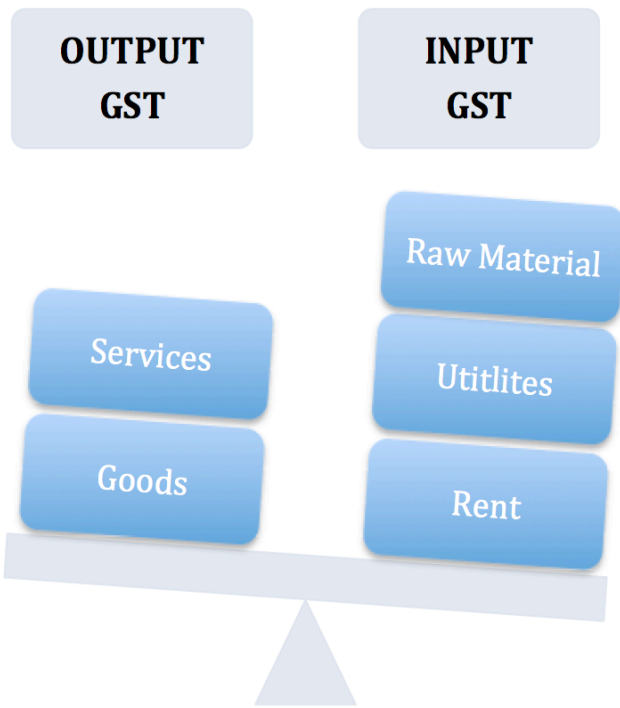
Input Tax Credit can be said to be one of the key element of the entire Goods and Service Tax (GST) framework with one of the major USPs i.e. seamless flow of credit in the entire GST chain. The present indirect taxation system suffers with cascading tax effect due to non-availability of credit at various points in the supply chain. However, under the GST regime, credit of GST is expected to be available at every stage in the entire supply chain.

- **Input** –Any goods other than capital goods used/intended to be used by a supplier for business purpose.
- **Input Service** – Any service used/intended to be used by a supplier for business purpose
- **Input Tax** – IGST/CGST/SGST/UGST charged on supply of goods/services to a person and includes tax payable on imports and under reverse charge mechanism but excludes tax paid under composition scheme
- **Capital Goods** – capital goods mean goods, the value of which is capitalized in the books of accounts of the person claiming the credit and which are used/intended to be used for business purpose

Input Tax Credit can be availed only if:

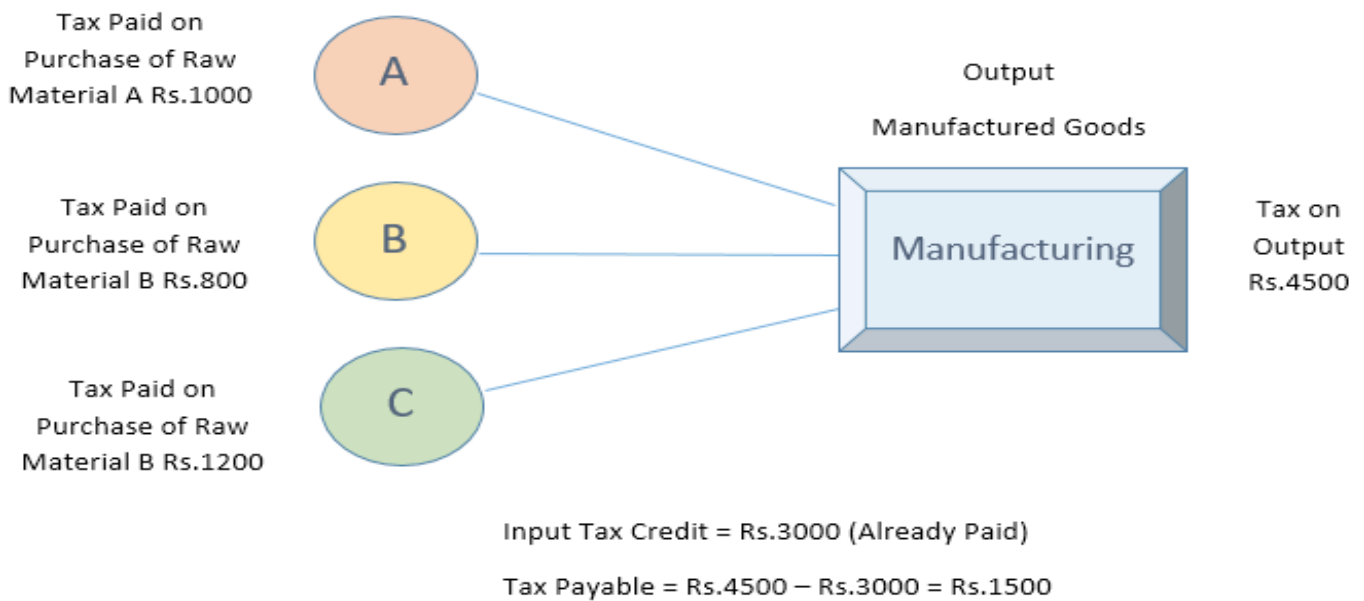
- ✓ if a person possesses Tax Invoice, Debit note, Bill of Entry, ISD Invoice, or Invoice issued by service recipient under Reverse charge mechanism
- ✓ Prescribed particulars are mentioned on the Invoice and the recipient furnishes relevant information in Form GSTR-1
- ✓ Goods/Services have been received by such person
- ✓ Tax charged in respect to such supply has been actually paid to the Government
- ✓ Will be paid within 180 days of supplies.
- ✓ It can be claimed within 30 days of it becomes due for both finished and semi finished goods.
- ✓ It is not available on immovable property and motor vehicle.
- ✓ Banking companies are available to banking companies to the extent of 50%.

Input tax credit on CGST cannot be utilized in SGST and vice versa.



GST Input Tax Credit Manufacturing

Input A, B, and C



Flow Chart as explained by Money Excel

ANTI PROFITEERING IN CGST

Sec. 171 of the CGST Act;

“1. Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices”

“2 The Central Government may on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him”

“3. The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed”

PENALTIES FOR NON-COMPLIANCE WITH GST REGIEME

OFFENCES	CONSEQUENCES
Failure to comply with outward or inward supplies, monthly return or final return by due date	<ul style="list-style-type: none">Rs. 100 for every day for which the failure continues.Maximum fine of Rs. 5000/-.
Failure to furnish annual return by due date	<ul style="list-style-type: none">Rs. 100 for every day for which the failure continues.Subject to maximum quarter percent of the person's turnover in the State where he is registered.
Failure to pay tax	<ul style="list-style-type: none">Interest on the tax would be liable from the day the tax becomes due.
A recipient of service fails to pay supplier of service the amount towards the value of service along with tax payable thereon from the date of issue of invoice of supplier	<ul style="list-style-type: none">Interest on the amount due will be added to the recipient's liability.

UPDATES ON GST

- **Buying and selling of Second Hand Goods:** This will not attract GST if the goods are sold at price cheaper than the purchase price (**Rule 35 (2) of the CGST Rules, 2017: This rule is applicable to those dealing in used cars, television, mobiles**).
- **Margin Scheme:** The “Margin Scheme” will be value which is difference between selling and purchase price which is negative, it shall be ignored under the GST regime. This scheme can be availed by any buyer or seller under GST dealing in second hand goods who satisfies the conditions laid down in Rule 35 (2) of the CGST Rules, 2017.
- **Legal Services:** The Legal Services provided by advocates is covered under GST but the liability to pay the tax is on client. CEBC has clarified that there is no change made in taxation of legal services in the GST era.
- **Restuarants warned against levying both VAT and GST Alcohol:** Revenue Secretary has warned against charging both GST and VAT on the alcohol which is not currently under the indirect tax regime. VAT as applicable on states should be charged seperately on alcohol served in resturants.
- **GST Rate for resturants:** The GST Rate for non air-conditioned and air-conditioned resturants stands at 12 and 18 percent respectively.

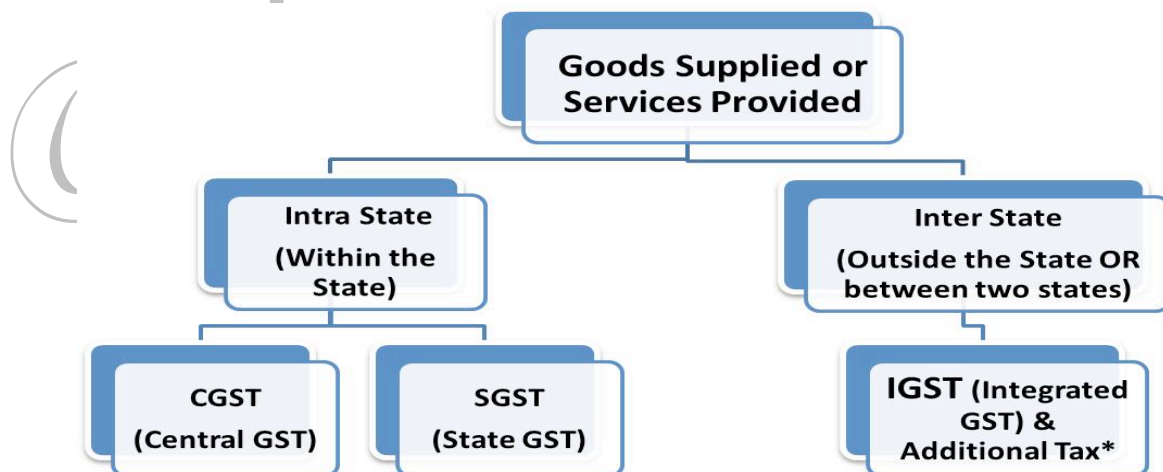
- **Sanitary Napkins:** The napkins is being taxed at 12% compared to 13.68 % earlier.
- **Fine, if GST Rates are not printed:** Companies have been asked to use stickers to display revised rates on unsold goods to ensure that the consumers are aware of the change in rates.
- **Gifts upto Rs. 50,000/- by employer to employee:** These have been kept out ambit of GST. But gifts of higher amount without consideration given with intention of furtherance of business will fall under ambit of GST.
- **Anti profiteering:** Section 171, pass your benefit to the recipient.
- **Torusim:** Service providers will have an option to take different registration for separate business verticals. Normally a service provider may opt for a single registration which would enable it to set off GST Input Tax Credits of all the verticals against the GST Output Liability of all the verticals put together. The frequency and number of returns to be filed will go up. In place of a half yearly service tax return, under GST law, one will be required to file state wise monthly GST returns that too three in numbers - One for Outward Supply, One for Inward Supply and One final consolidated return. In addition, an annual return will also be required to be filed.
- **BPO:** The entities having operations from more than one State will have to obtain separate registration in each such State where they are operating. Each operating location in different States will be treated as distinct persons and transactions between the two, whether with consideration or without consideration, will be liable to GST..

UNDERSTANDING GST

1. Scenario prior to GST

Category	Tax
Services	Service Tax
Goods locally sold	Excise +VAT
Goods sold Inter State	Excise+CST
Pure Trading	VAT/CST

2, Model GST



3. Tax invoices under GST

TAX INVOICE

The words 'tax invoice'

Supplier's name and address
Gallery Photo Supplier
888 Jalan Ang Teng
Singapore 560009

GST registration number
GST Reg No: M2-1234567-K

Customer's name (Customer's Name)

Customer's address (Customer's Address)
(Customer's Address)
(Customer's Address)

Invoice date
Date: 01/07/2007

An identifying number
Invoice No: F012345

Type of Supply: Cash / Credit Sale

Description of goods and services

S/No	Description	Qty	Unit Price (\$)	Total (\$)	Discount (\$)	Total (\$)
1	Yashica MG2	10	90	900	45	855.00
2	Pentax Z-1 Body	20	1,000	20,000	1,000	19,000.00
3	Nikon W35	30	200	6,000	300	5,700.00
4	Canon Prima 5	40	220	8,800	440	8,360.00
Total						33,915.00
Add GST @ 7%						2,374.05
Amount Due:						36,289.05

Total amount payable excluding GST

Total GST

Total amount payable including GST

Thank you. We look forward to being of service to you again.

GST rate

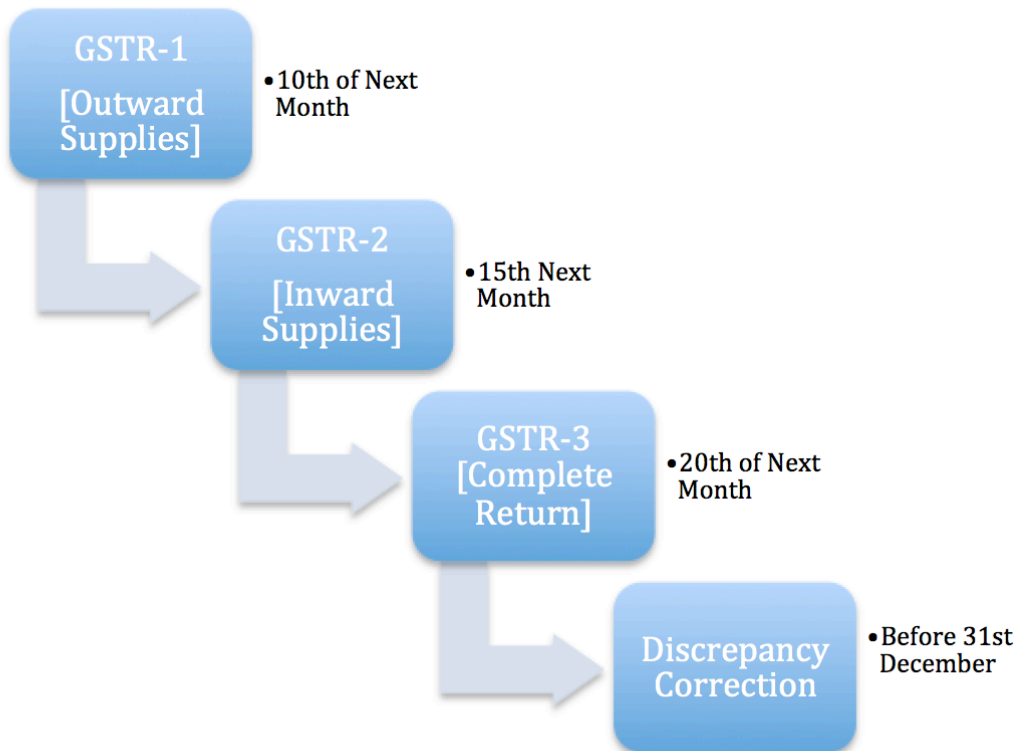
4. GST and Return Filings

Whether there is a separate return under CGST, SGST, IGST



No there will be a common-return e- form

Watch



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LEGAL UPDATES OF GST

- **Service Tax on Short Term Accommodation Services:** The Constitutional validity of service tax on short term accommodation by hotel and restaurants was challenged before Delhi High Court on *Federation and Association of Hotels of India vs. Union of India [WP (C) 6482 of 2011]*. The Delhi High Court in this case upheld the constitutional validity of the levy of service tax on restaurant services but struck down validity of service tax on short term accommodation. Parliament has no power to levy tax on short term accommodation service this was held even in *Godfrey Phillips India Ltd vs. State of UP [2015 (2) SCC 515]*. Article 246A of the Constitution allows to levy services tax on the short term accommodation services..
- **Steps to Appeal under GST**

A bench of at least 2 High Court Judges will hear the appeal. Decision will be on the basis of majority. If there is no majority, then one or more other High Court Judges will hear the different points and decide the verdict on a majority basis, considering the opinions of both the original and new judges. All sums due to the Government under order passed by the Appellate Tribunal or passed by the High Court need to be paid even if appealed to Supreme Court.



Steps of Appeals under GST

- **Issue of GST on Lawyers:** The Delhi High Court has sought clarity from the Centre, Delhi government and the Goods and Services Tax Council on whether the relevant GST laws make it incumbent on lawyers and law firms to register under GST and face the resultant obligations including having to pay tax under reverse charge mechanism. Until and unless the clarity is provided, the court said, no coercive action could be taken against these entities for non-compliance. The court asked the authorities to explain if registering under GST is optional for an entity that doesn't provide representational legal services, where it appears in court, tribunal or authority.

OFFICE OF GST COUNCIL

1. Goods and Service Tax Council
5th Floor Jeevan Dhara Building
New Delhi-110001
E-Mail: gst.secretariat@gov.in

GST AND MY CONCERNS

1. Migration and Impact on the ease of doing business

2. Invoices

- IT is required at the time of filing of returns
- Three returns and an annual return therefore compliance cost.
- Purchaser can face difficulty in terms of input credit if seller files the GSTR1 with delay.
- The details of the debit note and credit note both has to be declared in tax return.
- If you are in a business where there is a continuous supply of goods like construction and you are issuing successive statements or receiving successive payments, you are required to issue an invoice before or at the time of issuance of statements of accounts or receipt of the payment- whichever is earlier.

- Only one revised tax invoice can be issued.
- Receipt voucher for advance payment is to be issued
- If no supply is made refund voucher is to be issued

3. Awareness

4. Time of Supply of goods under the CGST: It shall be one of the following earlier dates:

- Date of Invoice
- Date on which the supplier receives the payment. Provided that where the supplier of taxable goods receives an amount upto one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.
- For supply on reverse charge basis: the date of receipt of goods or date of payment of goods as entered in books of accounts or debited from account, the date of thirty days following 30 days from date of issue of invoice by whatever name it may be called.
- In case of supply by vouchers, the date of issue or redemption

4A. Time of supply of services based upon earliest time:

- Date of issue of invoice
- Date of receipt of payment
- Recipient shows receipt in books of accounts

5. Value of Supply of Goods and Services: It will be the value of transaction

6. Self assessment under CGST and filing the return under section 39 of CGST

7. **Audit:** Commissioner or any person authorised by him can audit under the CGST any registered person by a 15 day notice. The audit needs to be completed within 3 months of its commencement.

8. **If there is no business during the period, do I need to file return?** Return filing is mandatory, even if there is no business activity.

Disclaimer: The information here is informative and not of advisory nature and is based on due research conducted by Indian Law Watch.

