



Academy for
Commerce
Education

AMENDMENTS

For MAY '2025 EXAMS

CA Final

Paper - 5
Indirect Tax Laws

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SEGMENT 2 – SUPPLY UNDER GST

AMENDMENT 1

SUMMARY OF CBIC CIRCULARS W.R. TO SUPPLY



Whether insurance company is liable to pay GST on salvage value/wreck value, while assessing the damage to a motor vehicle?





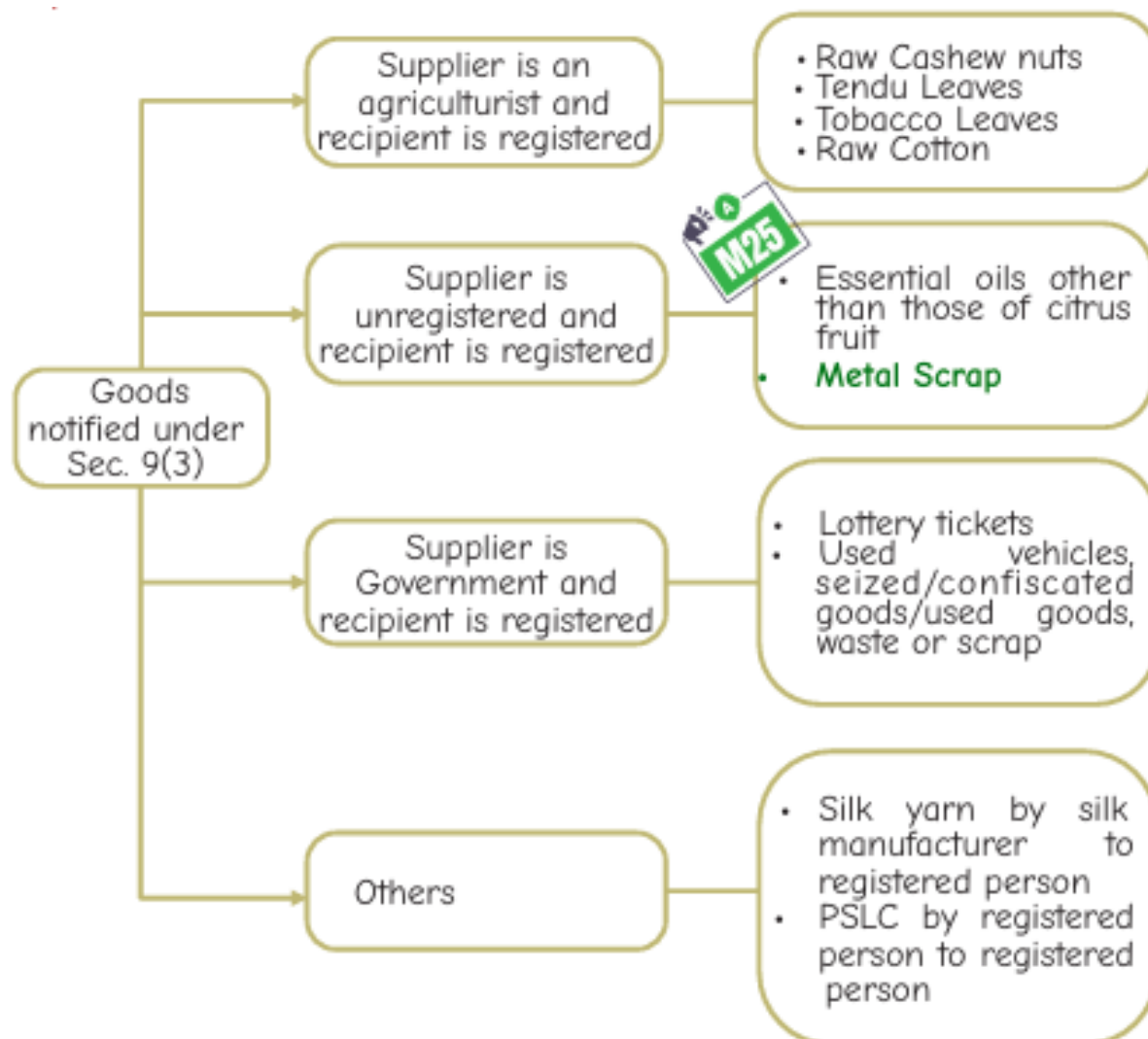
Salvage remains with insured:
Not a supply & GST not payable.

Salvage become property of insurance company:
Sale of such salvage treated as supply & GST payable

SEGMENT 3 – LEVY AND COLLECTION UNDER CGST

AMENDMENT 2

SUPPLIES OF GOODS TAXABLE UNDER REVERSE CHARGE – SEC. 9(3) READ WITH NOTIFICATION NO. 04/2017



Supply of metal scrap by registered person to registered person is not covered under RCM. However, the said transaction is notified for TDS u/s 51, where the recipient is required to deduct TDS @ 2% on the payment made to supplier.

AMENDMENT 3

SEC. 9(3) – NOTIFIED SERVICES UNDER NOTIFICATION NO. 13/2017 – SIRR CG GOT SALADS

Import of services by Indian establishment of airline company, without consideration, where ministry of civil aviation certifies that there is a reciprocal agreement between India and Foreign country

AMENDMENT 4

SERVICE	EXEMPTIONS	CONDITIONS FOR RCM	NON APPLICABILITY OF RCM
Renting of immovable property			
Residential	1. Renting for residential purpose to an unregistered person 2. Renting for residential purpose to a registered individual for their family stay	Recipient = RP (Whether renting is for residential purpose or commercial purpose)	Renting of residential property for commercial purpose to an unregistered person
Commercial	Accommodation services for a minimum period of 90 days where the value of supply $\leq$ ₹ 20,000 per person per month (This exemption applicable even for residential property)	Supplier = URP Recipient = RP	If supplier is RP

SEGMENT 5 - EXEMPTIONS UNDER GST

AMENDMENT 5

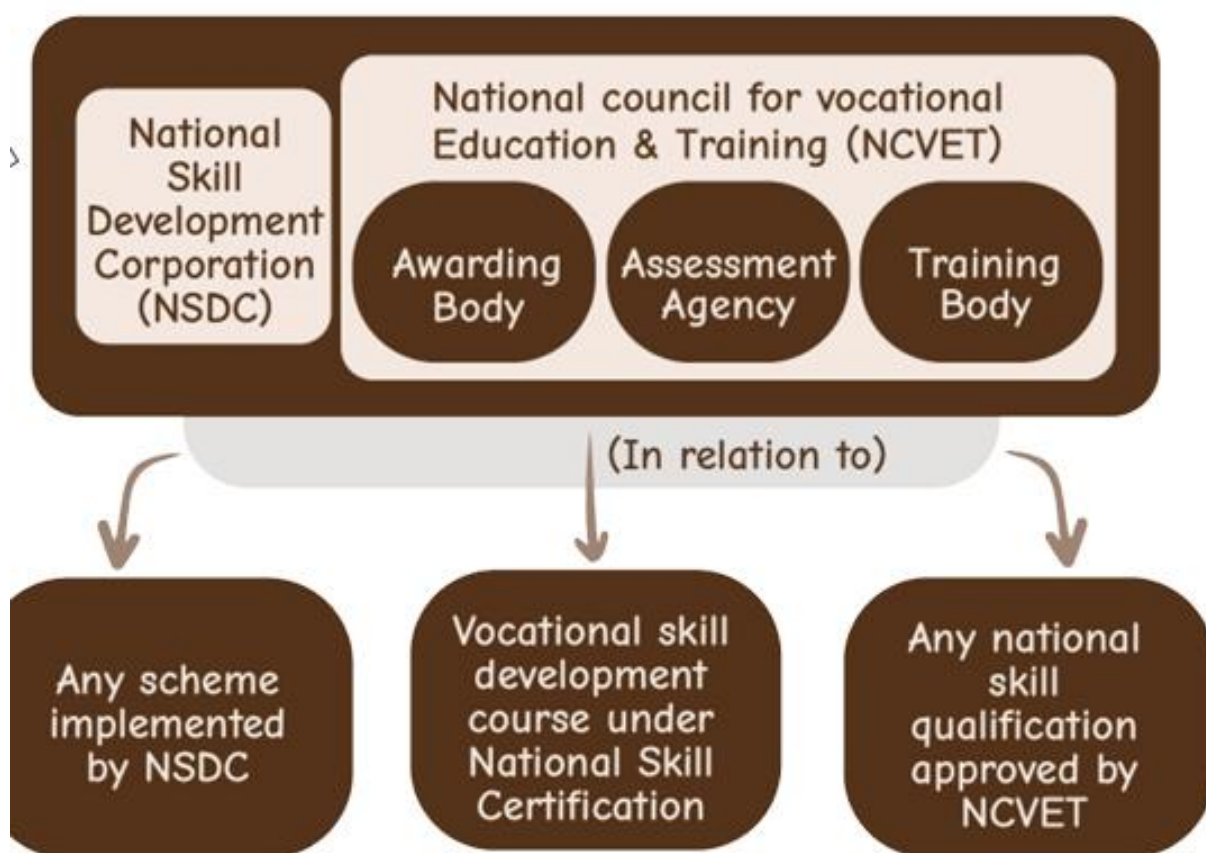
SEC. 11A OF CGST ACT/SEC. 6A OF IGST ACT:

Govt. on the recommendations of GST council may not recover GST short levied (or) not levied as a part general practice.

AMENDMENT 6

Re-insurance includes retrocession i.e., re-insurer further transferring risk to another insurer. Therefore, if re-insurance is exempted, retrocession is also exempted.

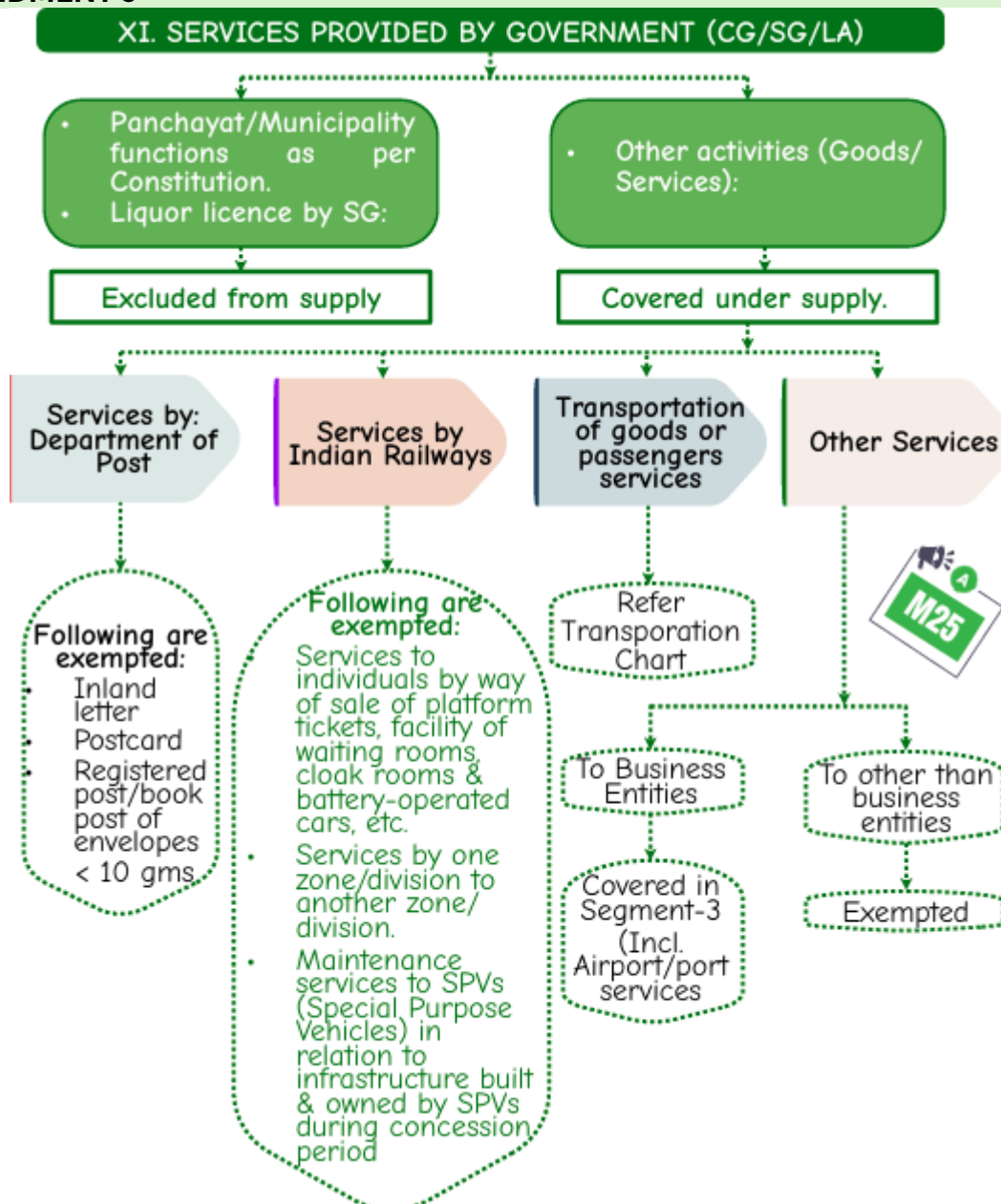
AMENDMENT 7



AMENDMENT 8

Affiliation services provided by Central/State Education Board to a School established/owned/controlled by CG/SG/LA/GA/GE.

AMENDMENT 9



AMENDMENT 10

SERVICES PROVIDED TO GOVERNMENT:

Services provided by Special Purpose Vehicle (SPV) to Ministry of Railways by allowing them to use the infrastructure built and owned by SPV's during the concession period against consideration.

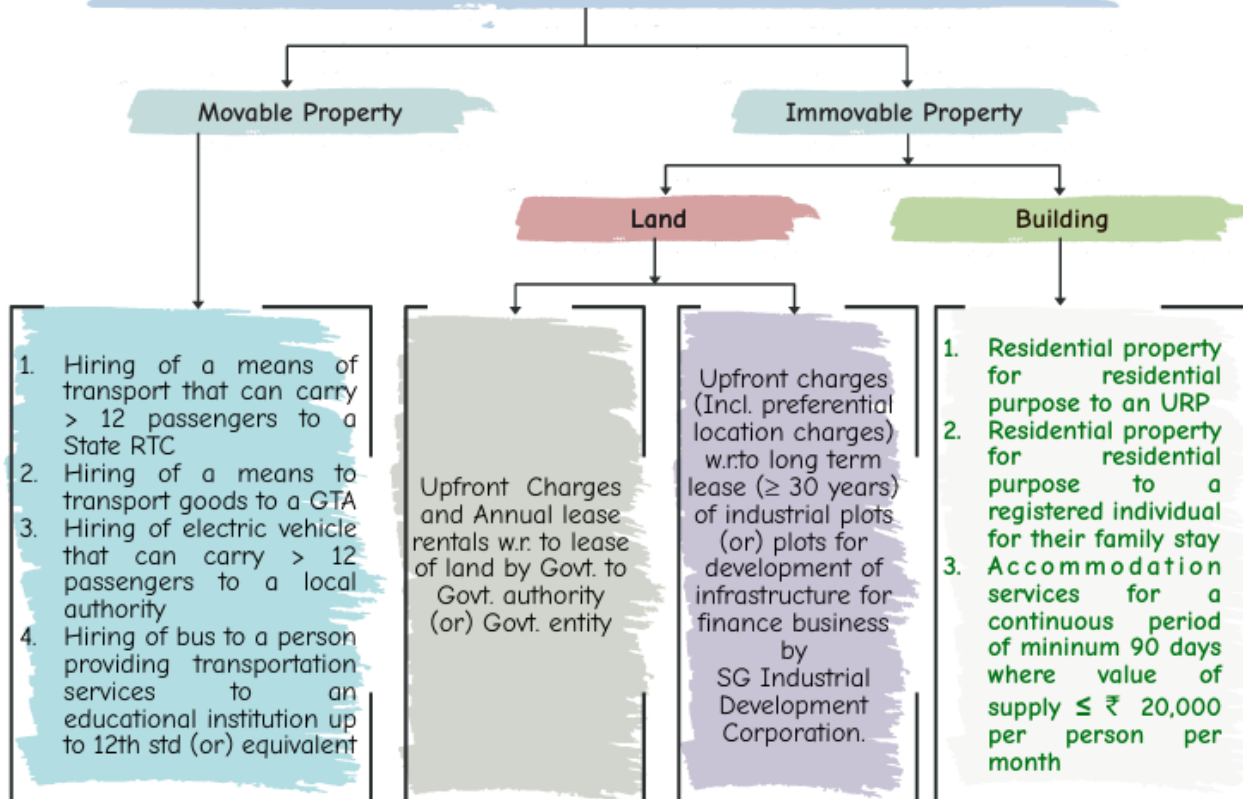
AMENDMENT 11

SERVICES BY GOVERNMENTAL AUTHORITY:

Real Estate Regulatory Authority (RERA) is a governmental authority and the statutory collections made by RERA is covered under exemption - CBIC Circular

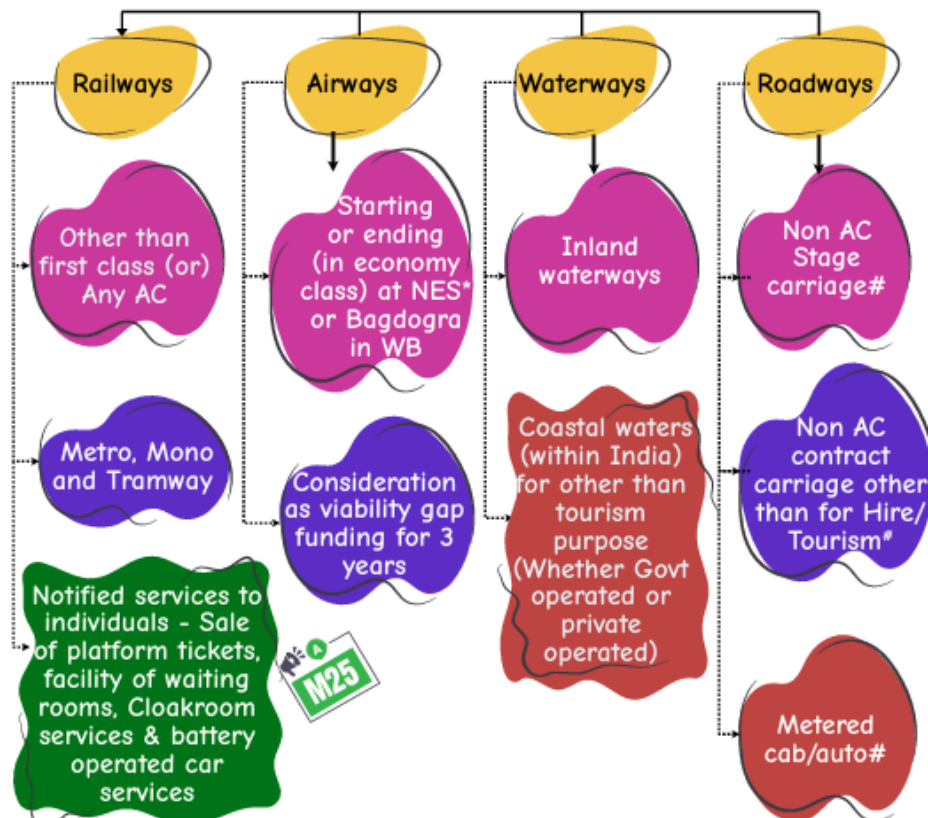
AMENDMENT 12

XII. Renting [Including leasing, licensing, etc.] - following are exempted



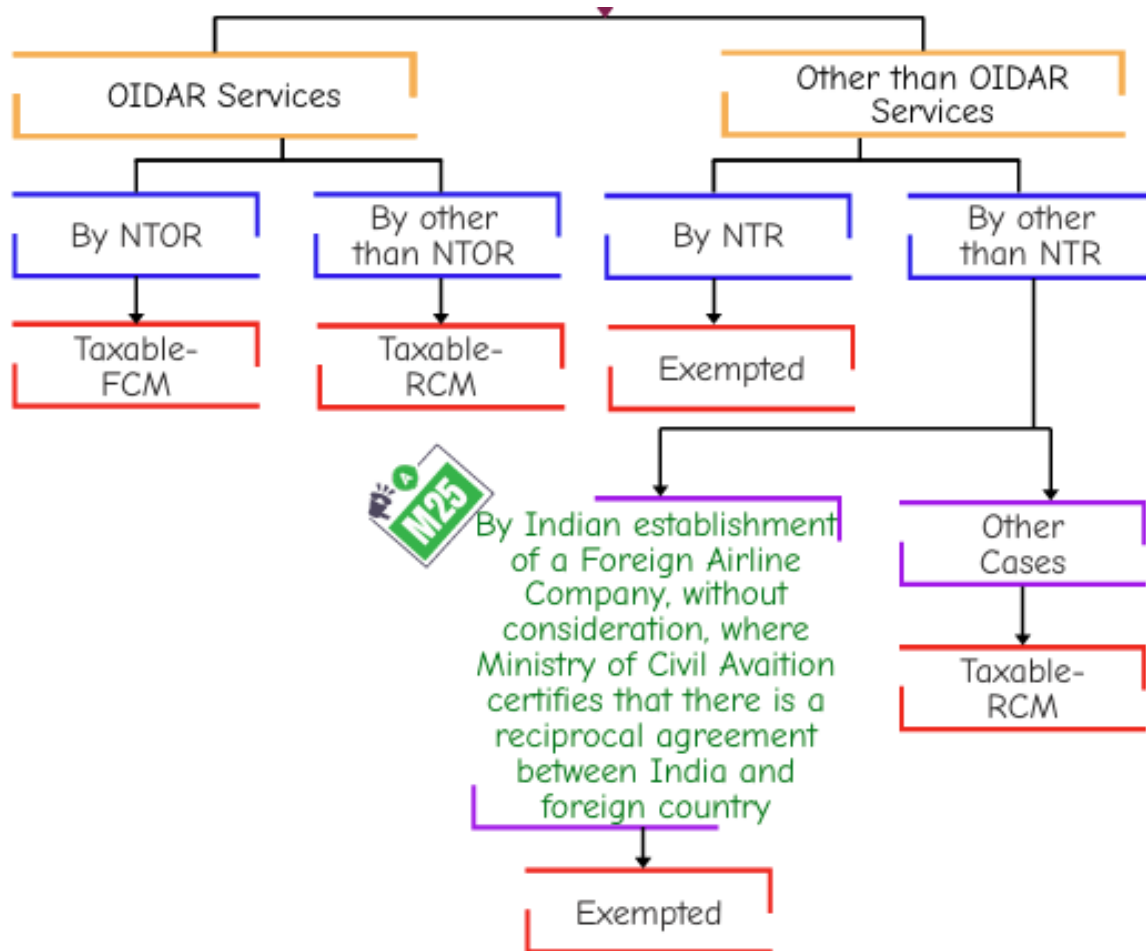
AMENDMENT 13

Transportation of passengers - Following are EXEMPTED



AMENDMENT 14

IMPORT OF SERVICES:



AMENDMENT 15



ISSUE

Whether loan taken by Indian affiliate from overseas affiliate, where both being related, constitutes supply?



M25



CBIC CLARIFICATION

Consideration for loan = Interest/ Discount.

- Not a supply.
- Value u/r. 28 not applicable.

Consideration for loan = processing fees, administrative charges in addition to interest/Discount

- Supply u/s. 7(1)(b).
- Supply of service where such processing fees & administrative charges is treated as consideration.
- Value u/r. 28 applicable.
- GST payable under RCM, being import of services.

AMENDMENT 16



Whether GST is applicable on ESOP/ESPP/RSU provided by a company to its employees through its overseas holding company?





In case of cost-to-cost reimbursement by domestic subsidiary to its Foreign holding company:

Not treated as supply & there is no GST liability (Transaction in securities without consideration)

In case of additional charges collected by Foreign holding Company:

Additional amount is treated as supply of services & GST payable under RCM by domestic subsidiary.

AMENDMENT 17

MISCELLANEOUS EXEMPTED SERVICES:

Supply of services by way of –

- Providing metering equipment on rent,
- Testing for meters/transformers/capacitors etc.,
- Releasing electricity connections,
- Shifting of meters/service lines, issuing duplicate bills etc.,

which are incidental or ancillary to the supply of transmission and distribution of electricity provided by electricity transmission and distribution utilities to their consumers.

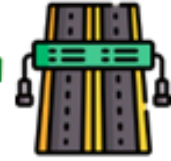
Research and development services against consideration in the form of grants from a Government entity (or) research association/ university/college/ other institution notified u/s 35 of Income Tax Act, 1961.

SEGMENT 6 – TIME OF SUPPLY

AMENDMENT 18



What is the TOS in case of construction of Hybrid Annuity Model (HAM) projects to NHAI?



- HAM Contract is a single contract where the supplier is responsible for both construction of highway and its operations & Maintenance over a period.
- It is a continuous supply of services and due date is determined as per Sec. 31(5) and TOS as per Sec. 13(2).
- Installments payable by NHAI include interest component, which is part of value as per Sec. 15(2)(d).
- Due date of installment is considered as date of completion

AMENDMENT 19



What is the TOS in case of spectrum allocation services by government to telecom operators?



OPTION EXERCISED BY TELECOM OPERATOR

Upfront payment

Deferred payment
(Installments)

Due date of invoice u/s 31(5):
The tax invoice should be issued by the telecom operator on or before the due date of payment.

Due date of invoice u/s 31(5):
The tax invoice must be issued on or before the due date of each installment as specified in the contract (the Frequency Assignment Letter from DoT).

Therefore, GST liability arises when the payment is made or is due, whichever is earlier

Therefore, GST liability arises as and when the installments are due or paid, whichever is earlier.

Frequency assignment letter issued by department of telecommunications to telecom operator, cannot be considered as tax invoice

SEGMENT 7 – PLACE OF SUPPLY

AMENDMENT 20



What is the place of supply in case of sale to unregistered person through E-Commerce platform?



Usually, POS is the location of recipient in the records of supplier. In the absence of such details, POS is location of Supplier

Billing and delivery address Match

POS = Address recorded on the invoice

Billing and delivery address does not match

POS = Delivery address recorded on the invoice

"Name of State" on the invoice is sufficient to be considered as recording the address of the recipient.

AMENDMENT 21



7. Where is the POS in case of data hosting services provided by a person in India to a cloud computing service provider located outside India?



- As the same is on principal to principal basis, it is not an "intermediary service."
- Even though hardware is provided by recipient it is not "performance-based Services in relation to goods" as principal supply involves innumerable services viz., arranging premises, connectivity, security, human resources etc.,
- It cannot be treated as "services in relation to immovable property," as the same does not involve mere renting.
- Therefore, PoS (Place of Supply) is determined as per general provisions u/s 13(2).

AMENDMENT 22



8. Where is the place of supply in case of services by an advertising agency to a foreign client, where such advertising agency provides comprehensive advertising services (including recovery of charges paid to media owners)?



The advertising agency is providing services to a foreign client on a principal-to-principal basis and is not acting as an intermediary, POS (Place of Supply) is determined as per general provisions u/s 13(2). Since, the recipient is a foreign client, it may qualify as an export of services.

AMENDMENT 23



9. Where is the place of supply in case of custodial services offered by banks/FIs to Foreign Portfolio Investors (FPI)?



As Foreign Portfolio Investors are not account holders of banks/FI, POS is determined as per general provisions u/s 13(2).

SEGMENT 8 – VALUE OF SUPPLY

AMENDMENT 24

Applicability of GST on the incentive amount shared by acquiring banks with other stakeholders in the digital payment ecosystem – CBIC CIRCULAR

Issue:

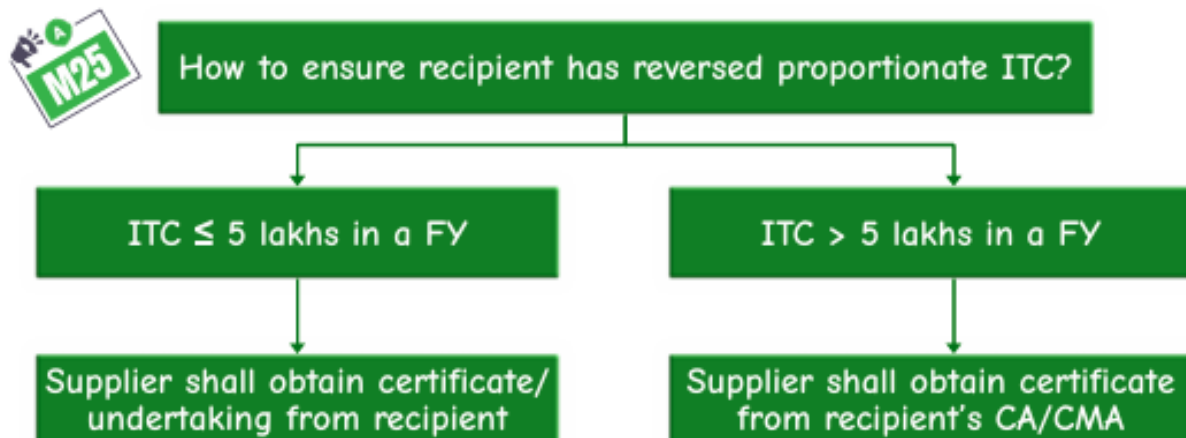
Whether the incentive amount received from Meit Y shared by acquiring bank with stakeholder is chargeable to GST?

Clarification:

Sharing of incentive by acquiring bank with various stakeholders in digital payment ecosystem (Eg. Paytm, Pinelabs, merchant onboarding agencies), as approved by NPCI, is also considered as subsidy and not included in value

AMENDMENT 25

Mechanism for providing evidence of compliance of conditions of Post supply discount



AMENDMENT 26

ISSUE

How to determine value of supply in case of import of services from related person, where recipient is eligible for full ITC?

CBIC CLARIFICATION

- Value determined as per Rule 28
- As recipient eligible for full ITC, TV deemed to be OMV
- As the said transaction covered under RCM, invoice raised by recipient u/s 31(3)(f)
- If invoice is not issued, value of such services deemed to be nil.

AMENDMENT 27



Value of supply in case of corporate guarantee to a related person located in India [Rule 28(2)]

Value = 1% of amount of guarantee offered p.a. (or) actual consideration, whichever is **HIGHER**



- If recipient eligible for the ITC, value declared in invoice deemed to be value.
- 1% computed on loan sanctioned but not on loan disbursed.
- Recipient can avail ITC w.r.to GST paid by supplier, irrespective of loan disbursed.
- If loan is for a fixed term, then 1% computed for each year & GST payable at the time of issuance of guarantee. However, in case of annual renewal, GST payable each year, based on the value determined each year.
- If loan is for part of a year, say 9 months, then $1\% \times 9/12$ is considered in value.

AMENDMENT 28

ISSUE	CLARIFICATION
Whether GST is applicable on corporate guarantee in case of takeover of loans, since it is merely an assignment of already issued corporate guarantee?	Takeover of loans by one bank from another, without issuance of a fresh corporate guarantee or renewal of corporate guarantee would not tantamount to provision of corporate guarantee service. Therefore, GST is not applicable.
Where corporate guarantee is provided by more than one entity, what is the amount on which GST is payable by each co-guarantor?	If the total consideration paid to the guarantors exceeds 1% of such guarantee offered: Value of supply to be actual consideration received by each co-guarantor. Other cases: Proportionately on 1% of the guarantee offered by each co guarantor (in absence of ratio, equal proportion to be taken).
Whether intra-group corporate guarantee liable to RCM?	Supplier & recipient located in India: FCM, supplier to issue invoice Supplier located outside India; and recipient located in India: RCM
Whether the valuation in terms of Rule 28(2), will apply to the export of the service of providing Corporate Guarantee between related persons?	Rule 28(2) shall not apply to the export of the services of providing Corporate Guarantee between related persons. In such case, value determined as per regular Rule 28(1) i.e., OMV (or) LKQ (or) Rule 30 etc.

SEGMENT 9 – INPUT TAX CREDIT (ITC)

AMENDMENT 29

TIME LIMIT FOR AVAILMENT OF ITC [SEC. 16(4)]:

In case of RCM, where registered recipient issues invoices to unregistered supplier, the date on which recipient issues invoice, is relevant for determining time limit for availing ITC.

AMENDMENT 30

TIME LIMIT FOR AVAILMENT OF ITC FOR CERTAIN FY'S [SEC. 16(5)]

For FY from 2017-18 to 2020-21, if ITC is availed beyond time limit permitted u/s 16(4) but upto the GSTR-3B filed by Nov 30, 2021, it is allowed, even through in violation of Sec. 16(4).

AMENDMENT 31

TIME LIMIT FOR AVAILMENT OF ITC IN CASE OF REVOCATION OF CANCELLATION OF REGISTRATION [SEC. 16(6)]

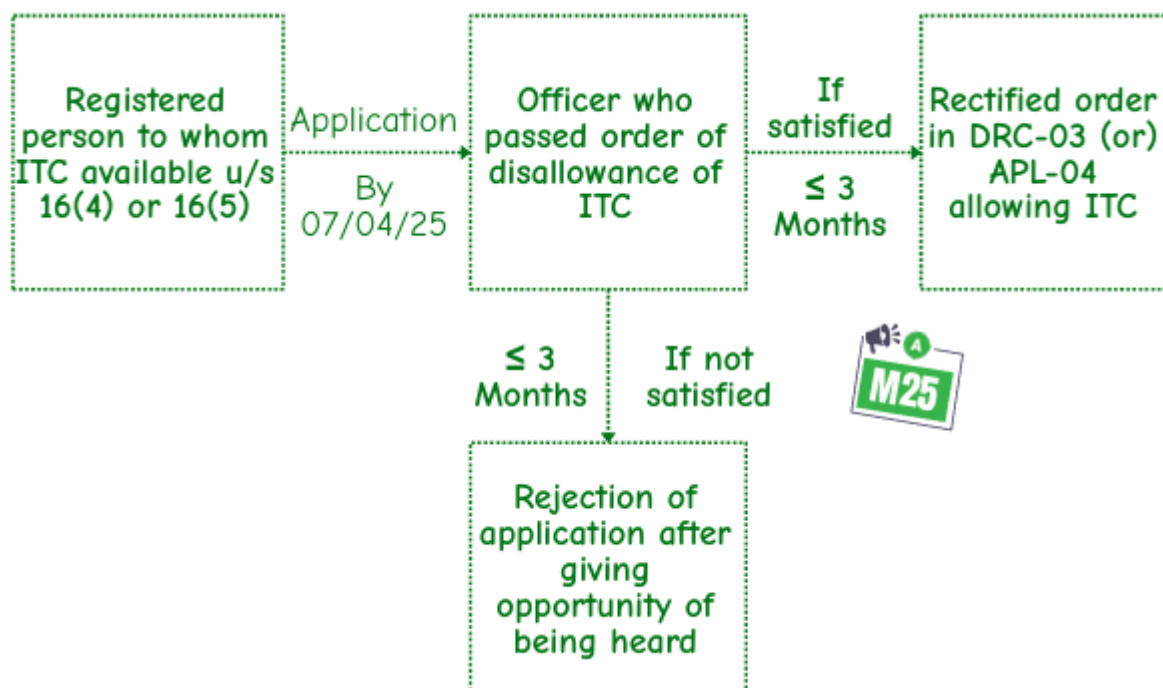
Registered person can claim ITC on such invoice (or) debit notes, in any return filed within

- Regular time limit u/s 16(4) (or)
- 30 days from the date of revocation order,

Whichever is later, provided that Time limit for availment of ITC not expired as on the date of cancellation of registration.

AMENDMENT 32

PROCEDURE FOR AVAILMENT OF ITC IN TERMS OF SEC. 16(5) & 16(6)



AMENDMENT 33



Whether ITC available on demo vehicles used by dealers for showcasing and test driving to potential customers?



- ITC is available on demo vehicles, if they are used for promoting further supply of vehicles
- If demo vehicles are capitalized, ITC is available unless depreciation u/s 32 of IT Act, 1961 is claimed on tax component.
- Also, on Sale of such capitalized demo vehicles, GST payable in terms of Sec. 18(6)
- If the demo vehicles are used for non business purpose (or) as a part of marketing services for the manufacturer, ITC is blocked.

AMENDMENT 34



Whether ITC is available to insurance companies on the expenses incurred for repair of motor vehicles?



Reimbursement mode of claim settlement

Insurance company can avail ITC, even though expenses initially incurred by insured. However, invoice for repairs in the name of insurance company

Repair cost is beyond approved claims

ITC to the extent of amount reimbursed by insurance company but not on entire repair cost

Invoice in the name of insured

ITC not available to insurance company as conditions not satisfied

AMENDMENT 35



Whether ITC available on ducts and manholes used in network of optical fibre cables?



Ducts and manholes which are integral part of optical fibre cables (OFC's), qualify as " plant and Machinery" and can avail ITC on the same, even though used by telecom companies, as only telecommunication towers are excluded from the meaning of P&M. Even they do not fall under pipelines laid outside factory.



AMENDMENT 36



Whether ITC available on goods purchased for free replacement during warranty period?



- Whether a part (or) entire product is replaced during warranty, ITC can be availed on goods purchased for warranty, irrespective of whether any consideration is charged (or) not w.r. to such warranty repairs.
- Where distributor uses his stock for replacement, manufacturer replenishes the stock, on which manufacturer can avail ITC.
- Amount paid for extended warranty taxable at the same rate applicable to goods, if the warranty is taken from the same supplier at the time of purchase of goods. If amount for extended warranty paid to another supplier, it is treated as separate supply.
- If amount paid for extended warranty after purchase of goods, then it is treated as a different supply, whether purchased from same supplier (or) different supplier.

SEGMENT 10 – COMPOSITION SCHEME

AMENDMENT 37

File annual return in GSTR-4 by 30th June of succeeding Financial Year

SEGMENT 11 – COMPOSITION SCHEME

AMENDMENT 38

VARIOUS DOCUMENTS INVOLVED IN GST:

Document	Situation of issuance?	Who will issue?		Time of issue
Tax invoice [Shall]	Supplying a. Taxable goods b. Taxable services 	If supplier is registered	Supplier shall issue	Refer Segment – 6 (Time of Supply)
		If supplier is unregistered	Recipient shall issue in case of RCM	Within 30 days from date of the receipt of goods (or) services

SEGMENT 12 – REGISTRATION

AMENDMENT 39

AADHAAR AUTHENTICATION:



AMENDMENT 40

Biometric based Aadhaar Authentication is now extended to all States and Union Territories for the purpose of completion of registration application.

AMENDMENT 41

MEANING OF “CONTRAVENTION OF PROVISIONS” LEADING TO CANCELLATION OF REGISTRATION [RULE 21]:

Registration of a person is cancelled and such person made revocation application and PO passed revocation order. But returns during the period of cancellation to revocation not filed within 30 days from revocation order.

AMENDMENT 42

REGISTRATION OF A PERSON GETS CANCELLED IN THE FOLLOWING CASES:

F	Fraudulently obtaining registration
R	Returns not filed for continuous 6 months or 2 quarters
A	Annual return of composition scheme not filed within 3 months after due date
N	No longer liable to be registered
T	Transfer or discontinuance of business
I	Invoice without supply (or) Incorrect invoice
C	Change in constitution of business
	Violation of -
B	Bank details to be furnished within time
A	Anti-profiteering Order
I	Input Tax Credit availment
L	Liability in GSTR 1 > Liability in GSTR 3B
E	Electronic Cash Ledger 1% payment
R	Return not filed within 30 days after Revocation Order

SEGMENT 13 – PAYMENT PROCESS

AMENDMENT 43

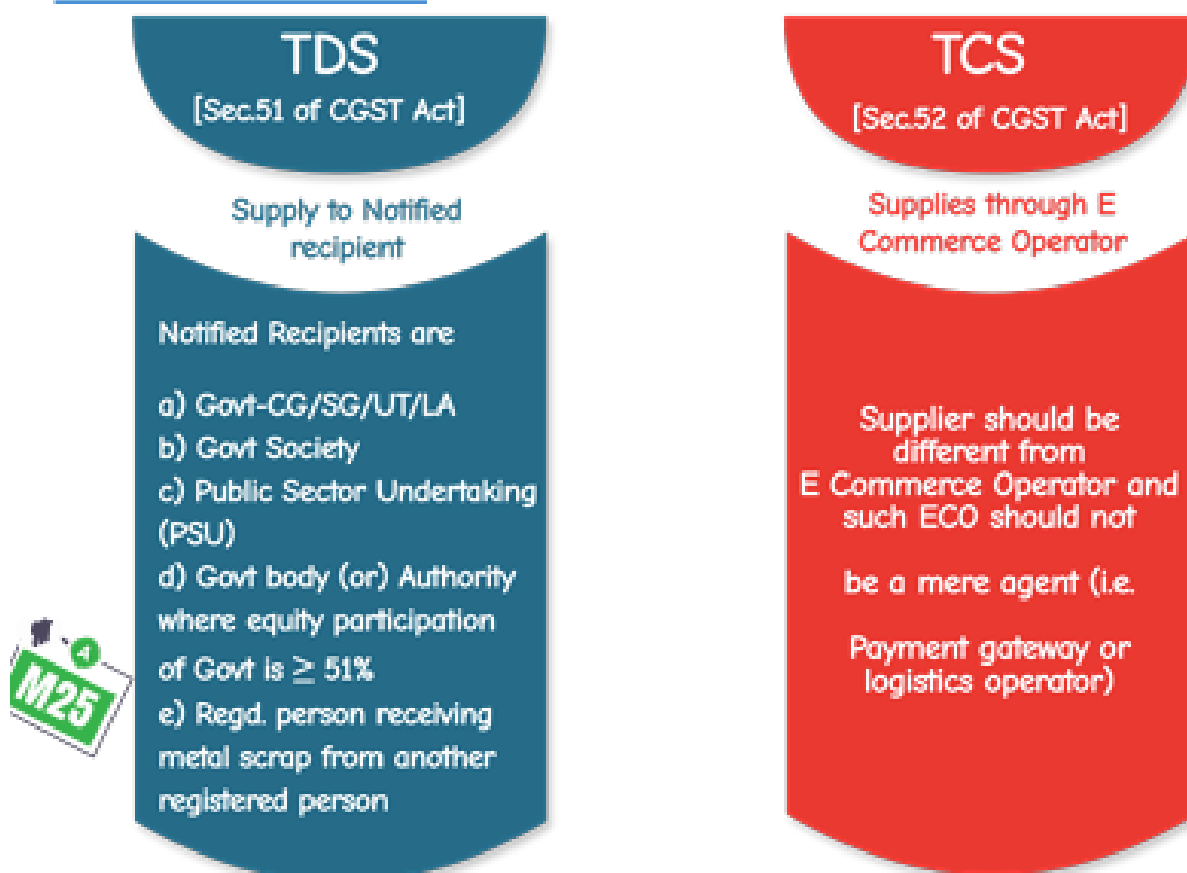
Interest not payable on account of delay if filing GSTR-3B, if sufficient balance is maintained in Electronic Cash Ledger

If sufficient balance is maintained in cash ledger by the due date of GSTR-3B, interest is not payable on account of delay in filing GSTR-3B (Head wise/total balance not specified)

AMENDMENT 44

TDS & TCS UNDER GST [SEC. 51 & 52 OF CGST ACT]

WHEN APPLICABLE?



AMENDMENT 45

WHO IS LIABLE TO DEDUCT AND AT WHAT RATE?

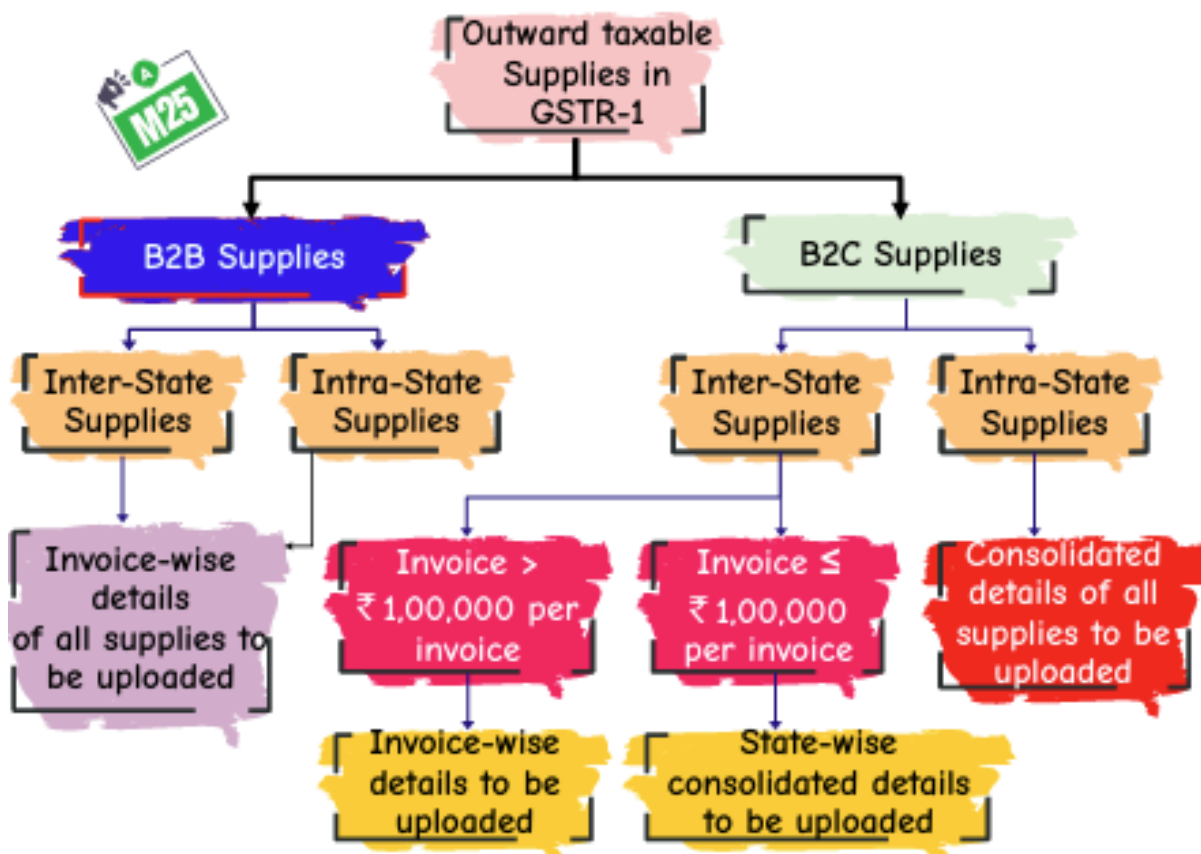


SEGMENT 14 – RETURNS UNDER GST

AMENDMENT 46

FORM	DESCRIPTION	FREQUENCY
GSTR-1A	For amending the details furnished in GSTR-1	Before filing GSTR-3B of the respective month

AMENDMENT 47

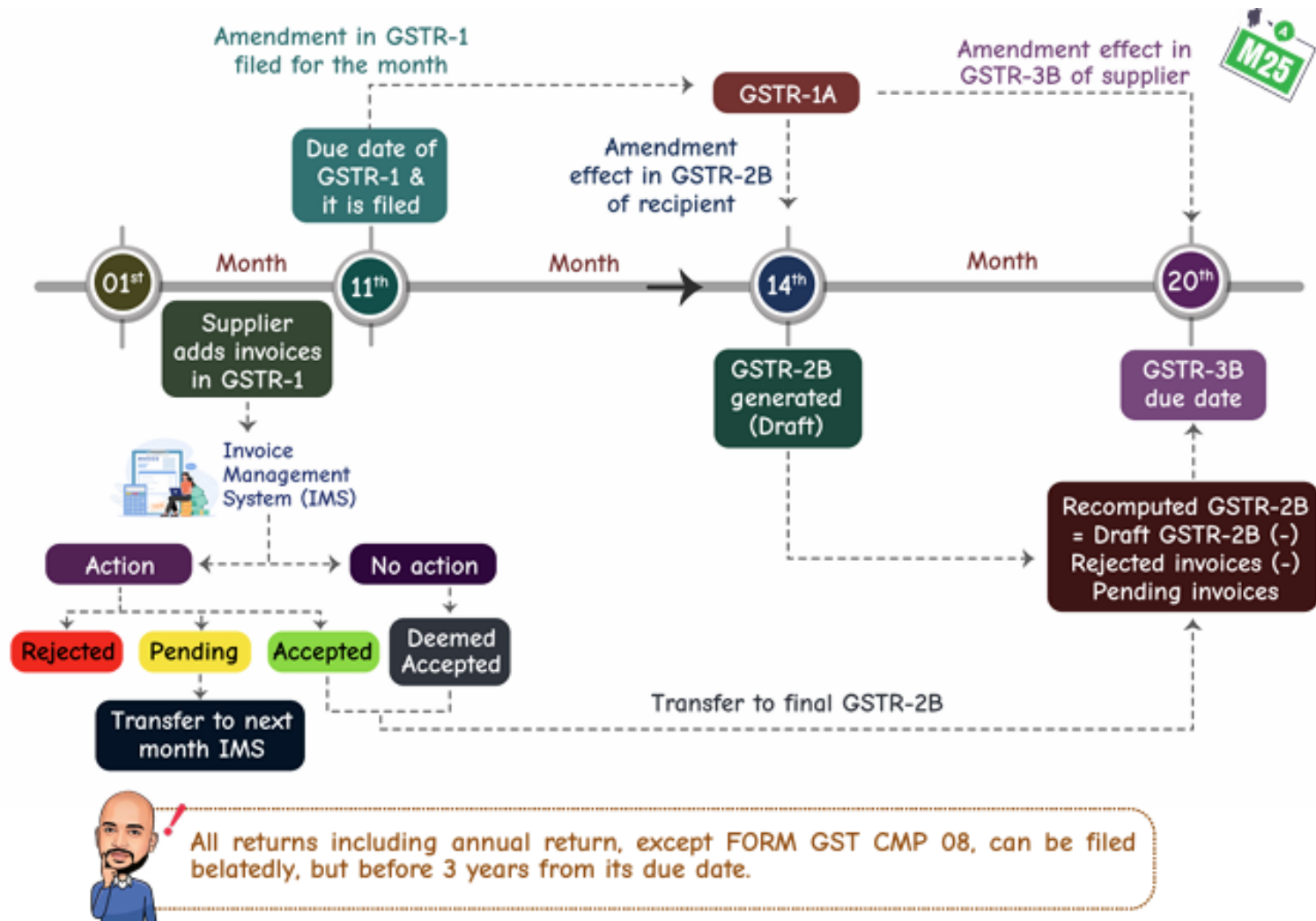


AMENDMENT 48

FORM	DESCRIPTION	FREQUENCY
GSTR-4	Annual Return for a taxpayer registered under the composition scheme	30th June of succeeding Financial Year.

AMENDMENT 49

NEW GST RETURN STRUCTURE INVOLVING GSTR-1A & IMS [W.E.F OCTOBER 2024]



SEGMENT 16 – REFUNDS UNDER GST

AMENDMENT 50

Earlier refund of IGST paid on export of Goods & Services not available, if exporter claimed benefit under EPCG. However, now they are eligible for refund.

AMENDMENT 51



Whether refund of IGST paid on export is available, if inputs used in such exports are imported without payment of customs duty including IGST (or) GST Compensation cess under an exemption notification?





- If goods are imported without payment of customs duty (including IGST/GST Comp. cess), Refund of IGST paid on export is not available.
- However, if only BCD is exempted but IGST/GST Comp. cess is paid, the condition is not violated, and refund available.
- If initially goods are imported without payment of IGST/Comp. cess, but later paid along with interest, refund of IGST on export shall be sanctioned, provided re-assessment of bill of entry is completed under customs.

AMENDMENT 52

Computation of Maximum refund of unutilised ITC on account of zero-rated supplies – Rule 89(4) of CGST Rules, 2017

- Net ITC = ITC availed (Eligible matched ITC) on inputs and input services during the relevant period.
- Turnover of Zero-rated supply of goods = Value of zero-rated supplies made without payment of IGST (or) 1.5 times the value of such goods domestically supplied by same or similar placed supplier, whichever is LOWER.
- Adjusted total turnover = Turnover (incl. turnover of zero rated supply of goods and zero-rated supply of services, as defined above) (-) Exempted Supplies

SEGMENT 18 – SEARCH, SEIZURE, OFFENCES AND PENALTIES

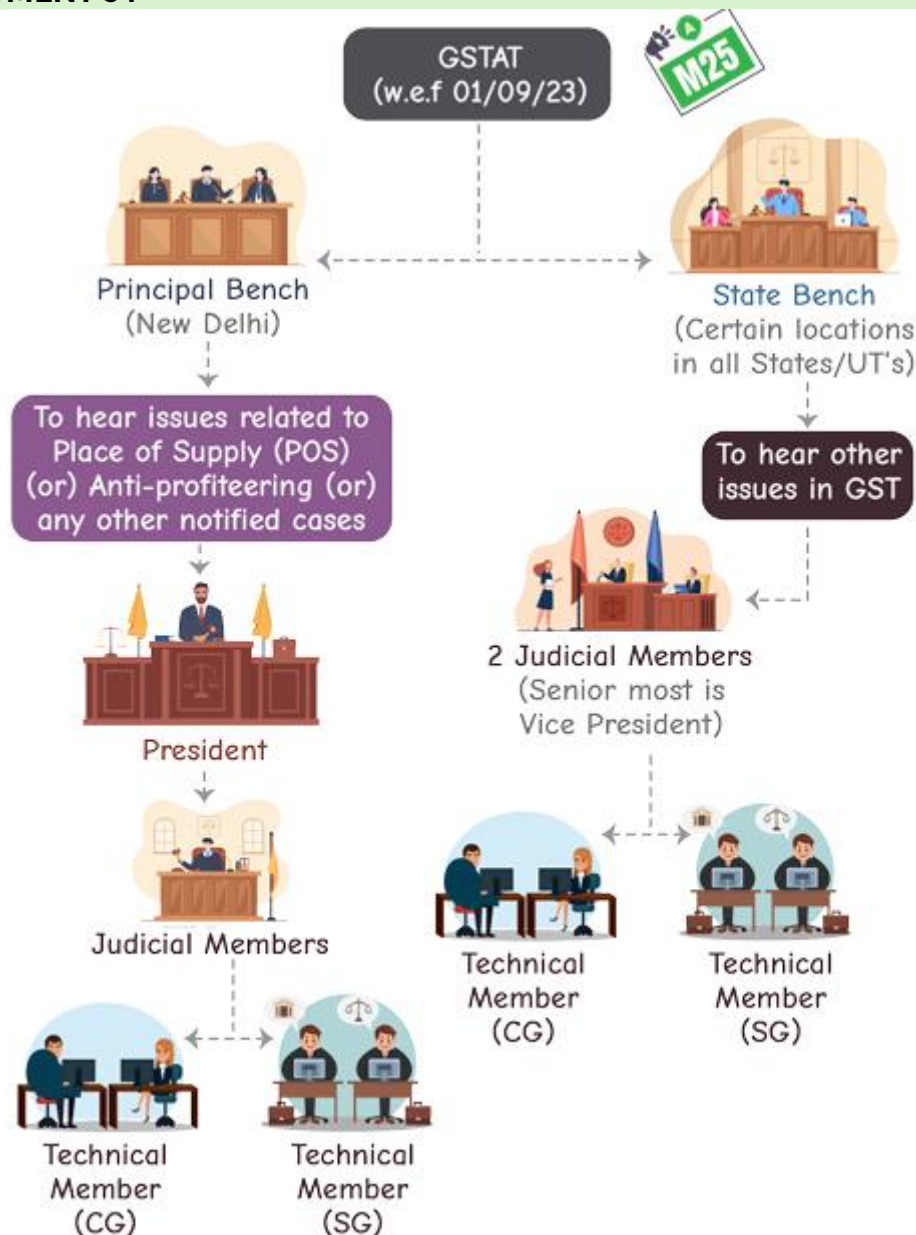
AMENDMENT 53

Penalty for failure to register certain machines – section 122A of CGST Act, 2017

SECTION	TYPE OF OFFENCE	PENALTY (UNDER CGST ACT)
122A	Failure to register certain machines used in manufactures of goods as per special procedure	₹1,00,000 for each unregistered machine

SEGMENT 20 – APPEALS

AMENDMENT 54



AMENDMENT 55

Members can be transferred between benches by **president**, but technical members (State) must stay within their respective states, unless specially approved.

AMENDMENT 56

Time limit for filing owing to establishment of GSTAT – Finance Act, 2024

As GSTAT established recently, For adjudication orders passed before 01/08/24, time limit for filing appeal is 3 months (or) 6 months from 01/08/24

AMENDMENT 57
MONETARY LIMITS TO DEPARTMENT FOR FILING APPEAL

GSTAT	HIGH COURT	SUPREME COURT
₹ 20 Lakhs	₹ 1 Crore	₹ 2 Crores

AMENDMENT 58
PRINCIPLES TO BE CONSIDERED WHILE DETERMINING WHETHER A CASE FALLS WITHIN THE ABOVE MONETARY LIMITS OR NOT:

S. No.	Dispute relates to demand of	Amount to be considered for applying the monetary limit
1	Tax (with or without penalty and/or interest)	Only the aggregate amount of tax in dispute (including CGST, SGST/UTGST, IGST and Compensation Cess)
2	Only interest	Amount of interest
3	Only Penalty	Amount of penalty
4	Only Late fee	Amount of late fee
5	Interest, penalty and/or late fee (without involving any disputed tax amount)	Aggregate amount of interest, penalty and late fee
6	Erroneous refund	Amount of refund in dispute (including CGST, SGST/UTGST, IGST and Compensation Cess)

- Monetary limit shall be applied on the disputed amount of tax/interest/penalty/late fee, as the case may be, in respect of which appeal, or application is contemplated to be filed in a case.
- In a composite order which disposes more than one appeal/demand notice, the monetary limits shall be applicable on the total amount of tax/interest/penalty/late fee, as the case may be, and not on the amount involved in individual appeal or demand notice
- Appeal should not be filed merely because the disputed tax amount involved in a case exceeds the monetary limits fixed above. Filing of appeal in such cases is to be decided on the merits of the case.
- Where appeal is not filed in pursuance of these instructions, such cases shall not have any precedent value.
- Non-filing of appeal based on the above monetary limits, shall not preclude the tax officer from filing appeal or application in any other case involving the same or similar issues in which the tax in dispute exceeds the monetary limit or case involving the question of law.
- Where appeal is not filed solely on the basis of the above monetary limits, there will be no presumption that the Department has acquiesced in the decision on the disputed issues in the case of same taxpayers or in case of any other taxpayers.

AMENDMENT 59

- Where any provision of the CGST Act or SGST/UTGST Act or IGST Act or GST (Compensation to States) Act has been held to be ultra vires to the Constitution of India
- Where any rules or regulations under CGST Act or SGST/UTGST Act or IGST Act or GST (Compensation to States) Act has been held to be ultra vires to the Parent Act
- Where any Order, Notification, Instruction, or Circular issued by the Government or the Board has been held to be ultra vires of CGST Act or SGST/UTGST Act or IGST Act or GST (Compensation to States) Act or the Rules made thereunder
- Where the matter is related to – a. Valuation of goods or services; or b. Classification of goods or services; or c. Refunds; or d. Place of Supply; or e. Any other issue, which is recurring in nature and/or involves interpretation of the provisions of the Act /the Rules/ Notification/Circular/Order/Instruction etc
- Where strictures/adverse comments have been passed and/or cost has been imposed against the Government/Department or their officers.
- Any other case or class of cases, where in the opinion of the Board, it is necessary to contest in the interest of justice or revenue.

SEGMENT 25 – TYPES OF CUSTOMS DUTY

AMENDMENT 60

Protective Duty u/s 6 of CTA, 1975 stands omitted