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PARLIAMENT OF INDIA
RAJYA SABHA

DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE ON COMMERCE

ONE HUNDRED THIRTY NINTH REPORT

Impact of Goods and Services Tax (GST) on Exports

(Presented to the Rajya Sabha on 19th December, 2017)

(Laid on the Table of Lok Sabha on 19th December, 2017)

Rajya Sabha Secretariat, New Delhi
December, 2017/Agrahayana, 1939 (Saka)

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(*Constituted w.e.f.* 1*st September,* 2017)

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RAJYA SABHA

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3. Shrimati Roopa Ganguly
4. Shri Ram Kumar Kashyap
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Shri A.K. Gandhi, *Director*

Shri Narendra Kumar, *Additional Director*

Shri Amit Kumar, *Deputy Secretary*

Ms. Kiran K., *Research Officer*

INTRODUCTION

I, the Chairman of the Department Related Parliamentary Standing Committee on Commerce, having been authorised by the Committee, present this One Hundred Thirty-Ninth Report on Impact of Goods and Services Tax (GST) on Exports.

2. The Committee took up the subject for detailed examination on 6th October, 2017 and the same was notified *vide* Parliamentary Bulletin Part-II dated 13th October, 2017. As part of examination of the subject, the Committee considered the subject in detail spanning over five meetings wherein it heard the views of Secretaries of Department of Commerce, Ministry of Commerce and Industry; Department of Revenue, Ministry of Finance; Confederation of Indian Industry (CII); Apparel Export Promotion Council (AEPC); Federation of Indian Chambers of Commerce and Industry (FICCI); Associated Chambers of Commerce and Industry of India (ASSOCHAM); Indian Banks' Association (IBA); The Cotton Textiles Export Promotion Council (TEXPROCIL); Council for Leather Exports (CLE); Federation of Indian Export Organisation (FIEO); Gems and Jewellery Export Promotion Council; Pharmaceuticals Export Promotion Council (PHARMEXCIL); Agricultural and Processed Food Products Export Development Authority (APEDA); Marine Products Export Development Authority (MPEDA); Tea Board; Coffee Board; Society of Indian Automobile Manufacturers (SIAM); Automotive Component Manufacturers Association of India (ACMA); Engineering Export Promotion Council (EEPC); National Association of Software and Services Companies (NASSCOM); Wool and Woollens Export Promotion Council; Sports Goods Export Promotion Council and Moradabad Handicrafts Exporters Association.

3. The Committee considered the draft Report and adopted the same at its meeting held on 12th December, 2017.

4. The Committee expresses its sincere gratitude to the representatives of both the Departments / Ministries and all the representatives of various organizations for placing before it their valuable suggestions, materials and information required in connection with the examination of the subject.

NEW DELHI;
12 *December*, 2017
Agrahayana 21, 1939 *(Saka)*

NARESH GUJRAL
Chairman,
Department Related Parliamentary Standing Committee on Commerce
Rajya Sabha

ACRONYMS

AA	:	Advance Authorisation
AIR	:	All Industry Rate
APEDA	:	The Agricultural and Processed Food Products Export Development Authority
ARN	:	Acknowledgement Receipt Number
AWB	:	Air Way Bill
BCD	:	Basic Customs Duty
BL	:	Bill of lading
CGST	:	Central Goods and Services Tax
CVD	:	Countervailing Duty
DBK	:	Duty Drawback
DGFT	:	Directorate General of Foreign Trade
DTA	:	Domestic Tariff Area
EDI	:	Electronic Data Interchange
EGM	:	Export General Manifest
EOUs	:	Export Oriented Units
EP	:	Export Promotion
EPCG	:	Export Promotion Capital Goods
FoB	:	Free on Board
FTAs	:	Free Trade Agreements
GST	:	Goods and Services Tax
GSTIN	:	Goods and Services Tax Identification Number
GSTN	:	Goods and Services Tax Network
GSTR	:	Goods and Services Tax Registration
ICB	:	International Competitive Biddings
ICDs	:	Inland Container Depots
ICEGATE	:	Indian Customs Electronic Data Interchange Gateway
IGST	:	Integrated Goods and Services Tax

ITC	:	Input Tax Credit
LCS	:	Land Customs Stations
LEO	:	Let Export Order
LUT	:	Letter of Undertaking
MEIS	:	Merchandise Exports from India Scheme
MMF	:	Man-made Fibres
MSME	:	Micro, Small & Medium Enterprises
RFD	:	Refund
RoSL	:	Rebate of State Levies
SAD	:	Special Additional Duty
SEZ	:	Special Economic Zone
SEIS	:	Service Exports from India Scheme
SGST	:	State Goods and Services Tax
VAT	:	Value Added Tax

REPORT

INTRODUCTION

1.1 India's foreign trade accounts for 45 per cent of country's Gross Domestic Product. It's an important source of employment and, therefore, the need for an efficacious export and import framework cannot be overemphasized. It is established that a robust export growth is both a cause and effect of optimal industrial and agricultural growth of the country. An inherently strong and vibrant export ecosystem is the *mantra* for the success of Make in India programme.

1.2 Many factors like quality of infrastructure, availability of manpower with right skill-sets, finance, market intelligence and market access, exchange rate, bilateral/multilateral trade agreements, etc goes into building up of a robust foreign trade ecosystem. Taxation structure also forms a key to the success of export framework of a country. It is crucial to ensure competitiveness of the country's/nation's export. The basic tenet is that a country exports its goods and not the taxes. The Committee here confines itself to examination of the impact of new taxation system, which has been rolled out in the form of Goods and Services Tax (hereinafter called GST) on 1st July, 2017, on India's exports.

1.3 Goods and Services Tax (GST) is an indirect tax introduced as The Constitution (One Hundred and First Amendment) Act, 2017 and came into effect from 1st July, 2017. It is a comprehensive, multistage, destination based tax that is levied on every value addition. GST has replaced multiple cascading taxes levied by Central and State Government in order to realize the goal of 'One Nation-One Tax-One Market'. It has two components - Central GST and State GST with four tax slabs of 5%, 12%, 18% and 28% and various items and sectors have been categorized under these slabs. Also, an Integrated GST (IGST) will be levied on all Inter-State supplies of goods and/or services. IGST will also be applicable on any supply of goods and services in both cases of import into and exports from India. A copy each of the Integrated Goods and Services Act, 2017 (hereinafter referred as IGST Act) and Central Goods and Services Act, 2017 (hereinafter referred as CGST Act) has been annexed.

1.4 The Department of Commerce, Ministry of Commerce & Industry has submitted before the Committee that the GST mechanism would help to increase the output and quality of exports from India through simple tax structure and minimum compliance cost. It has been stated that the introduction of GST would make a considerable impact on exports in India as it makes them competitive in the following ways:

(i) GST replaced eight central and nine state taxes such as central excise duty, service tax, state VAT and entry tax. Integration of many taxes levied at central, state and local levels, each with a different tax compliance system would simplity the tax system thus reducing the cascading effect of taxes.

(ii) As exports are zero rated, the exporters will get refund of most of the taxes paid on the input. In the past, many such taxes remained unrefunded.

(iii) Earlier, only some States refunded VAT, while now the refund as part of GST refund will be applicable to all States.

(iv) GST would also lead to lower transportation and distribution costs.

(v) In the pre GST regime, firms spent a high cost on product distribution and warehousing. The main reason for the high cost was the expense incurred on branches and warehouses that existed due to tax saving rather than business considerations. GST removes this arbitrage thus reducing logistics cost and making exports competitive.

1.5 The introduction of Goods and Services Tax is a landmark tax reform. However, the journey of economy from pre GST to GST regime is, having its share of challenges which need to be overcome. Several transition issues and teething problems due to implementation of GST have arisen in the export sector which need immediate attention. As a result, various initiatives and reforms need to be taken for simplifying GST and encouraging fast adoption and access of GST among the trading community and for clearing the air of uncertainty around it. The major issues/concerns brought before the Committee have been flagged in the succeeding pages of this Report.

REFUND MECHANISM UNDER GST

2.1 As per Section 16(3) of IGST Act, a registered person making a zero-rated supply shall be eligible to claim refund under the following two options:

- Supply of goods or services or both without payment of IGST under a bond or Letter of Undertaking (LUT) and thereafter claiming refund of unutilized Input Tax Credit (ITC); or
- Supply of goods or services or both on payment of IGST and thereafter claiming refund of such tax paid on goods or services or both supplied, in accordance with the provisions of Section 54 of the CGST Act or the rules made thereunder.

2.2 Exporters are, therefore, entitled for claiming refund of duties paid on exports for inputs or input services used in making zero rated supplies and also the refund of unutilized Input Tax Credit. Section 54 (1) of the CGST Act prescribes that exporters can claim refunds within a period of two years from the relevant date (i.e. in case of exports by sea or air, the date on which ship or the aircraft on which goods are loaded leaves India).

2.3 The timeline envisaged in case of refund of tax on inputs used in exports is as follows:

- Refund of 90% will be granted provisionally within seven days of acknowledgement of refund application.
- Remaining 10% will be paid within a maximum period of 60 days from the date of receipt of application complete in all respects.
- Interest @ 6% is payable if full refund is not granted within 60 days.

2.4 The timeline envisaged in the case of refund of IGST paid on exports is as follows:

Upon receipt of information regarding furnishing of valid return in Form GSTR-3 by the exporter from the common portal, the Customs shall process the claim for refund and an amount equal to the IGST paid in respect of each shipping bill shall be credited to the bank account of the exporter.

2.5 The Committee during its deliberations with various stakeholders was informed that refund of IGST paid on export goods and refund of Input Tax Credit (ITC) on goods exported under Letter of Undertaking

(LUT)/ Bond in the month of July, August, and September, 2017 still remain pending. As a result, huge amount of working capital has been reportedly locked up, thereby, severely hurting the businesses of exporters and affecting their ability to be competitive in international markets. The Committee notes that a sharp liquidity crunch has gripped the majority of exporters due to the blocking of funds.

2.6 The Committee takes note of the response of the Government to this difficult situation faced by the exporting community. It appreciates the decisions taken by the GST Council in its meeting held on October 6th, 2017 so as to address the problem of timely refund to the exporters. It was decided that:

(i) Held-up refund of IGST paid on goods exported outside India in July would begin to be paid between 10th and 18th October, 2017.

(ii) The backlog of returns for the month of August would get cleared from 18th October, 2017 and refunds for subsequent months would be handled expeditiously.

(iii) Other refunds of IGST paid on supplies to SEZs and of inputs taxes on exports under Bond/ LUT, shall be processed from 18th October, 2017 onwards.

2.7 On being enquired about the reasons for delayed refunds, the Committee was apprised by the Department of Revenue, Ministry of Finance that it is largely due to difficulties in filing returns and non-availability of electronic refund application. The Department further informed the Committee that the customs authorities have begun processing refunds of IGST from 10th October, 2017 on those exports which were made in July, 2017. However, due to issues of mismatch between information provided by exporter in GST returns vis-à-vis the information provided in Shipping Bill filed with Customs authorities, the refunds are getting delayed. The Department apprised the Committee that the analysis of data revealed mismatches in invoices, shipping bill numbers and export manifest filed by shipping lines. Exporters have also been advised by the Department to file GSTR1 for the exports made in August and September, 2017 to get their refund claims sanctioned.

2.8 **The Committee notes that refunds, however, has started to trickle only from the month of November, 2017. The intervening period of four months from July to October, 2017 has been extremely trying for the exporters. The significant time lag in providing refunds has supposedly eroded the competitiveness of exporters by around 1.2 per cent to 2 per cent. The Committee notes that the trickle has not yet become a torrent. The refunds are still not coming to the exporters in an expeditious manner. An estimated 15-20 percent of the working capital is already stuck up with the Government for refunds. It is important that the stuck up capital is released expeditiously and the situation must not be allowed to deteriorate any further. It is felt that if the stuck up capital reaches a figure of 20-25 per cent of the working capital then it will result in a steep downward spiral of our exports. Such a situation will break the backbone of our industry and exporters will be demotivated to do business.**

2.9 **The Committee notes that the problem of delayed refund is across the industry irrespective of their size and contour. It is not only the MSME but even the large corporate houses that have been impacted. Nonetheless, the impact is more damaging for small enterprises. The Committee finds this very worrisome.**

2.10 The Committee noted that the quantum of IGST refund claims as filed through Shipping Bills during the period July to October 2017, is approximately ₹ 6,500 crore and the quantum of refund of unutilized credit on inputs or input services, as per the RFD 01A applications filed on GSTN portal, is to the tune of ₹ 30 crore. With regard to IGST paid on goods exported out of India, majority of refund claims for exports made in July, 2017, wherever due, have been sanctioned. The Committee further notes that refund claims of IGST paid for exports made in August, September and October 2017 are being sanctioned seamlessly wherever returns have been accurately filed. The prerequisites for sanction of refund of IGST paid are filing of GSTR 3 B and Table 6A of GSTR 1 on the GSTN portal and Shipping Bill(s) on Customs EDI System by the exporter. In the same vein, the Department has advised the Exporters to take due precaution to ensure that no errors creep in while filing Table 6A of GSTR 1 of August 2017 and onwards. It further says that the facility for filing GSTR 1 for August 2017 would be ready by 4th December 2017. In case of wrong entries made in July, Table 9 of GSTR 1 of August month would allow amendments to GSTR 1 of July 2017.

2.11 As far as refund of the unutilized Input Tax Credit on inputs or input services used in making exports is concerned, it has been informed that exporters shall file an application in FORM GST RFD-01A on the Common Portal where the amount claimed as refund shall get debited from the Electronic Credit Ledger of the exporter to the extent of the claim. Thereafter, a proof of debit (ARN-Acknowledgement Receipt Number) shall be generated on the GSTN portal, which is to be mentioned on the print-out of the FORM GST RFD-01A and to be submitted manually to the jurisdictional officer. The exporters may ensure that all the necessary documentary evidences are submitted along with the Form GST RFD 01A for timely sanction of refund.

2.12 **The Committee fails to understand that if the facility for filing GSTR 1 for August 2017 would be ready by 4th December 2017 then how come refund claims of IGST paid for exports made in August, September and October 2017 are being sanctioned seamlessly wherever returns have been accurately filed. There is no information as regards the timeline by which the facility for filing GSTR 1 for the months of September and October, 2017 will be ready. The Committee hopes that the Department of Revenue and the Central Board of Excise and Customs will take necessary steps to redress the situation at the earliest. The claim that the Government has taken various measures to alleviate the difficulty and is fully committed to provide speedy disbursal of refunds due to exporters calls for more concerted action on the ground.**

2.13 **The Committee further wish to point out that despite the notification of CBEC stating that filing of returns may be done by Form 6A/ GSTR-1E for the month of August and September, 2017, the exporters are witnessing an error while filing the GSTR-1E or Form 6A and as a result, the exporters are unable to claim the refunds through the GSTR-1E or Form 6A. It hopes that immediate steps will be taken to address this problem.**

2.14 The Committee expresses its concern over the fact that it has been as late as 11th November, 2017 that the refund of input tax credit has started with the development of new refund application RFD 01A and modification of requisite rules for manual processing of refund application. **The Committee notes that a small amount of Rs 30 crore has been refunded against the input tax credit claimed and at least a beginning has been made. The Committee notes that though the time-limit for carrying**

out refund is 90 days of the filing of refund application after which there is a provision of paying interest. There is no penalty for delays in development of the refund module. It is disappointing that the module for filing ITC refund could be developed after more than 90 days of coming of GST in existence. The Committee expresses its displeasure for so late a start for refund of input tax credit. It hopes that the Department of Revenue will leave no stone unturned to expedite the process. It also desires that semi automatic system of refund of input tax credit may be replaced with completely automatic system with no human interface for claiming credit refunds.

2.15 **The Committee notes several operational issues existing in the refund mechanism making the refund procedure tardy and cumbersome. The Committee feels that the optimal functioning of refund mechanism in the GST regime is of utmost importance to ensure smooth functioning of exports. The Committee notes that the technical snags in the GST Network are resulting into pushing up of deadlines for filing the returns from the month of July to October and further to December, 2017.**

2.16 **The Committee finds that the difficulty of handling the system from compliance perspective has been an issue for exporters and businesses at large. The refunds are being disallowed on slightest pretext. The Committee appreciates that due diligence is *sine qua non* for granting refunds but this cannot be overplayed inasmuch as that one cannot see the wood for the trees. The Committee learns that refunds are being disallowed on various grounds. One of such grounds is that if any one of the 50 refund scrolls suffers from some defect, howsoever, minor, the customs authorities will cancel the whole batch of 50 scrolls and the entire batch will go back despite the remaining 49 refunds being in order. Further the error/mismatch is also being caused on account of difference in rounding off rupee which has been mandated under CGST Act (Section 170) and automatic dropping of the value of paisa so rounded off in the Customs ICEGATE. So the details filed in GSTN do not tally with Customs ICEGATE resulting in non-processing of refund claims. The Committee feels that these are causing undue hardship to exporters. It recommends the Department of Revenue to address the larger problem at the earliest.**

2.17 **The Committee was informed that exporters were also facing difficulty in refunds on account of delay in filing of electronic confirmation of gateway EGM to common portal as required under Rule 96(2) of CGST Rules by the customs authorities at gateway port. There may also be a delay on the part of sending Let Export Order/EGM which further delays the filing of electronic confirmation. This situation causes hardship to exporters. The Committee desires that either Rule 96(2) of CGST Rules may be amended suitably so that IGST claim can be processed on the basis of train report summary as it was being done in case of drawback disbursal or electronic confirmation may be filed by customs authorities within a reasonable time and any failure to do so must be accounted for.**

2.18 **The Committee is of the opinion that a simplified system for filing of refunds needs to be devised which is in line with the policy of ease of doing business. The Committee recommends that a simpler format be put in place for filing of refunds. The Committee also recommends that the Department should take all measures to educate and assist exporters, especially micro and**

small exporters, in order to enable them to handle technical glitches and several other issues that are coming in the way of exporters while filing refunds.

2.19 The Committee notes that in order to address problem of working capital blockage, the GST Council in its meeting held on 6th October, 2017 decided to come up with "e-Wallet" which would be credited with a notional amount as if it is an advance refund. This credit would be used to pay IGST, GST etc. The "e-Wallet" solution is to be made operational with effect from 1st April 2018.

2.20 The Committee has been informed that a notional credit can be given in advance in this e-Wallet on the basis of the past export performance of exporters and they can use the balances in e-Wallet to discharge the tax liability upfront and then adjust the credit against the refund payable to them. The notional credit in the e-Wallet is like an advance refund, with the restriction that this amount can only be used for payment of taxes and will get adjusted against final payment of refunds. The amount of credit in the e-Wallet can be fine-tuned depending on the ITC accumulation during the period being taken for processing of refunds. As and when the refunds become prompt, the balances required to be credited in the e-Wallet can be progressively reduced and ideally there should be no requirement for any such notional credit.

2.21 **The Committee welcomes the decision to set up an e-wallet. However, it is wary about adherence of the timeline of 1st April, 2018 that has been fixed to make the mechanism operational. It hopes that the Department of Revenue will be able to come up with the e-wallet on time.**

2.22 **The Committee further notes that there is no information regarding the amount that will be given as notional credit to the exporters except for the fact that the advance in this e-Wallet will be given on the basis of the past export performance of exporters. The Committee is of the considered opinion that the advance so credited in the e-wallet must be adequate to cater to the needs of the exporters. The Committee feels that the Government may adopt a liberal approach in crediting the advance and it may give credit as demanded by the exporter subject to a ceiling. If the exporter fails to utilize the credit as demanded then the excess credit may be withdrawn.**

2.23 The Committee was also informed that exporters had no clue as to whom or where to go to get their problems solved as regards filing of claims or the refund processes. Further, there are difficulties in getting clarifications regarding various provisions of CGST/IGST Act. **In view of this, the Committee desires that a formal mechanism for grievance redressal of exporters must be put in place. It is of the view that a dedicated office/unit may be established for continuous interaction with exporters and also to act as a single window for their grievance redressal.**

REFUND OF UNUTILIZED INPUT TAX CREDIT (ITC)

3.1 Accumulation of Input Tax Credit (ITC) happens when the tax paid on inputs is more than the output tax liability. Such accumulation will have to be carried over to the next financial year till such time as it can be utilized by the registered person for payment of output tax liability.

3.2 The GST Law (section 54(3)) permits refund of unutilized ITC in two scenarios, namely if such credit accumulation is on account of zero rated supplies or on account of inverted duty structure (i.e,

where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies), subject to certain exceptions.

3.3 A registered person may claim refund of unutilized input tax credit at the end of any tax period. A tax period is the period for which return is required to be furnished. Thus, a taxpayer can claim refund of unutilized ITC on monthly basis.

3.4 Under zero rated supplies, the exporter is eligible to claim refund when there are either supply of goods or services or both under bond or Letter of Undertaking without payment of integrated tax and claim refund of unutilized input tax credit or supply of goods or services or both on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied. Herein refund of unutilized ITC or tax (IGST) can be applied under Section 54 of the CGST Act, 2017 read with Rule 89 or Rule 96, as the case may be, of the CGST Rules, 2017.

3.5 With regard to inverted duty structure where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies) refund can be applied under Section 54 of the CGST Act, 2017 read with Rule 89 of the CGST Rules, 2017.

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

3.7 Section 54(3) also empowers the Government to notify supplies where refund of ITC will not be admissible even if such credit accumulation is on account of an inverted duty structure. The Committee finds that that as per the decision taken by the GST Council in the meeting held on 3rd June, 2017, the GST rate for cotton fabrics covered under HS codes 5208 to 5212 was pegged at 5 per cent on the condition that there will be no refund of ITC accumulation. Similarly fabrics of man-made textile materials covered under HS codes of 5407, 5408 and fabrics of man-made staple fibres covered under HS code 5512 to 5516 and knitted or crocheted fabrics covered under Chapter 60 was put under GST slab of 5 per cent but with the same condition of no refund of ITC accumulation.

3.8 **The Committee also finds that this blocking of ITC adds to the problem of garment manufacturer/apparel sector since mills buy MMF Yarn at the rate of 12% GST. Fabric is made out of the same and sold to Garment Manufacturer at the rate of 5% GST. The difference is not refundable due to the fact that input taxes are in excess of output taxes. As a result the fabric comes loaded with non-refundable GST on Yarn which normally accounts to about 3% as blocked input credit. It increases cost and makes garments uncompetitive in international market. The Committee wishes to impress on the Department that sub-sectors like garments and made-ups within the textile sector have huge export potential and generate massive employment. It hopes that corrective steps will be taken in earnest.**

DUTY DRAWBACK SCHEME (DBK) AND REBATE OF STATE LEVIES (ROSL)

4.1 Duty Drawback Scheme has been one of the key policy support measures towards incentivizing and facilitating exports. The Scheme seeks to rebate duty or tax chargeable on any imported or excisable

materials and input services used in the manufacturing of goods to be exported. The duties and tax neutralized under the scheme are (i) customs and excise duties in respect of inputs and (ii) service tax in respect of inputs. Under this Scheme, an exporter could avail benefits by opting for either All Industry Rate (AIR) or Brand Rate of Duty Drawback.

4.2 The Committee notes that in GST regime, the Duty Drawback Scheme has undergone tremendous change. Now, the law says that to the extent of the basic customs duty, the drawback will apply; for other taxes the exporter needs to claim a refund. In view of this realignment, the duty drawback rates have come down significantly.

4.3 However, to alleviate the difficulty arising on account of delay in refund and to address the problem of working capital blockage, the Department of Revenue allowed the continuation of composite rates of drawback for a transition period of three months under GST regime i.e. 01.07.2017 to 30.09.2017. The condition for furnishing certificate for claiming composite rate of drawback during said period had been done away with (Notification no. 73/2017-Cus (N.T.) dated 26.07.2017) and exporters were required to furnish a self-declaration for non-availment of credit/refund of CGST/IGST on exports to claim composite rates of drawback.

Once the transition period got over, i.e. with effect from 01.10.2017, Customs rates of drawback have been provided to exporters (Notification no. 89/2017-Cus (N.T.) dated 21.9.2017).

4.4 **The Committee finds that the new Drawback and ROSL rates (post transition, effective from 1st October, 2017) are low and not realistic. It has been submitted by various labour intensive industries like textile, apparel, gems and jewellery, leather, handicrafts, sports goods and toys, engineering, etc that they do not capture the various blocked taxes that reduce the cost competitiveness of these industries.**

4.5 The textiles industry has submitted that Drawback rates earlier were in the range of 3 to 9.5% depending upon the product category but these have now come down significantly. Similarly, the new duty drawback rates for woollen products have come down to 3.5% on wool and 3% on wool blend as compared to the 8.7% drawback available so far. The Committee also learnt that the revised duty drawback rates in the sports goods sector are 70 to 80 percent less than what was in the earlier tax regime. The Handicrafts sector is suffering a low drawback rate of 1.5% while their raw material cost has gone up more than 15% to 20%. This has affected the sector badly and they are not in a position to take new order since the buyers are not ready to increase the price of the product. This has resulted in some bulk orders shift to China. Similarly, the garment sector is facing challenge from their counterparts in Bangladesh and Vietnam who are getting tremendous government support. It was informed that Pakistan has raised duty drawback rate by 50 per cent in order to support its textiles industry.

4.6 The Committee notes that exporters have been factoring the Drawback benefits while quoting to foreign buyers and with the drastic reduction in the Drawback rates, exporters are facing serious difficulty. Although Input Tax Credits are available under the GST regime, which is in addition to the Drawback rates; however, Input Tax Credits only refunds/adjusts the GST paid at the input stage. Further, Input Tax Credit may also not take into account the embedded/blocked taxes.

4.7 **The Committee is of the considered opinion that sudden withdrawal of the incentives extended earlier under Duty Drawback Scheme will lead to the collapse of labour intensive industries. This will have a cascading effect on employment and livelihood of poor workers in these industries. It was informed that trimming down of the Duty Drawback Scheme and consequent erosion of export competitiveness have already set-in the problem of lay-offs. The Committee expresses its deep concern over the possibility of job losses and it strongly feels that if the Government wishes to withdraw the benefit of Duty Drawback Scheme as prevalent in pre GST regime, it should do so in phased manner. The Committee, however, desires that any such exercise, must take due care that the revised rate under the scheme must incorporate any additional incentives/support for the exporters, which were being given prior to the introduction of GST.**

4.8 **In order to bring relief to the exporters, the Committee recommends that the Department of Revenue, Ministry of Finance extend the pre-GST Duty Drawback rates till 30th June, 2018 or till such time the Department works out the revised duty drawback rates. The Committee hopes that this will enable the exporters to overcome the problems being faced by them currently besides helping them to take a long term perspective while negotiating export orders.**

4.9 **The Committee noted that majority of the exporters are small exporters with a turnover of less than ₹ 15 crore. Most of these exporters do not have adequate back office capability. The new system of claiming taxes, both direct and embedded, make it very difficult and complicated for the small exporters to follow. Since the bulk of the exports are made by the small exporters, especially, in the labour intensive sectors such as garments, woollen wear, home furnishings, brassware, gems and jewellery, leather items, sports goods, etc., their trade bodies have represented that the Government should give a choice to the exporter of either claiming ITC or get a high enough duty drawback rate which would encompass all the taxes levied. They felt that most small exporters would prefer the latter scheme, since they would be able to easily claim the duty drawback after exporting their goods as was the system in the past. The Committee recommends that the Government provide for a duty drawback rate which would encompass all the taxes including the GST/IGST levied as well as embedded/blocked tax and give a choice to the exporters to either claim the Duty Drawback or follow the Input Tax Credit route. This will also release the pressure on GST Network.**

4.10 Another concern of the exporters has been that the revised Rebate of State Levies (ROSL) is inadequate especially since petroleum, power and agriculture has been kept outside the ambit of GST and the same needs upward revision. The taxes levied in the GST regime that are not refunded remain embedded or invisible affecting the industries. There are a number of state taxes which still remain un-rebated under GST and therefore form part of the cost of goods which are exported. The Committee was informed that based on industry average data, percentage of such blocked invisible State input taxes (not covered under the above ROSL rate) is quite significant. Many incidences of such taxes are not considered for Rebate of State Levies (RoSL) and Duty Drawback (DBK). The Committee also notes that small and labour intensive industries are characterized by many purchases of niche products from small unregistered dealers which may not be available with the organized sector and any GST taxes incurred on inputs purchased by such unregistered dealers would also remain blocked in the export supply chain.

4.11 **The Committee is of the considered opinion that there is an imminent need to increase the ROSL adequately. The Committee strongly feels that the government may consider blocked/ embedded levies for refund under Rebate of State Levies (RoSL) as well as reimbursement of embedded taxes in the central taxes, under the Duty Drawback scheme. The Committee recommends the Department to identify such incidence of embedded taxes in various industries and should evolve a mechanism so that such embedded taxes are refunded to the exporters.**

DUTY CREDIT SCRIPS

5.1 In order to offset infrastructural inefficiencies and associated costs involved in manufacturing and to provide level playing field to exports vis-à-vis exporters from other countries, the Department of Commerce have been extending incentives in the form of duty credit scrips to exporters of merchandise goods under Merchandise Exports from India Scheme (MEIS) and to service exporters under Service Exports from India Scheme (SEIS). MEIS incentives are available at 2, 3 and 5 percent of the FOB value of exports while SEIS is rewarded at the rate of 3 or 5 per cent of net foreign exchange earned.

5.2 During deliberations with various stakeholders, the Committee was informed that in the pre GST regime, these credit scrips were allowed to be used for payment of central excise duty, service tax and all types of custom duties like Basic Customs Duty (BCD), Countervailing Duty (CVD) and Special Additional Duty (SAD) involved in export chain. However, in GST regime, these scrips have been allowed only for the purpose of payment of the Basic Custom Duty. As a result, the exporters are not able to fully derive the benefits under these schemes. On enquiry, the Department of Commerce has informed that the issue has been taken up by them with the Ministry of Finance and GST Council. The Department has proposed that the scrips should be allowed to be used for payment of GST along with Basic Customs Duty.

5.3 **The Committee observes that limited utilization of Duty Credit Scrips issued under MEIS and SEIS schemes in GST regime has put a constraint on the working capital of exporters. The working capital could be released of the burden of payment of GST/IGST towards procurement of goods and services as well as exports of goods and services if the duty credit scrips were allowed to be utilized for payment purpose of all export related activities. The Committee strongly recommends that the duty credit scrips may be permitted for payment of GST in domestic procurements and the payment of IGST on exports and imports of goods and services.**

5.4 It has been suggested by exporters that the incentive rates under MEIS should be enhanced from 2 per cent to at least 5 per cent of FOB in order to defray substantial increase in the working capital cost. It was submitted that this will help to boost exports in these sectors. It was further apprised that the increase in rates would be essential to partially offset the higher incidence of costs resulting from logistics inefficiencies and higher transaction expenses. The enhanced rates would also negate the disadvantages faced by the exporters in the garments and textiles sector on account of Free Trade Agreements (FTAs) and other tariff advantage of competing neighbouring countries.

5.5 **The Committee is happy to note that the Department of Commerce has decided to raise incentive rate for Merchandise Exports from India Scheme (MEIS) by 2 per cent across the board for labour intensive/MSME sectors. The increase in annual incentive by 34 per cent to ₹ 8,450**

crore will benefit apparel, leather, handicraft, carpets, sports goods, agriculture, marine, electronic components and project exports. The Committee is hopeful that this measure will incentivize the exports of labour intensive industries and contribute to employment generation. The Committee believes that these measures will restore confidence amongst exporters and stand in good stead for the exporters in the ongoing difficult transition period.

REFUNDS ON CAPITAL ASSETS/GOODS RELATABLE TO EXPORTS

6.1 The Committee notes that the entities exporting goods or services are allowed to claim refund of Input Tax Credit (ITC) or taxes paid on the exports as per the provisions under section 54 of the CGST Act read with Rule 89 or Rule 96, as the case may be, of the CGST Rules. Inasmuch as refund of unutilized Input Tax Credit (ITC) is concerned, CGST Act allows claim of refunds only in respect of inputs (raw materials) and input services. The Committee notes that as per Section 54(8)(a) of the CGST Act, refund has not been provided for in respect of import of capital goods which are used for manufacturing of goods or for provision of services.

6.2 It has been submitted before the Committee that when there is substantial expansion of plant and machinery and when machines are required to be imported then the GST/IGST paid as well as accumulated Input Tax Credit (ITC) may remain unutilized in the books for many years. Also, the ITC on purchases of such machines is at higher rates than the GST rate on final supply or IGST on exports which may not be compensated fully by refunds. The provision of non- refund of ITC on capital goods are also impacting financial institutions like banks which are separately registered for export services, for eg., banks having branches in Special Economic Zones (SEZs).

6.3 A comparative analysis regarding the provisions under the earlier law and the GST law is as following:-

Sl. No.	Purchase of	Under Excise, Service Tax and VAT regime		Under GST regime	
		Credit available	Refund available	Credit available	Refund available
1	2	3	4	5	6
Manufacture and Export of Goods					
1.	Purchase of inputs (raw materials)	Excise – Yes VAT – Yes	Excise – Yes VAT – Yes	Yes	Yes
2.	Input Services	Service Tax – Yes	Service Tax – Yes	Yes	Yes
3.	Capital Goods	Excise – Yes VAT – Yes	Excise – No VAT – Yes	Yes	No
Export of services					
1.	Purchase of inputs (raw materials)	Excise – Yes VAT – Yes	Excise – Yes VAT – NA	Yes	Yes

1	2	3	4	5	6
2.	Input Services	Service Tax – Yes	Service Tax – Yes	Yes	Yes
3.	Capital Goods	Excise – Yes VAT – Yes	Excise – No VAT – Yes	Yes	No

Source: Indian Bank Association (IBA)

6.4 The Committee notes that in pre GST period, the exporters resorted to schemes like Advance Authorisation (AA) and Export Promotion Capital Goods (EPCG) Scheme for importing inputs including machinery. The exporters had the facility of procuring duty free inputs either through import or from domestic market under Advanced Authorisation (AA) Scheme and procuring duty free capital goods under Export Promotion Capital Goods (EPCG) Scheme. The assesses were able to import goods without payment of customs duty against requirement to fulfill prescribed export obligation and in case of non-fulfillment of export obligation, the assessee was required to repay the customs duty so saved along with interest. However he was eligible to claim credit of CVD and SAD component of such customs duty. Also, imports as well as domestic procurement of goods were duty free under 100 per cent EOUs. However, in GST regime, in case of non-fulfilment of export obligation while the importer is required to repay the customs duty saved, including CVD and SAD component, credit of CVD and SAD is not available in absence of enabling provisions under GST law.

6.5 **The Committee notes that absence of credit on CVD and SAD component of customs duty in case of non-fulfillment of export obligation would result into CVD and SAD component becoming a cost to such exporters in GST regime. The Committee finds this to be an additional financial burden on the exporters. The need for working capital of exporters may rise substantially resulting into adverse consequences on exporters. The Committee desires that this difficulty of absence of enabling provision resulting in denial of credit may be addressed on priority. In the meantime, the Government can come up with a clarification allowing credit of CVD and SAD component.**

6.6 The Committee, further, notes that in order to provide immediate relief to exporters the GST Council in its meeting held on October 6th, 2017 has extended the Advance Authorization (AA), Export Promotion Capital Goods (EPCG) and 100% EOU schemes for sourcing inputs etc. from abroad as well as from domestic suppliers without payment of any GST and Cess. The Department of Revenue has apprised that domestic supplies to holders of AA, EPCG and EOU Schemes would be treated as deemed exports under Section 147 of CGST/ SGSCT Act and refund of tax paid on such supplies would be given to the supplier. The Committee noted that the immediate relief to AA/EPCG/100% EOU to source inputs for exports without payment of IGST is available till 31.03.2018.

6.7 **The Committee notes that a temporary relief has been given to exporters till March, 2018. However, this does not solve the problem of non refund of IGST on capital goods import. The IGST can only be adjusted against the payment of IGST on export side. The problem of locking up of capital on account of the GST/IGST paid as well as accumulated Input Tax Credit (ITC) on import of capital goods remain as it is. Also, the problem of inverted duty structure persists when**

ITC on purchases of capital goods at higher rates than the GST rate on final supply or IGST on exports is not fully compensated. It will add into exporters' capex for the project making it impossible for them to sustain and the project will become unviable. It has been informed that the entire process of finalising and importing the capital goods and setting up of a project is more than year and a half long cycle. The immediate relief till 31st March, 2018 does not help much. The exporters' community has shared that they have put their plans of import on hold. The Committee is of the considered view that the Government come up with permanent solution to this problem. It is of the opinion that this arrangement of non payment of IGST/Cess till March, 2018 should be made permanent. Similarly, machines bought domestically against EPCG scheme should be free from payment of IGST. The Committee recommends the Department of Revenue to bring up the issue of non refund of GST/IGST and non refund of accumulated Input Tax Credit (ITC) on capital goods import as well as domestic procurement before the GST Council on urgent basis and address all the issues flagged here for the larger benefit of country's exports.

6.8 **The Committee also desires that refund of IGST may be provided for in case of those who have paid IGST before the issuance of the notification giving immediate relief for import of capital goods under AA/EPCG/100% EOUs.**

6.9 The Committee also learnt that although the Schemes *i.e.* AA, EPCG and 100% EOU had been exempted from GST and cess, the same benefits had not been extended to the Export Performance Certificate (EPC) Scheme which provides similar exemption to exporters from paying customs duties, CVD, BCD and SAD for the imports of inputs such as fabrics and items like tags, labels and other accessories used while manufacturing. The Committee was informed that in earlier tax regime, imports were completely duty free under the Export Performance Certificate Scheme but it is now attracting 12% GST. It has been submitted that the Scheme of Export Performance Certificate should also be exempted from IGST in line with proposed exemptions of EPCG and AA Scheme.

6.10 **The Committee is of the view that the Export Performance Certificate Scheme is significant for exporters from labour intensive sectors. It is of the opinion that this scheme should also be brought at par with ECGC/AA Scheme with similar relief that have been brought about recently. It also desires that the Government explore the possibility of dispensing of the requirement of the payment of GST/IGST for imports made for export purpose.**

DEEMED EXPORTS

7.1 The Committee noted that as per the Foreign Trade Policy, in the pre-GST regime, the goods supplied in India to the advance authorization/EPCG authorization holders or 100% EOU units were treated as deemed exports and such deemed exports were considered for fulfilment of export obligations under various schemes. However, in the GST regime, if a person imports the goods without payment of BCD as well as IGST under advance authorization/EPCG scheme, then any supplies made by such person to other advance authorization/EPCG authorization holder or to a 100% EOU unit, is not treated as deemed exports and consequently, not considered for fulfilment of export obligation.

7.2 It has been submitted that such restriction is causing issues for the exporters since in many cases, the entire value chain for the ultimate exports has multiple vendors who use parts and components

imported duty free under advance authorization. They fulfil their export obligation by supplying goods to another manufacturer who also holds advance authorization and so on, till the time the goods are exported by the ultimate exporter. If the IGST exemption is claimed by any person, his supplies to other advance authorization holders, are not considered towards export obligation, resulting in increased costs for the goods ultimately exported.

7.3 Similarly, certain supplies to various projects (*i.e.* projects under International Competitive biddings (ICB), Mega Power Plants and World Bank funded projects) were considered deemed exports supplies, however, such supplies under GST regime had not been categorized into deemed export. The Committee noted that such supplies in pre GST regime were eligible for duty refund or exemption from central taxes in order to enhance competitiveness of Indian firms participating in global tenders or large scale bids. Under GST, these supplies have become taxable and only Customs Duties exemption are available. The Committee has been informed by the Department of Commerce that IGST ACT defines the deemed exports but has not notified any supplies as the deemed exports. Absence of notification of supplies that would qualify as deemed exports supplies has, as a result, affected the operations of over 7,000 Export Oriented Unit (EOUs) which have become akin to the domestic unit. Non-notification of deemed supplies had also made domestic sourcing under Advance Authorisation and EPCG uncompetitive.

7.4 **The Committee notes that notification of deemed export supplies as it was in the earlier tax regime is essential to strengthen the Indian Companies by providing them tax refunds and exemption. The Committee recommends the Department of Revenue, Ministry of Finance to bring out notification regarding supplies as mentioned in Foreign Trade Policy for qualifying as deemed exports and extend export related benefits as provided under GST framework. It also desires that the previous position of considering the supplies made to the advance authorization/ EPCG authorization holders or 100% EOU units towards export obligations under various schemes should be re-instated.**

SUPPLIES TO SPECIAL ECONOMIC ZONES (SEZ) AND EXPORT ORIENTED UNITS (EOUs)

8.1 The supplies made to an SEZ unit or a SEZ developer is zero rated. The supplies made to an SEZ unit or a SEZ developer can be made in the same manner as supplies made for export either on payment of IGST under claims of refund or under bond or LUT without payment of any IGST.

8.2 Supplies to SEZ unit or SEZ developer have been accorded the status of inter-State supplies under the IGST Act. Under the GST Law, any supplier making inter-State supplies has to compulsorily get registered under GST. Thus anyone making a supply to a SEZ unit or SEZ developer has to necessarily obtain GST registration.

8.3 In so far as EOU is concerned, the duty free imports under GST regime will be restricted to Basic Customs Duty. Exemption from the additional duties of Customs, if any, under section 3(1), 3(3) and 3(5) of the Customs Tariff Act, 1975 and exemption from Central Excise duty will be available for goods specified under the fourth Schedule to the Central Excise Act. IGST or CGST plus SGST will be payable by the suppliers who make supplies to the EOU. The EOU will be eligible, like any other registered person, to take Input Tax Credit of the said GST paid by its suppliers.

8.4 The Committee notes that some additional conditions have been levied under IGST Rules which is causing concern. Now payment for any supply made by DTA to an SEZ is required to be paid in foreign exchange. Earlier, SEZ units were not required to pay all the DTA suppliers in foreign exchange. It was only in case of services. Now, even in case of merchandise goods, they have to be paid in foreign exchange. **The Committee feels that this requirement is a hardship on SEZ units with no perceptible benefit. It is actually through general foreign exchange market and through the banks that SEZs buy foreign exchange and they pay it to the DTA suppliers. In such case, foreign exchange will remain in India only.**

8.5 **It is also noted that EOUs can buy from small suppliers through reverse charge mechanism. But this provision does not extend to SEZs. In the absence of this capability, SEZ cannot procure supplies from small vendors and Bond/LUT cannot be executed because the supplier has to be a registered supplier in order to supply to SEZ. The Department may look into this difficulty.**

8.6 The Committee further notes that it is only the registered supplier who can seek the refund in case of supplies made to SEZ. The problem is that many suppliers are not GST registered. In pre GST regime, the suppliers were not registered under excise but were only registered under VAT. They were simply supplying to SEZ by charging sales tax and the SEZ units used to get the refunds while exporting. The Committee learns that suppliers are not interested to supply to SEZ if they have to seek refund. The reason may be found in their impression that they will have to understand the legal intricacies involved in such supplies and refund claims. **The Committee feels that the Government may explore the possibility of creating an optional mechanism where SEZ unit may be allowed to seek the refund in cases where the DTA suppliers refuse to seek the refund.**

8.7 Further, there are SEZ developers, who give their premises on lease. However, there is no specific charging section under IGST Act for this transaction which has caused confusion on the ground. The Committee learns that there are a lot of SEZ developers who have not yet built their units. The developers feel that if they build them, either SGST or CGST needs to be charged. However, these cannot be claimed in refund as there is no provision of claiming them as of now. In case they do not charge the tax, there is a fear that the developers may be held liable for evasion in future. **The Committee is of considered opinion that a clarification may be put forward in this regard. It, nonetheless, feels that since both the unit holder and the developer are present in SEZ bonded area and they are required to export their goods only, hence, a transaction within the SEZ may not be subjected to any taxation.**

8.8 The Committee further notes that EOUs are not required to pay GST for import of inputs. However, if they make domestic procurement, they have to pay GST. This dichotomy has resulted in confusion among business enterprises. **The Committee is of the view that exemption of GST may be extended in both situations, whether EOUs purchase from DTA or they import their raw material from abroad.**

MERCHANT EXPORTERS

9.1 It is estimated that Merchant Exporters account for over 30% of country's exports, who usually work on razor thin margins of 2-4%. Para 9.33 of Foreign Trade Policy states that Merchant Exporter is a person engaged in trading activity and exporting or intending to export goods.

9.2 Merchant exporters are instrumental in boosting exports especially exports from MSME and small manufacturers as they sell and buy on their own account and have intimate knowledge of export markets and exportable products. They are usually well financed, extend pre-shipment finance to supporting manufacturers and, therefore, they are highly beneficial for small enterprises which does not possess adequate financial and managerial resources required for making a successful entry into a foreign market lacking expertise in exporting.

9.3 The Committee has been informed that the Merchant Exporters, under the GST regime, had to pay taxes at the time of procurement of goods meant for exports whereas a manufacturer exporter could export under LUT or bond without the payment of applicable GST. As a result, it increased the cost for merchant exporters since in pre GST regime the merchant exporter purchased goods for export from the manufacturer without the payment of any tax.

9.4 The GST Council in its meeting held on 6th October, 2017 has given relief to the Merchant Exporters inasmuch as that they now have to pay a nominal GST of 0.1% for procuring goods from domestic suppliers for export. However, nominal GST rate has been made contingent upon fulfillment of certain conditions by the merchant exporters as prescribed here under:

(i) Supplier shall supply to recipient under a tax invoice.

(ii) Merchant Exporter/Recipient shall export the said goods within a period of 90 days from the date of issue of invoice.

(iii) Merchant Exporters/Recipient shall indicate GSTN and Tax Invoice No. of the supplier in the Shipping Bill.

(iv) Merchant Exporters/Recipient shall be registered with an Export Promotion Council/ Commodity Exchange Board recognised by Department of Commerce.

(v) Merchant Exporter/Recipient shall place order on Supplier for supplying goods at concessional rate and a copy of the order shall also be given to the jurisdictional tax officer of the supplier.

(vi) Merchant Exporters/Recipient can move the goods from the place of supplier directly to port, Inland Container Depot (ICD), Airport or Land Custom Stations (LCS) from where goods are to be exported or directly to a registered warehouse from where the goods shall be exported from port, ICD, Airport or LCS as the case may be.

(vii) If the Merchant Exporter/Recipient accumulates all goods from different suppliers the goods shall move to a registered warehouse and on aggregation shall move to port, ICD, Airport or LCS as the case may be.

(viii) In situation (vii) the Merchant Exporter/Recipient of goods shall endorse receipt of goods on tax invoice and also obtain acknowledgment of receipt of goods in the warehouse by the warehouse operator. Such endorsed invoice, acknowledgement shall be provided to the supplier as well as jurisdictional tax officer of the supplier.

(ix) After the goods have been exported the Merchant Exporter/Recipient shall provide following documents to the supplier and the jurisdictional tax officer of the supplier:

- Copy of shipping bill/ Bill of export (incorporating supplier's GSTIN)
- Tax invoice provided by supplier
- Export General Manifest/ Export report

9.5 It has been submitted by various stakeholders that these conditions are so stringent that they take away the benefit intended for merchant exporters. The difficulties being faced on this count have been mentioned below:

(i) **GST Number & Tax Invoice Details:** The Committee was informed that the Shipping Bill as of now has no provision to include the details of GSTN & Tax Invoice Details of the registered supplier. Also, if the details of more than one supplier are to be given under one shipping bill, difficulty arises in mentioning the GST No. and Tax Invoice Details of all the suppliers in the Shipping Bill. **The Committee recommends necessary provisioning in the shipping bill for encapsulating the details of GSTIN and tax invoice numbers of more than one supplier may be made.**

(ii) **Definition of registered warehouse when the goods are moved to ports *via* such warehouses:** The registered warehouse has not been clearly defined since the registered warehouse may either be the principal place or additional place of businesses or a Container Freight Station. **The Committee recommends that clarity should be made on the definition of registered warehouse with a view to ease of doing business.**

(iii) **Compliances on purchase and aggregation of goods:** The requirement of furnishing purchase order copy to the jurisdictional tax officer of the supplier and later the endorsed tax invoice and acknowledgement of warehouse operator to the jurisdictional tax officer of the supplier may increase the compliance burden on the Merchant Exporters. **The Committee recommends that Government may explore the possibility of doing away these compliance requirements.**

(iv) **Furnishing copies of shipping bills after exports:** It was brought before the Committee that the requirement of providing a copy of shipping bill to the supplier will disclose all details of the buyers of Exporters and the price of exports. This may result in risk for exporters losing the buyer to the supplier. The Committee is also of the view that the further requirement of furnishing copies of one shipping bill to various suppliers for one export shipment if goods have been procured from more than one supplier and submitting the shipping bill to the same number of jurisdictional authorities of suppliers will become a cumbersome compliance requirement for exporters. It has been submitted that since Export Promotion (EP) copy of the shipping bill is not being issued by Customs, therefore, the same should not be prescribed as a compliance document. **The Committee recommends the Department to take necessary steps to address the problems.**

(v) **Exports within 90 days:** It has been provided that the supplier will not be eligible for the exemption, if registered recipient fails to export the goods within period of 90 days from the issue of tax invoice. It has been submitted that that there is no clarity about the date which

will be considered as the export date – Shipping Bill date, Let Export Order (LEO) date or Bill of Lading (BL)/ Air Way Bill (AWB) date or Export General Manifest (EGM) date. **The Committee recommends that a clarification in this regard may be issued.**

9.6 The Committee also finds that the obligation to export within 90 days has also made the suppliers reluctant to sell under the scheme since the supplier will have to pay GST with interest, if the exporter is not able to complete the export either partially or fully within 90 days. It will be considered as Supplier's Default under the GST law. As a result, the supplier may ask exporter/recipient to block their tax amount or deposit security until the export is completed. This will defeat the purpose of the relief extended. **The Committee is of the considered opinion that the ceiling of 90 days should be relaxed and it may be extended to 180 days.**

9.7 The Committee further learnt that confusion prevails about the rate of IGST (when 0.1% or some other applicable GST rate) imposed on goods procured by merchant exporter when these goods are not exported under the facility of Letter of Undertaking. Further, it is not clear whether the registered supplier would be eligible to claim ITC treating it as a case of inverted duty since the output duty is much less than the input duty. Moreover, whether such refund would be available on monthly basis or not is also not clear. Clarification is also required on whether the complete chain involved in exports (*i.e.* from raw material to multiple job works, packaging and to exports) will be coming under the notification issued for merchant exporters wherein nominal rate of GST of 0.1% will be charged. **The Committee is of the view that the Notification of 23rd October, 2017 regarding Merchant Exporters needs clarifications. The Committee desires that the clarifications may be issued on priority in view of their pivotal role in country's exports especially for MSME sector which is critical to employment generation.**

9.8 The Committee also notes that in many cases, the Indian exporter places an order with a vendor located abroad with instructions to directly deliver the goods to the customer of the Indian exporter outside India. The Indian exporter raises invoice on the end-customer to whom the goods are delivered. It has been submitted that since the goods do not enter India at all, therefore, there should not be any customs duty or GST in the absence of any import of goods into India. Further, there is no physical export of goods by the Indian exporter to his customer outside India from India and consequently, the sale by the Indian exporter is not covered under the definition of 'exports' under IGST Act. However, some confusion persists as to whether such exporter fall under tax net. It has been pointed out that as per section 10 of the IGST Act read with section 7(5) of the IGST Act, the supplier (*i.e.* Indian exporter) is located in India and the place of supply of goods is outside India, the sale by the Indian exporter qualifies as inter-State supply. Accordingly, there is an apprehension in the industry that the tax authorities may seek to levy IGST in such cases, despite the goods never entering into India.

9.9 **The Committee feels that in the cases of 'High Seas Trade', where the goods never enter India and are directly delivered to the customers outside India on instruction of the Indian supplier, it would be preferable that such transactions are kept outside the purview of GST in India. In view of the prevailing apprehension, the Committee recommends that a specific clarification may be issued in this regard.**

REVERSE CHARGE MECHANISM AND EXPORTS

10.1 As per section 9(4) of the CGST Act, in case of supply of goods/services by an unregistered person to a registered person, the GST on such supply is payable by the registered person under reverse charge basis. It was submitted that this provision of paying GST under reverse charge mechanism are resulting into cash flow issues for the exporters since they need to initially pay GST in cash and then claim refund. The provision relating to liability under reverse charge on procurements from unregistered persons has been temporarily suspended till 31stMarch, 2018. It has been requested that the exporters should be exempted from reverse charge liability on procurements made from unregistered persons on a permanent basis.

10.2 **The Committee notes that the reverse charge mechanism is increasing the operational woes and compliance issues on exporters wherein unnecessary burden had been imposed on them of first paying reverse charge and then claiming a refund. It also desist an exporter to make purchase from unregistered vendors who are usually small enterprises. Thus the businesses of these enterprises are likely to be affected adversely which will lead to job losses. The Committee is of the view that in order to have hassle free exports as well as to give boost to small enterprises, reverse charge mechanism may be removed on a permanent basis in the procurement made in relation to export activity. The Committee recommends the Department to engage with Ministry of Finance and take all steps to exempt the exporters from reverse charge liability.**

GST ON JOB WORK

11.1 In pre-GST regime, no tax was imposed on the Job Work. However, in the GST regime, Job Work involved in the labour intensive sectors is attracting varying GST rates ranging from 5% to 18% and in some cases even 28%. The Committee notes that recently the GST rate on job work in textiles, leather, diamond processing and jewellery sector have been brought down to 5%. It has been suggested that there should be uniformity in GST rate on job work reducing the burden of taxation and avoiding classification dispute on all categories of job work. Levying high rates of GST on job work involved in the manufacturing of products has severely affected the job workers wherein the job work units are not receiving any orders from manufacturers and exporters especially those in MSME sector.

11.2 **The labour intensive industries such as leather, garments, carpet, handicrafts etc which form a major part of exports of our country utilizes intensively the service of job workers in the manufacturing of products. These job workers are mostly self employed individuals or home workers especially women. Therefore, the Committee feels that high rates of GST on job work would have a negative bearing on the job workers as well as industries especially micro and cottage. It may also add to the compliance burden of job workers who are not equipped to handle such responsibility. Further, charging different rates on job work will be creating confusion in their classification resulting into disputes. Since the GST on job work for exports is revenue-neutral, the Committee is of the considered opinion that no GST may be imposed on job work for exports. The Committee understands that there may be concerns that it will be difficult to keep a track on such products that they do not enter domestic market. To tackle such a situation, the Committee feels that the Government may provide for criminal penalty for any such breach.**

GST ON FREIGHT

12.1 The Committee was informed that GST rate of 18 per cent is being imposed for services rendered by airline for perishable cargo which is exorbitantly high. Also, GST at the rate of 5 per cent is being charged on sea freight. As a result exporters in fruits and vegetable sectors are paying a considerable percentage of their exports on air and sea freight in spite of the fact that no GST is being charged on sale of vegetables and fruits. The Committee was informed by the representatives of Agricultural and Processed Food Products Export Development Authority (APEDA) that more than 50 per cent of the cost of entire turnover in exports of perishable goods such as vegetables, fruits etc is being incurred on freight cost thereby creating huge working capital burden on exporters. The Committee was further apprised by the representatives of Wool and Woolens Export Promotion Council that imposition of 12 per cent GST on railway freight on transshipment of exportable goods is also an additional cost burden on exporters.

12.2 **The Committee notes that charging high rates of GST on air, sea and railway freight on exports not only causes additional cost burden on exporters but also erodes the competitiveness of export. The Committee is of considered opinion that imposition of GST on export freight which is later refunded is an unnecessary burden which stretches the working capital requirements of exporters. It, accordingly, recommends that export freights through air, sea and railway may be exempted or rationalized.**

INDIAN SHIPPING LINES AND GST

13.1 The Committee was informed that when an Indian Shipping line is engaged by an Indian Exporter for exporting goods, GST is payable on air or ocean freight as the place of supply of services under Section 12(8) of IGST Act will be the location of the registered person.

13.2 Under Section 13 (9) of the IGST Act, where either the supplier or recipient of the service is outside India, the place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods. Thus, when a foreign based shipping line is engaged by an Indian Exporter, GST is not payable since the place of supply is outside India. **The Committee takes serious note of the disparity in respect of freight payable during export of goods since engaging a foreign based shipping line does not attract GST whereas engaging an Indian shipping line would be liable to GST. The Committee recommends that provisions of the IGST Act should be suitably amended for bringing exports made by Indian shipping line at par with foreign shipping lines and provide level playing field for Indian Shipping Industry.**

EXPORT OF SERVICES

14.1 The Committee notes that financial institutions and IT companies provide services to establishments outside India and receives convertible foreign exchange from service recipient, *viz.* their branches outside India. This transaction between the Head Office and its branches outside India has been made subject to GST liability by virtue of the fact that the service provider and service recipient in such cases would be regarded as 'distinct person'. This excludes the transaction from becoming export of services as per section 2(6) of the IGST Act.

14.2 'Export of services', as defined under Section 2(6) of Integrated Goods and Service Tax Act, 2017 ('IGST Act') means the supply of any services 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; 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.

14.3 Concerns have been expressed that tax on services provided by Head Office / branch of a bank in India to overseas establishment would have to be borne by the Head Office / branch in India. This would add to the cost of operations and would add to the cost of business. The increased cost is likely to adversely impact the cost of providing services, and the resultant shifting or loss of business. It is the longstanding policy of the Government of India to export services and goods without exporting taxes and duties.

14.4 **The Committee desires that the Government may revisit section 2(6) of the IGST Act and ensure that such transactions between the Head Office and its branches may be kept out of its ambit.**

PLACE OF SUPPLY OF SERVICES

15.1 The Committee noted that service providers providing services to overseas suppliers of goods earn commission in convertible foreign exchange. IGST @ 18% is leviable on such commission because the Government does not recognize their services as "Export of Services". Section 13(8) provides that Place of Supply of services will be the location of service supplier and not the location of overseas customers. Even in cases where both supplier and buyer are located outside India, commission earned for such transaction also attract IGST @ 18%.

15.2 **In view of the fact that GST is a destination based consumption tax, the Committee is of the view that following steps may be taken:**

- **Provide that Place of Supply of Indian Intermediaries of Goods will be the location of service recipient *i.e.* customers located abroad (and not the location of such intermediaries as is currently provided), so that Intermediary Services will be treated as 'Exports'; or**
- **Providing an exemption to Indian Intermediaries of Goods from levy of IGST, exercising the powers vested under Section 6(1) of IGST Act; or**
- **Notify such services under Section 13(13) of the IGST Act to prevent double taxation (tax in India as well as in the importing country) by treating place of effective use (foreign country) as place of supply.**

15.3 **The Government may also cause amendment to section 13(8) of the IGST Act to exclude 'intermediary' services and make it subject to the default section 13(2) so that the benefit of export of services would be available.**

REINSURANCE SERVICE

16.1 Exports Credit Guarantee Corporation of India Ltd. (ECGC) provides credit risk insurance and related services for exports with the objective of promoting and strengthening exports from the country. The Committee was apprised that the reinsurance taken by ECGC on Export Credit Insurance was exempted from service tax in the earlier tax regime. Since Export Credit Insurance is exempted from GST as it is covered under Mega Exemption List, no GST is being imposed on premium charged on Export Credit Insurance at present. However, GST is being charged on reinsurance service taken on Export Credit Insurance.

16.2 **The Committee is of the considered view that reinsurance service is an essential insurance product available to exporters which help them guard against high risk in exports due to volatile nature of global markets. The Committee recommends the Department to take necessary action so that the reinsurance service may also be covered under mega exemption list and the same should be exempted from payment of GST.**

CONCLUSION

17.1 **The Committee is of the view that structurally GST is a much better taxation system than the earlier tax regime. However, teething problems have been there and there is a feeling that what was thought as the grand idea of GST, on the ground, the implementation has not been proper. The teething problems are, of course, there in the GST and technology-related issues. It has been noticed that there is no interface amongst GSTN, Customs ICEGATE and DGFT EDI systems and this problem needs to be addressed on urgent basis. The Committee feels that GSTN did not get enough time for testing. Even the training given to the officers on ground on issues like Letter of Undertaking (LUT) and related matters has not been adequate. Problems persist on procedural requirements as to what constitute a LUT. Different officers on the ground do not have any clarity on what should be the format of this Letter of Undertaking, whether it should be on a stamp paper or not. The Committee is happy to note that the GST Council and the Government have been responsive to the problems being faced by the exporting community and are trying to alleviate them urgently. The Committee hopes that the Government will leave no stone unturned to place in an efficacious taxation framework for a robust export framework.**

17.2 **The Committee finds that the problem of delayed refund to exporters has caused hardships to the exporters. It is aware that the GST Council has taken various measures to alleviate this problem. The Committee, however, feels that if the taxes are to be finally refunded then what is the need to put the exporters to the rigmarole of paying taxes and taking its refund or taking refund of unutilized input tax credit. It has been experienced that it is easy to pay tax but it is very difficult to get a refund. The Committee feels that a system may be devised to ensure that the procurement/manufacture for export purpose may be exempted from taxation system.**

17.3 **It has also been submitted before the Committee that a period of three month is not adequate to assess the impact of GST on exports. It has been emphasized that during July-September 2017, merchandise exports grew by 13.49% over same period in 2016. During July-September, 2017, services exports grew by 1.90% over same period in 2016. So, in totality, overall exports witnessed a positive growth. The Committee is of the considered opinion that the country cannot afford to wait and watch the impact of GST on exports after the lapse of considerable period. India's export is deeply intertwined with employment and rolling of machines in MSME sector. So it's a bounden duty to ensure that export sector remain healthy and vibrant. An early diagnosis and redressal of the problems helps in maintaining a healthy eco-system.**

17.4 **Moreover, the Committee has been of the view that the rise in exports during the period July-September, 2017 was the result of continuation of composite drawback duty scheme during the transition period which ended on 31st September, 2017 and exporters' haste to avail the scheme which made them advance the supply of their export order for the transition period of July to September, 2017. Though the Committee would have desired the outcome to be otherwise but the export figure for the month of October, 2017 indicate that the Committee presaged rightly. There is a slide in exports after the expiry of the transition period of composite rates of drawback. The Committee notes that in the month of October, there is an overall decline in the merchandise exports by -1.12 per cent *vis-à-vis* exports of October last year. The Committee notes that during the period July-October there has been a drop in the exports in the sectors like readymade garments of all textiles, fruits and vegetables, carpets, handicrafts, gems and jewellery, and there has been some stagnation in the sectors like leather. Thus the labour intensive sectors appear to have been adversely impacted in this brief period. Growth, however, has been visible in petroleum and chemical sector. This is largely on account of the increase in the commodity prices. There are increases also in the engineering sector which is relatively more organized sector. The Committee is certain that the Government will take all corrective measures in the present taxation system to ensure a sustained growth trajectory of our exports.**

REFUND MECHANISM UNDER GST

The Committee notes that refunds, however, has started to trickle only from the month of November, 2017. The intervening period of four months from July to October, 2017 has been extremely trying for the exporters. The significant time lag in providing refunds has supposedly eroded the competitiveness of exporters by around 1.2 per cent to 2 per cent. The Committee notes that the trickle has not yet become a torrent. The refunds are still not coming to the exporters in an expeditious manner. An estimated 15-20 percent of the working capital is already stuck up with the Government for refunds. It is important that the stuck up capital is released expeditiously and the situation must not be allowed to deteriorate any further. It is felt that if the stuck up capital reaches a figure of 20-25 per cent of the working capital then it will result in a steep downward spiral of our exports. Such a situation will break the backbone of our industry and exporters will be demotivated to do business. (Para 2.8)

The Committee notes that the problem of delayed refund is across the industry irrespective of their size and contour. It is not only the MSME but even the large corporate houses that have been impacted. Nonetheless, the impact is more damaging for small enterprises. The Committee finds this very worrisome. (Para 2.9)

The Committee fails to understand that if the facility for filing GSTR 1 for August 2017 would be ready by 4th December 2017 then how come refund claims of IGST paid for exports made in August, September and October 2017 are being sanctioned seamlessly wherever returns have been accurately filed. There is no information as regards the timeline by which the facility for filing GSTR 1 for the months of September and October, 2017 will be ready. The Committee hopes that the Department of Revenue and the Central Board of Excise and Customs will take necessary steps to redress the situation at the earliest. The claim that the Government has taken various measures to alleviate the difficulty and is fully committed to provide speedy disbursal of refunds due to exporters calls for more concerted action on the ground. (Para 2.12)

The Committee further wish to point out that despite the notification of CBEC stating that filing of returns may be done by Form 6A/ GSTR-1E for the month of August and September, 2017, the exporters are witnessing an error while filing the GSTR-1E or Form 6A and as a result, the exporters are unable to claim the refunds through the GSTR-1E or Form 6A. It hopes that immediate steps will be taken to address this problem. (Para 2.13)

The Committee notes that a small amount of Rs 30 crore has been refunded against the input tax credit claimed and at least a beginning has been made. The Committee notes that though the time-limit for carrying out refund is 90 days of the filing of refund application after which there is a provision of paying interest. There is no penalty for delays in development of the refund module. It is disappointing that the module for filing ITC refund could be developed after more than 90 days of coming of GST in existence. The Committee expresses its displeasure

for so late a start for refund of input tax credit. It hopes that the Department of Revenue will leave no stone unturned to expedite the process. It also desires that semi automatic system of refund of input tax credit may be replaced with completely automatic system with no human interface for claiming credit refunds. (Para 2.14)

The Committee notes several operational issues existing in the refund mechanism making the refund procedure tardy and cumbersome. The Committee feels that the optimal functioning of refund mechanism in the GST regime is of utmost importance to ensure smooth functioning of exports. The Committee notes that the technical snags in the GST Network are resulting into pushing up of deadlines for filing the returns from the month of July to October and further to December, 2017. (Para 2.15)

The Committee finds that the difficulty of handling the system from compliance perspective has been an issue for exporters and businesses at large. The refunds are being disallowed on slightest pretext. The Committee appreciates that due diligence is *sine qua non* for granting refunds but this cannot be overplayed inasmuch as that one cannot see the wood for the trees. The Committee learns that refunds are being disallowed on various grounds. One of such grounds is that if any one of the 50 refund scrolls suffers from some defect, howsoever, minor, the customs authorities will cancel the whole batch of 50 scrolls and the entire batch will go back despite the remaining 49 refunds being in order. Further the error/mismatch is also being caused on account of difference in rounding off rupee which has been mandated under CGST Act (Section 170) and automatic dropping of the value of paisa so rounded off in the Customs ICEGATE. So the details filed in GSTN do not tally with Customs ICEGATE resulting in non-processing of refund claims. The Committee feels that these are causing undue hardship to exporters. It recommends the Department of Revenue to address the larger problem at the earliest. (Para 2.16)

The Committee was informed that exporters were also facing difficulty in refunds on account of delay in filing of electronic confirmation of gateway EGM to common portal as required under Rule 96(2) of CGST Rules by the customs authorities at gateway port. There may also be a delay on the part of sending Let Export Order/EGM which further delays the filing of electronic confirmation. This situation causes hardship to exporters. The Committee desires that either Rule 96(2) of CGST Rules may be amended suitably so that IGST claim can be processed on the basis of train report summary as it was being done in case of drawback disbursal or electronic confirmation may be filed by customs authorities within a reasonable time and any failure to do so must be accounted for. (Para 2.17)

The Committee is of the opinion that a simplified system for filing of refunds needs to be devised which is in line with the policy of ease of doing business. The Committee recommends that a simpler format be put in place for filing of refunds. The Committee also recommends that the Department should take all measures to educate and assist exporters, especially micro and small exporters, in order to enable them to handle technical glitches and several other issues that are coming in the way of exporters while filing refunds. (Para 2.18)

The Committee welcomes the decision to set up an e-wallet. However, it is wary about adherence of the timeline of 1st April, 2018 that has been fixed to make the mechanism operational. It hopes that the Department of Revenue will be able to come up with the e-wallet on time. (Para 2.21)

The Committee further notes that there is no information regarding the amount that will be given as notional credit to the exporters except for the fact that the advance in this e-Wallet will be given on the basis of the past export performance of exporters. The Committee is of the considered opinion that the advance so credited in the e-wallet must be adequate to cater to the needs of the exporters. The Committee feels that the Government may adopt a liberal approach in crediting the advance and it may give credit as demanded by the exporter subject to a ceiling. If the exporter fails to utilize the credit as demanded then the excess credit may be withdrawn. (Para 2.22)

In view of this, the Committee desires that a formal mechanism for grievance redressal of exporters must be put in place. It is of the view that a dedicated office/unit may be established for continuous interaction with exporters and also to act as a single window for their grievance redressal. (Para 2.23)

REFUND OF UNUTILIZED INPUT TAX CREDIT (ITC)

The Committee also finds that this blocking of ITC adds to the problem of garment manufacturer/apparel sector since mills buy MMF Yarn at the rate of 12% GST. Fabric is made out of the same and sold to Garment Manufacturer at the rate of 5% GST. The difference is not refundable due to the fact that input taxes are in excess of output taxes. As a result the fabric comes loaded with non-refundable GST on Yarn which normally accounts to about 3% as blocked input credit. It increases cost and makes garments uncompetitive in international market. The Committee wishes to impress on the Department that sub-sectors like garments and made-ups within the textile sector have huge export potential and generate massive employment. It hopes that corrective steps will be taken in earnest. (Para 3.8)

DUTY DRAWBACK SCHEME (DBK) AND RATE OF STATE LEVIES (ROSL)

The Committee finds that the new Drawback and ROSL rates (post transition, effective from 1st October 2017) are low and not realistic. It has been submitted by various labour intensive industries like textile, apparel, gems and jewellery, leather, handicrafts, sports goods and toys, engineering, etc that they do not capture the various blocked taxes that reduce the cost competitiveness of these industries. (Para 4.4)

The Committee is of the considered opinion that sudden withdrawal of the incentives extended earlier under Duty Drawback Scheme will lead to the collapse of labour intensive industries. This will have a cascading effect on employment and livelihood of poor workers in these industries. It was informed that trimming down of the Duty Drawback Scheme and consequent erosion of export competitiveness have already set-in the problem of lay-offs. The Committee expresses its deep concern over the possibility of job losses and it strongly feels that if the Government wishes to withdraw the benefit of Duty Drawback Scheme as prevalent in pre GST regime, it should do

so in phased manner. The Committee, however, desires that any such exercise, must take due care that the revised rate under the scheme must incorporate any additional incentives/support for the exporters, which were being given prior to the introduction of GST. (Para 4.7)

In order to bring relief to the exporters, the Committee recommends that the Department of Revenue, Ministry of Finance extend the pre-GST Duty Drawback rates till 30th June, 2018 or till such time the Department works out the revised duty drawback rates. The Committee hopes that this will enable the exporters to overcome the problems being faced by them currently besides helping them to take a long-term perspective while negotiating export orders.

(Para 4.8)

The Committee noted that majority of the exporters are small exporters with a turnover of less than ₹ 15 crore. Most of these exporters do not have adequate back office capability. The new system of claiming taxes, both direct and embedded, make it very difficult and complicated for the small exporters to follow. Since the bulk of the exports are made by the small exporters, especially, in the labour intensive sectors such as garments, woollen wear, home furnishings, brassware, gems and jewellery, leather items, sports goods, etc., their trade bodies have represented that the Government should give a choice to the exporter of either claiming ITC or get a high enough duty drawback rate which would encompass all the taxes levied. They felt that most small exporters would prefer the latter scheme, since they would be able to easily claim the duty drawback after exporting their goods as was the system in the past. The Committee recommends that the Government provide for a duty drawback rate which would encompass all the taxes including the GST/IGST levied as well as embedded/blocked tax and give a choice to the exporters to either claim the Duty Drawback or follow the Input Tax Credit route. This will also release the pressure on GST Network. (Para 4.9)

The Committee is of the considered opinion that there is an imminent need to increase the ROSL adequately. The Committee strongly feels that the government may consider blocked/ embedded levies for refund under Rebate of State Levies (RoSL) as well as reimbursement of embedded taxes in the central taxes, under the Duty Drawback scheme. The Committee recommends the Department to identify such incidence of embedded taxes in various industries and should evolve a mechanism so that such embedded taxes are refunded to the exporters.

(Para 4.11)

DUTY CREDIT SCRIPS

The Committee observes that limited utilization of Duty Credit Scrips issued under MEIS and SEIS schemes in GST regime has put a constraint on the working capital of exporters. The working capital could be released of the burden of payment of GST/IGST towards procurement of goods and services as well as exports of goods and services if the duty credit scrips were allowed to be utilized for payment purpose of all export related activities. The Committee strongly recommends that the duty credit scrips may be permitted for payment of GST in domestic procurements and the payment of IGST on exports and imports of goods and services.

(Para 5.3)

The Committee is happy to note that the Department of Commerce has decided to raise incentive rate for Merchandise Exports from India Scheme (MEIS) by 2 per cent across the board for labour intensive/MSME sectors. The increase in annual incentive by 34 per cent to ₹ 8,450 crore will benefit apparel, leather, handicraft, carpets, sports goods, agriculture, marine, electronic components and project exports. The Committee is hopeful that this measure will incentivize the exports of labour intensive industries and contribute to employment generation. The Committee believes that these measures will restore confidence amongst exporters and stand in good stead for the exporters in the ongoing difficult transition period. (Para 5.5)

REFUNDS ON CAPITAL ASSETS/GOODS RELATABLE TO EXPORTS

The Committee notes that absence of credit on CVD and SAD component of customs duty in case of non-fulfillment of export obligation would result into CVD and SAD component becoming a cost to such exporters in GST regime. The Committee finds this to be an additional financial burden on the exporters. The need for working capital of exporters may rise substantially resulting into adverse consequences on exporte₹ The Committee desires that this difficulty of absence of enabling provision resulting in denial of credit may be addressed on priority. In the meantime, the Government can come up with a clarification allowing credit of CVD and SAD component. (Para 6.5)

The Committee notes that a temporary relief has been given to exporters till March, 2018. However, this does not solve the problem of non refund of IGST on capital goods import. The IGST can only be adjusted against the payment of IGST on export side. The problem of locking up of capital on account of the GST/IGST paid as well as accumulated Input Tax Credit (ITC) on import of capital goods remain as it is. Also, the problem of inverted duty structure persists when ITC on purchases of capital goods at higher rates than the GST rate on final supply or IGST on exports is not fully compensated. It will add into exporters' capex for the project making it impossible for them to sustain and the project will become unviable. It has been informed that the entire process of finalising and importing the capital goods and setting up of a project is more than year and a half long cycle. The immediate relief till 31st March, 2018 does not help much. The exporters' community has shared that they have put their plans of import on hold. The Committee is of the considered view that the Government come up with permanent solution to this problem. It is of the opinion that this arrangement of non payment of IGST/Cess till March, 2018 should be made permanent. Similarly, machines bought domestically against EPCG scheme should be free from payment of IGST. The Committee recommends the Department of Revenue to bring up the issue of non refund of GST/IGST and non refund of accumulated Input Tax Credit (ITC) on capital goods import as well as domestic procurement before the GST Council on urgent basis and address all the issues flagged here for the larger benefit of country's exports. (Para 6.7)

The Committee also desires that refund of IGST may be provided for in case of those who have paid IGST before the issuance of the notification giving immediate relief for import of capital goods under AA/EPCG/100% EOUs. (Para 6.8)

The Committee is of the view that the Export Performance Certificate Scheme is significant for exporters from labour intensive sectors. It is of the opinion that this scheme should also be brought at par with ECGC/AA Scheme with similar relief that have been brought about recently. It also desires that the Government explore the possibility of dispensing of the requirement of the payment of GST/IGST for imports made for export purpose. (Para 6.10)

DEEMED EXPORTS

The Committee notes that notification of deemed export supplies as it was in the earlier tax regime is essential to strengthen the Indian Companies by providing them tax refunds and exemption. The Committee recommends the Department of Revenue, Ministry of Finance to bring out notification regarding supplies as mentioned in Foreign Trade Policy for qualifying as deemed exports and extend export related benefits as provided under GST framework. It also desires that the previous position of considering the supplies made to the advance authorization/ EPCG authorization holders or 100% EOU units towards export obligations under various schemes should be re-instated. (Para 7.4)

SUPPLIES TO SPECIAL ECONOMIC ZONES (SEZs) AND EXPORT ORIENTED UNITS (EOUs)

The Committee feels that this requirement is a hardship on SEZ units with no perceptible benefit. It is actually through general foreign exchange market and through the banks that SEZs buy foreign exchange and they pay it to the DTA suppliers. In such case, foreign exchange will remain in India only. (Para 8.4)

It is also noted that EOUs can buy from small suppliers through reverse charge mechanism. But this provision does not extend to SEZs. In the absence of this capability, SEZ cannot procure supplies from small vendors and Bond/LUT cannot be executed because the supplier has to be a registered supplier in order to supply to SEZ. The Department may look into this difficulty. (Para 8.5)

The Committee feels that the Government may explore the possibility of creating an optional mechanism where SEZ unit may be allowed to seek the refund in cases where the DTA suppliers refuse to seek the refund. (Para 8.6)

The Committee is of considered opinion that a clarification may be put forward in this regard. It, nonetheless, feels that since both the unit holder and the developer are present in SEZ bonded area and they are required to export their goods only, hence, a transaction within the SEZ may not be subjected to any taxation. (Para 8.7)

The Committee is of the view that exemption of GST may be extended in both situations, whether EOUs purchase from DTA or they import their raw material from abroad. (Para 8.8)

MERCHANT EXPORTERS

The Committee recommends necessary provisioning in the shipping bill for encapsulating the details of GSTIN and tax invoice numbers of more than one supplier may be made. (Para 9.5 (i))

The Committee recommends that clarity should be made on the definition of registered warehouse with a view to ease of doing business. (Para 9.5(ii))

The Committee recommends that Government may explore the possibility of doing away these compliance requirements. (Para 9.5 (iii))

The Committee recommends the Department to take necessary steps to address the problems. (Para 9.5 (iv))

The Committee recommends that a clarification in this regard may be issued. (Para 9.5 (v))

The Committee is of the considered opinion that the ceiling of 90 days should be relaxed and it may be extended to 180 days. (Para 9.6)

The Committee is of the view that the Notification of 23rd October, 2017 regarding Merchant Exporters needs clarifications. The Committee desires that the clarifications may be issued on priority in view of their pivotal role in country's exports especially for MSME sector which is critical to employment generation. (Para 9.7)

The Committee feels that in the cases of 'High Seas Trade', where the goods never enter India and are directly delivered to the customers outside India on instruction of the Indian supplier, it would be preferable that such transactions are kept outside the purview of GST in India. In view of the prevailing apprehension, the Committee recommends that a specific clarification may be issued in this regard. (Para 9.9)

REVERSE CHARGE MECHANISM AND EXPORTS

The Committee notes that the reverse charge mechanism is increasing the operational woes and compliance issues on exporters wherein unnecessary burden had been imposed on them of first paying reverse charge and then claiming a refund. It also desist an exporter to make purchase from unregistered vendors who are usually small enterprises. Thus the businesses of these enterprises are likely to be affected adversely which will lead to job losses. The Committee is of the view that in order to have hassle free exports as well as to give boost to small enterprises, reverse charge mechanism may be removed on a permanent basis in the procurement made in relation to export activity. The Committee recommends the Department to engage with Ministry of Finance and take all steps to exempt the exporters from reverse charge liability. (Para 10.2)

GST ON JOB WORK

The labour intensive industries such as leather, garments, carpet, handicrafts etc which form a major part of exports of our country utilizes intensively the service of job workers in the manufacturing of products. These job workers are mostly self employed individuals or home workers especially women. Therefore, the Committee feels that high rates of GST on job work would have a negative bearing on the job workers as well as industries especially micro and cottage. It may also add to the compliance burden of job workers who are not equipped to handle

such responsibility. Further, charging different rates on job work will be creating confusion in their classification resulting into disputes. Since the GST on job work for exports is revenue-neutral, the Committee is of the considered opinion that no GST may be imposed on job work for exports. The Committee understands that there may be concerns that it will be difficult to keep a track on such products that they do not enter domestic market. To tackle such a situation, the Committee feels that the Government may provide for criminal penalty for any such breach. (Para 11.2)

GST ON FREIGHT

The Committee notes that charging high rates of GST on air, sea and railway freight on exports not only causes additional cost burden on exporters but also erodes the competitiveness of export. The Committee is of considered opinion that imposition of GST on export freight which is later refunded is an unnecessary burden which stretches the working capital requirements of exporters. It, accordingly, recommends that export freights through air, sea and railway may be exempted or rationalized. (Para 12.2)

INDIAN SHIPPING LINES AND GST

The Committee recommends that provisions of the IGST Act should be suitably amended for bringing exports made by Indian shipping line at par with foreign shipping lines and provide level playing field for Indian Shipping Industry. (Para 13.2)

EXPORT OF SERVICES

The Committee desires that the Government may revisit section 2(6) of the IGST Act and ensure that such transactions between the Head Office and its branches may be kept out of its ambit. (Para 14.4)

PLACE OF SUPPLY OF SERVICES

In view of the fact that GST is a destination based consumption tax, the Committee is of the view that following steps may be taken:

- **Provide that Place of Supply of Indian Intermediaries of Goods will be the location of service recipient *i.e.* customers located abroad (and not the location of such intermediaries as is currently provided), so that Intermediary Services will be treated as 'Exports'; or**
- **Providing an exemption to Indian Intermediaries of Goods from levy of IGST, exercising the powers vested under Section 6(1) of IGST Act; or**
- **Notify such services under Section 13(13) of the IGST Act to prevent double taxation (tax in India as well as in the importing country) by treating place of effective use (foreign country) as place of supply.** (Para 15.2)

The Government may also cause amendment to section 13(8) of the IGST Act to exclude 'intermediary' services and make it subject to the default section 13(2) so that the benefit of export of services would be available. (Para 15.3)

REINSURANCE SERVICE

The Committee is of the considered view that reinsurance service is an essential insurance product available to exporters which help them guard against high risk in exports due to volatile nature of global markets. The Committee recommends the Department to take necessary action so that the reinsurance service may also be covered under mega exemption list and the same should be exempted from payment of GST. (Para 16.2)

CONCLUSION

The Committee is of the view that structurally GST is a much better taxation system than the earlier tax regime. However, teething problems have been there and there is a feeling that what was thought as the grand idea of GST, on the ground, the implementation has not been proper. The teething problems are, of course, there in the GST and technology-related issues. It has been noticed that there is no interface amongst GSTN, Customs ICEGATE and DGFT EDI systems and this problem needs to be addressed on urgent basis. The Committee feels that GSTN did not get enough time for testing. Even the training given to the officers on ground on issues like Letter of Undertaking (LUT) and related matters has not been adequate. Problems persist on procedural requirements as to what constitute a LUT. Different officers on the ground do not have any clarity on what should be the format of this Letter of Undertaking, whether it should be on a stamp paper or not. The Committee is happy to note that the GST Council and the Government have been responsive to the problems being faced by the exporting community and are trying to alleviate them urgently. The Committee hopes that the Government will leave no stone unturned to place in an efficacious taxation framework for a robust export framework. (Para 17.1)

The Committee finds that the problem of delayed refund to exporters has caused hardships to the exporters. It is aware that the GST Council has taken various measures to alleviate this problem. The Committee, however, feels that if the taxes are to be finally refunded then what is the need to put the exporters to the rigmarole of paying taxes and taking its refund or taking refund of unutilized input tax credit. It has been experienced that it is easy to pay tax but it is very difficult to get a refund. The Committee feels that a system may be devised to ensure that the procurement/manufacture for export purpose may be exempted from taxation system. (Para 17.2)

It has also been submitted before the Committee that a period of three month is not adequate to assess the impact of GST on exports. It has been emphasized that during July-September 2017, merchandise exports grew by 13.49% over same period in 2016. During July-September, 2017, services exports grew by 1.90% over same period in 2016. So, in totality, overall exports witnessed a positive growth. The Committee is of the considered opinion that the country cannot afford to wait and watch the impact of GST on exports after the lapse of considerable period. India's export is deeply intertwined with employment and rolling of machines in MSME sector. So it's a bounden duty to ensure that export sector remain healthy and vibrant. An early diagnosis and redressal of the problems helps in maintaining a healthy eco-system. (Para 17.3)

Moreover, the Committee has been of the view that the rise in exports during the period July-September, 2017 was the result of continuation of composite drawback duty scheme during the transition period which ended on 31st September, 2017 and exporters' haste to avail the scheme which made them advance the supply of their export order for the transition period of July to September, 2017. Though the Committee would have desired the outcome to be otherwise but the export figure for the month of October, 2017 indicate that the Committee presaged rightly. There is a slide in exports after the expiry of the transition period of composite rates of drawback. The Committee notes that in the month of October, there is an overall decline in the merchandise exports by -1.12 per cent vis-à-vis exports of October last year. The Committee notes that during the period July-October there has been a drop in the exports in the sectors like readymade garments of all textiles, fruits and vegetables, carpets, handicrafts, gems and jewellery, and there has been some stagnation in the sectors like leather. Thus the labour intensive sectors appear to have been adversely impacted in this brief period. Growth, however, has been visible in petroleum and chemical sector. This is largely on account of the increase in the commodity prices. There are increases also in the engineering sector which is relatively more organized sector. The Committee is certain that the Government will take all corrective measures in the present taxation system to ensure a sustained growth trajectory of our exports.

(Para 17.4)

MINUTES

I

FIRST MEETING

The Department Related Parliamentary Standing Committee on Commerce met at 11.00 A.M. on Friday, the 6th October, 2017 in Committee Room 'D', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. Shri Naresh Gujral —*Chairman*

RAJYA SABHA

2. Shri Joy Abraham
3. Shri Ram Kumar Kashyap
4. Shri Kiranmay Nanda
5. Shri Vayalar Ravi
6. Dr. Kanwar Deep Singh

LOK SABHA

7. Shri Subhash Chandra Baheria
8. Shri Jitendra Chaudhury
9. Shri Dhananjay Mahadik
10. Shri Thota Narasimham
11. Shri Kamlesh Paswan
12. Shri K.R.P. Prabhakaran
13. Shri T. Radhakrishnan
14. Shri Janak Ram
15. Shri D.S. Rathod
16. Adv. Narendra Keshav Sawaikar

SECRETARIAT

Shri Narendra Kumar, *Additional Director*

Shri Amit Kumar, *Deputy Secretary*

Ms. Kiran K., *Research Officer*

2. At the outset the Chairman welcomed the Members of the Committee to the first meeting after its reconstitution w.e.f. 1st September, 2017. ***

*** Relates to other matter.

3. He, thereafter, discussed with the Members about the pending subjects before the Committee for examination and new subjects that could be taken up for examination. ***. In addition, four new subjects, namely (i) Impact of Goods and Services Tax (GST) on Exports, (ii) *** (iii) *** (iv) *** were also selected by the Committee for detailed examination. It was also decided to take up the immediate examination of 'Impact of Goods and Services Tax (GST) on Exports' and *** and to issue Press Communique on these subjects inviting comments/suggestions from individuals/ experts/ institutions/ organisations.

4. The Chairman thanked the Members for their participation in the meeting.

5. The Committee then adjourned at 11.45 A.M. to meet again at 3.00 P.M. on 23rd October, 2017.

*** Relate to other matters.

II

SECOND MEETING

The Department Related Parliamentary Standing Committee on Commerce met at 03.00 P.M. on Monday, the 23rd October, 2017 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. Shri Naresh Gujral —*Chairman*

RAJYA SABHA

2. Shri Joy Abraham
3. Shrimati Roopa Ganguly
4. Shri Ram Kumar Kashyap
5. Shri Kiranmay Nanda
6. Shri Vayalar Ravi
7. Dr. Kanwar Deep Singh

LOK SABHA

8. Shri Dibyendu Adhikari
9. Shri Subhash Chandra Baheria
10. Shri Bodhsingh Bhagat
11. Shrimati Bijoya Chakravarty
12. Shri Jitendra Chaudhury
13. Dr. Kambhampati Haribabu
14. Shri Thota Narasimham
15. Shri K.R.P. Prabhakaran
16. Shri Janak Ram
17. Shri D.S. Rathod

SECRETARIAT

Shri Jagdish Kumar, *Joint Secretary*

Shri A.K. Gandhi, *Director*

Shri Amit Kumar, *Deputy Secretary*

Ms. Kiran K., *Research Officer*

WITNESSES

Representatives of Department of Commerce, Ministry of Commerce and Industry

1. Ms. Rita Teaotia, Secretary
2. Shri Alok Vardhan Chaturvedi, Director General, DGFT
3. Shri Nikunj Kumar Srivastava, Addittional DGFT
4. Shri Ajay Kumar Srivastava, Joint DGFT
5. Shri Rahul Kumar, Deputy DGFT

Representatives of Confederation of Indian Industry (CII)

1. Shri Harishanker Subramaniam, Chairman, CII Core Group on GST & National Leader, Indirect Tax, Ernst & Young LLP
2. Ms. Janaki Choudhary, Member CII National Committee on Export and Head, Strategy & Business Development, Tata International Ltd.
3. Shri Rahul Gupta, Committee on Export & Chairman Export Promotion Council for EOUs & SEZs

Representatives of Apparel Export Promotion Council (AEPC)

1. Shri Virender Uppal, EC Member
2. Shri Milind Haldankar, EC Member
3. Shri Harish Ahuja, EC Member
4. Shri Narendra Goenka, EC Member
5. Shri Ratnesh Malhotra

I. **Oral Evidence of Representatives of Department of Commerce, Ministry of Commerce and Industry**

2. At the outset, the Chairman welcomed the Members of the Committee and informed them of the agenda of the meeting. The Committee then decided to postpone the examination of the subject 'Startup India Programme', to take it up after completing the examination of 'Impact of Goods and Services Tax (GST) on Exports. He, thereafter, made opening remarks for the officials of Department of Commerce, Ministry of Commerce and Industry wherein he sought their views on various issues/ concerns on the subject 'Impact of Goods and Services Tax (GST) on Exports'.

3. The representatives of Department of Commerce started the presentation by providing a background of the GST regime. The Committee was then apprised about the export trends post GST which appeared to be increasing. However, it was admitted that the increasing trend in exports post implementation of GST could be attributed many other factors other than GST. It was submitted that three months is too less a time period to assess the impact of GST on exports. The Committee was informed that labour intensive exports have not shown good growth post GST implementation. It was then briefed about the positive impact of GST such as reduction in cascading effect of taxes, unified common national market promoting foreign investment and Make in India, lower compliance costs etc.

4. The Committee was informed of a key change that implementation of GST has brought about. Pre-GST, taxes and duties on inputs required for manufacturing of exports were either *ab-initio* exempted or refunded under various schemes. But post GST, instead of *ab-initio* exemption, the exporters have to pay first and then apply for refund which has blocked the working capital of exporters. This system has led to increased cost of exports and possible loss of orders. The Committee was then apprised of the issues related to GST resolved in the GST Council meeting on 6th October, 2017. Pending key issues of the GST Regime and the way ahead were also presented by the Department's representatives.

5. Issues such as delay in release of Integrated Goods and Services Tax (IGST) refunds, GST rates on job works, efforts by the Government to persuade the banks for credit for exporters in face of delays, uniformity of GST in labour contracts, duty drawback incentives for value added products, GST on ocean freight, traders/exporters clarity on GST rates, GST's effect on inflation, etc. were raised by Chairman/Members.

6. The Chairman then thanked Secretary, Department of Commerce, Ministry of Commerce and Industry and her colleagues for the information provided and requested them to furnish the replies in writing on the issues not addressed during the interaction.

II. **Oral Evidence of Representatives of Confederation of Indian Industry (CII) and Apparel Export Promotion Council (AEPC)**

7. The representatives of Confederation of Indian Industry (CII) opined that the reforms of the tax sector in the form of GST are complex and the exporters are navigating through many difficult points in the newly formed tax structure. They apprised the Committee about the effect of the decisions taken by the GST Council on 6th October, 2017 on the exporters and their working capital. They informed that majority of exporters don't prefer paying IGST but go for refund mechanism through Letter of Undertaking (LUT)/Bond mechanism leading input tax credit getting stuck as the refunds are delayed. They submitted that the compliance of the new tax system has been an issue. It was suggested that an offline utility for refunds on input tax credit needs to be started. The need for clarification about the e-wallet mechanism and early roll out of the mechanism by the Government was emphasised on.

8. The Committee was apprised that under the present GST regime, SEZ units are required to pay the suppliers of Domestic Tariff Areas in foreign exchange not only for services as was earlier but also for merchandise and goods, which is a hardship and not beneficial. Another issue brought to the fore was the hesitance of suppliers to supply to SEZ as they are wary of the refund process. It was suggested than an optional mechanism may be brought under GST where instead of the suppliers, the SEZ unit may seek the refund. Other suggestions to simplify the GST regime *vis-à-vis* SEZ were also preferred.

9. The representatives of Apparel Export Promotion Council (AEPC) apprised the Committee that the duty drawback scheme, that the apparel exporters prefer, has seen a reduction in its rate from 12% to 3% in the GST regime. They apprised the Committee that they have not opted for the refund mechanism under GST yet and are still continuing with duty drawback route for exports. Concerns were raised about 18% IGST to be paid on inputs and the absence of a clear mechanism to claim it back. It was submitted that since the apparel exporters have paid IGST, they cannot claim it because they have opted for the drawback route. The need for clarity amongst exporters regarding the process of refunds under GST was stressed for.

10. It was suggested that Government may consider giving higher support under Merchandise Export from India Scheme (MEIS) to the textile exporters, mostly comprising of MSME, so that it undercuts the working capital issues and high transaction cost that have arose in the GST regime. The Committee was apprised that 80% of garment exporters, who are worth below ₹10 crores of exports, are at disadvantage unless they get full refund under the new regime. These exporters are facing issues of capital, transaction complexities arm twisting by suppliers etc., in the GST regime and it is perceived that 10%-15% of the exporters are on the verge of exit within a year. The Committee was informed of the presence of inverted duty structure *vis-à-vis* imported capital goods. It was hoped that the Government would address it through e-wallet or some other mechanism. The representatives of AEPC submitted that they are not aware of the modalities of e-wallet. It was requested that projects under EPCG should be exempted from the rigmarole of paying IGST upfront issues and waiting for refunds.

11. The Chairman then thanked the representatives of CII and AEPC for their views on the subject and requested them to furnish the issues/concerns raised by them and their suggestions in writing.

12. A verbatim record of the proceedings of the meeting was kept.

13. The Committee then adjourned at 4.06 P.M.

III

THIRD MEETING

The Department Related Parliamentary Standing Committee on Commerce met at 03.00 P.M. on Monday, the 3rd November, 2017 in Committee Room No.4, Block A, First Floor, Annexe Extension Building, New Delhi.

MEMBERS PRESENT

1. Shri Naresh Gujral —*Chairman*

RAJYA SABHA

2. Shri Joy Abraham
3. Shri Ram Kumar Kashyap
4. Shri Kiranmay Nanda
5. Shri Vayalar Ravi
6. Dr. Kanwar Deep Singh

LOK SABHA

7. Shri Dibyendu Adhikari
8. Shri Subhash Chandra Baheria
9. Dr. Kambhampati Haribabu
10. Shri T. Radhakrishnan
11. Shri Janak Ram
12. Shri D.S. Rathod

SECRETARIAT

Shri A.K. Gandhi, *Director*

Shri Narendra Kumar, *Additional Director*

Shri Amit Kumar, *Deputy Secretary*

Ms. Kiran K., *Research Officer*

WITNESSES

Representatives of Federation of Indian Chambers of Commerce and Industry (FICCI)

1. Shri Santosh Dalvi, Partner, KPMG
2. Shri Manab Majumdar, Deputy Secretary General
3. Ms. Ira Khanna, Additional Director

Representatives of the Associated Chambers of Commerce and Industry of India (ASSOCHAM)

1. Shri Pratik Jain, Chairman
2. Shri J.K. Mittal, Co-Chairman
3. Shri V. Sivasubramanian, Executive Partner
4. Shri Vineet Agrawal, Senior Vice President
5. Shri Avinash Sharma, Additional Director

Representatives of Indian Banks' Association (IBA)

1. Shri Jatinderbir Singh, Chairman
2. Smt. Radhika Kamat, Member
3. Shri Atul Gautam, Senior Advisor

Representatives of the Cotton Textiles Export Promotion Council (TEXPROCIL)

1. Shri Ujwal R. Lahoti, Chairman
2. Shri Siddhartha Rajagopal, Executive Director
3. Shri A. Ravindra Kumar, Joint Director

Representatives of Council For Leather Exports (CLE)

1. Shri Mukhtarul Amin, Chairman
2. Shri Aqeel Ahmed, Vice-Chairman
3. Shri Manoj Tuli, Convener
4. Shri Sunil Harjai, Convener

2. At the outset, the Chairman welcomed the Members of the Committee and informed them the agenda of the meeting. He drew the attention of the Members to Rule 294 (i) of the Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha) which require that the Members declare their interests before participating in any debate taking place in the Council or its Committees on a matter under consideration.

I. **Oral Evidence of Representatives of Associated Chambers of Commerce and Industry (ASSOCHAM), Federation of Indian Chambers of Commerce and Industry (FICCI) and Indian Banks' Association (IBA)**

3. The Chairman welcomed the representatives of ASSOCHAM, FICCI and IBA and sought their views on the subject 'Impact of Goods and Services Tax (GST) on Exports'. The representatives of Indian Banks' Association (IBA) apprised the Committee about the issues of compliances required in filing the GST returns and unnecessary documentation, abolition of refund of GST on capital goods used as inputs in production of goods and services for exports, clause (v) of Section 2(6) of the IGST Act that excludes services transaction from the benefit of exports and Section 13(8) of the IGST Act that includes

intermediaries hired in exports in the category of location of suppliers subjected to GST thereby increasing the cost of exports.

4. The representatives of ASSOCHAM raised the issue of delay in refund in case of Countervailing Duty (CVD) and Special Additional Duty (SVD) on exports in the post GST regime. In this context, a request was made that for the export licenses obtained prior to 1st July, 2017, a corresponding credit or a refund should be allowed. The Committee was also apprised that MEIS and SEIS scrips obtained by the exporters earlier should be allowed to be used in the post GST regime for the payment of GST on local procurement as well as for payment of IGST on imported procurement.

5. The Committee was then briefed about the absence of any mechanism of refund of GST for foreign tourists and restoration of benefits to the deemed exporters and scrapping of reverse charge mechanism. Further, it was submitted that the benefits of refund *i.e.* 0.1% of GST given to merchant exporters should be extended to manufacturers.

6. The representatives of Federation of Indian Chambers of Commerce and Industry (FICCI) discussed the issues of expediting refunds to exporters, the benefits of online filing of Letter of Undertaking (LUT), need of clarifications in the provisions of GST related to the merchant exporters and the problems of accumulated credit. Improper implementation of GST, difficulties faced by small exporters and businesses in complying with GST norms and measures taken by the Government to address them were also discussed. It was further submitted by them that returns should be allowed to file quarterly in order to reduce burden of compliance. Issues of e-way bills, benefits of e-wallet mechanism, the steps taken by banks in providing interim relief to exporters who have been affected in the GST regime, the coming down of duty drawback rates were also discussed.

7. The Chairman then thanked the representatives of ASSOCHAM, FICCI and IBA for the issues raised before the Committee and requested them to furnish the replies in writing on the issues raised by the Members during the interaction.

II. Oral Evidence of Representatives of Cotton Textiles Export Promotion Council (TEXPROCIL) and Council of Leather Exports (CLE)

8. The representatives of Cotton Textiles Export Promotion Council (TEXPROCIL) apprised the Committee that the exporters who have been denied the refunds on GST lacks clarity on why their request for refunds have been rejected and what remedial measures shall be taken in this regard. The Committee was suggested that refunds should be initiated immediately after the Export General Manifest (EGM) is filed with the Customs as there exist sufficient checks and balances within the system. Issues of accumulated Input Tax Credit, usage of duty scrips in the payment of IGST, difficulties in filing of online returns and reduction in duty drawback returns were also discussed.

9. The Chairman further asked for a note on the adverse effect of slashing of duty drawback rates on the exports of cotton textiles and the issues of embedded taxes as a result of GST.

10. The Representatives of Council of Leather Exports submitted to the Committee that due to high GST rates on leather garment industry and thin profit margin, the industry is in a crisis. It was further apprised that due to this, the industry is also facing severe competition from countries like Bangladesh.

Also, the Committee was informed that in the post GST regime due to requirement of additional working capital, the input costs have risen by 10 per cent than the previous year. It was suggested that level playing field should be given to leather exports and government should provide every support to this sector.

11. The Chairman then thanked the representatives of TEXPROCIL and CLE for presenting their views before the Committee.

12. A verbatim record of the proceedings of the meeting was kept.

13. The Committee then adjourned at 4.57 P.M. to meet again on 10th November, 2017.

IV

FOURTH MEETING

The Department Related Parliamentary Standing Committee on Commerce met at 11.00 A.M. on Friday, the 10th November, 2017 in Committee Room 'D', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. Shri Naresh Gujral —*Chairman*

RAJYA SABHA

2. Shri Joy Abraham
3. Shrimati Roopa Ganguly
4. Shri Ram Kumar Kashyap
5. Shri Kiranmay Nanda
6. Shri Vayalar Ravi

LOK SABHA

7. Shri Subhash Chandra Baheria
8. Shri Bodhsingh Bhagat
9. Shri Jitendra Chaudhury
10. Shri Thota Narasimham
11. Shri Janak Ram
12. Adv. Narendra Keshav Sawaikar

SECRETARIAT

Shri Jagdish Kumar, *Joint Secretary*

Shri A.K. Gandhi, *Director*

Shri Narendra Kumar, *Additional Director*

Shri Amit Kumar, *Deputy Secretary*

Ms. Kiran K., *Research Officer*

WITNESSES

Representatives of Federation of Indian Export Organisation (FIEO)

1. Shri Ganesh Kumar Gupta, President
2. Shri Ajay Sahai, Director General & CEO
3. Shri Bimal Mawandia, Member Managing Committee

Representatives of Gems and Jewellery Export Promotion Council

1. Shri Anil Sankhwal, Regional Chairman
2. Shri K.K. Duggal, Director (Policy)
3. Shri Supreme Kothari, Consultant

Representatives of Pharmaceuticals Export Promotion Council (PHARMEXCIL)

Shri Ashutosh Gupta, Immediate Past-Chairman

Representatives of Agricultural and Processed Food Products Export Development Authority (APEDA)

1. Shri D.K. Singh, Chairman
2. Shri Sunil Kumar, Director

Representatives of Marine Products Export Development Authority (MPEDA)

Shri B. Sreekumar, Secretary

Representatives of Tea Board

Shri Shyamal Misra, Joint Secretary

Representatives of Coffee Board

Dr. Y. Raghuramulu, Director

Representatives of Society of Indian Automobile Manufacturers (SIAM)

Shri Sugato Sen, Deputy Director General

Representatives of Automotive Component Manufacturers Association of India (ACMA)

Shri Vinnie Mehta, Director General

Representatives of Engineering Export Promotion Council (EEPC)

1. Shri Pankaj Chadha, Vice Chairman
2. Shri Pradeep Kumar Agarwal, Deputy Regional Chairman
3. Shri Suranjan Gupta, Additional Executive Director

Representatives of National Association of Software and Services Companies (NASSCOM)

1. Ms. Bishakha Bhattacharya
2. Shri Vinod Mandlik
3. Shri Saurabh Kanchan

2. At the outset, the Chairman welcomed the Members of the Committee and informed them the agenda of the meeting.

I. **Oral Evidence of Representatives of (i) Federation of Indian Export Organisation (FIEO); (ii) Gems and Jewellery Export Promotion Council; and (iii) Pharmaceuticals Export Promotion Council (PHARMEXCIL)**

3. The Chairman welcomed the representatives of Federation of Indian Export Organization (FIEO), Gems and Jewellery Export Promotion Council and Pharmaceuticals Export Promotion Council (PHARMEXCIL) and flagged various issues on the subject 'Impact of Goods and Services Tax (GST) on Exports' and sought their views thereon. The representatives of Federation of Indian Export Organisation (FIEO) apprised the Committee of the delay in refund process which has resulted in blocking of working capital and concomitant challenges for exporters especially those from labour intensive sectors. It was submitted that although short term measures were taken by GST Council to solve the problem of blocked working capital, however, the challenges remain in their implementation. It was emphasized that non availability of refunds has resulted in increase in cost liability and consequent erosion of export competitiveness by around 1.2 per cent to 2 per cent.

4. The representatives of FIEO further apprised the Committee of the issues of taking away of certain benefits that were given to exporters under the Foreign Trade Policy in the post GST regime such as limited usage of Merchandise Export from India Scheme (MEIS) and Service Export from India Scheme (SEIS) scrips, imposition of pre import conditions that completely prohibits domestic purchases causing difficulty in complying the delivery schedule as well as inventory management, technical glitches in filing of IGST as well as ITC refunds, difficulties in working of reverse charge mechanism, problems arising due to imposition of GST on job work and embedded taxes were also discussed. It was suggested that introducing the option of duty drawback rates that combine both customs duty as well as GST paid on inputs in addition to the existing option of duty drawback offsetting Customs duty shall give much relief to the exporters, especially small and medium exporters from the poor working of the refund mechanism. The exporter may exercise any of the two option. Issues of embedded taxes on silk, high GST rates on handicrafts products and furniture, GST on air freight and sea freight paid by vegetables and fruits exporters, GST on job work were also discussed.

5. The representatives of Gems and Jewellery Export Promotion Council submitted that in the post GST regime, the working capital in the diamond industry and jewellery industry is blocked to the tune of ₹ 4000 crores and ₹ 515 crores respectively. The blocked fund has adversely affected exports and has put employment under stress. It was proposed that various players in the chain, such as importers, job workers, traders, aggregators, exporters etc. involved in any transaction should be charged under one single nominal rate of GST. Also, the GST on export may be reduced to 0.1 per cent from present 3 per cent. It was submitted that the entire chain may be treated as one single entity otherwise it will cause difficulty in compliances. Further there was also a need for simplification in the compliance processes. It was suggested that GST model of Belgium and Israel may be studied to achieve this end.

6. The representatives of Pharmaceuticals Export Promotion Council informed the Committee that delay in refunds has caused blockage of capital wherein the exporters of pharma exporters are facing tough competition with countries like China in the post GST regime. Also, complex compliance mechanism involved in GST is affecting ease of doing business.

7. The Chairman then thanked the representatives of FIEO, Gems and Jewellery Export Promotion Council and PHARMEXCIL for presenting their views before the Committee.

II. **Oral Evidence of Representatives of (i) Agricultural and Processed Food Products Export Development Authority (APEDA); (ii) Marine Products Export Development Authority (MPEDA); (iii) Tea Board; and (iv) Coffee Board**

8. The representatives of Coffee Board submitted that though green coffee attracts zero tax, there is confusion over certain grades of green coffee which is being taxed at 5 per cent. It was requested that a clarification in this regard may be issued. It was also requested, as was the case in pre GST time, a clarification on no tax on coffee curing that does not affect the primary characteristic of the product, may be issued.

9. The representatives of Tea Board informed the Committee that ₹ 100 crores have been blocked as working capital due to delay in funds. Other issues like high GST rate on tea sourced from brokers, difficulty in complying with 90 day requirement for export, high rate of GST on tea warehousing were also raised.

10. The representatives of Agricultural and Processed Food Products Export Development Authority (APEDA) informed the Committee that the sector was facing problem on account of high rate of GST on air freight which was earlier exempted and the problem of embedded tax in food processing industry.

11. The representatives of Marine Products Export Development Authority (MPEDA) submitted that exports of marine products have not been much affected by GST.

12. The Chairman then thanked the representatives of Coffee Board, Tea Board, APEDA and MPEDA for presenting their views and requested them to furnish the replies in writing on the issues raised by the Members during the interaction.

III. **Oral Evidence of Representatives of (i) Society of Indian Automobile Manufacturers (SIAM); (ii) Automotive Component Manufacturers Association of India (ACMA); (iii) Engineering Export Promotion Council (EEPC) and (iv) National Association of Software and Services Companies (NASSCOM)**

13. The representatives of Society of Indian Automobile Manufacturers (SIAM) made a power point presentation wherein they raised the issues of compensation cess levied on exports, procedural issues in filing of returns, GST on imports of capital goods, limit for exporting goods etc.

14. The representatives of Automotive Component Manufacturers Association of India (ACMA) also made a power point presentation and requested that a uniform GST rate of 18 per cent across all product categories in the auto component sector may be put in place and also refund of GST shall be allowed on procurement of capital goods. It was further submitted that after the introduction of GST utilization of Merchandise Exports of India Scheme (MEIS) scrips and Services of Export India Scheme (SEIS) scrips to pay CGST, SGST and IGST is not allowed and the same be allowed with retrospective effect from 1st July, 2017.

15. The representatives of Engineering Export Promotion Council (EEPC) submitted that challenges in refund mechanism has badly affected the sector and this may affect the growth momentum noticed in

recent past. It was pointed out that the problem of delay of refunds is due to no interface between GST Network and Customs ICEGATE. Further, no refund module as of now has been developed for GST to be paid under a bond or Letter of Undertaking (LoU). It was also informed that the exporters are facing procedural issues in e-sealing facility.

16. The representatives of National Association of Software and Services Companies (NASSCOM) made a power point presentation and discussed the issues related to compliance and submitted that clarifications are needed on several procedural aspects while filing the returns. It was further submitted that transactions carried between head office and branch office and consequent fund transfer should be outside the GST ambit. Issues related to place of supply, difficulties faced by Special Economic Zone (SEZ), Export Oriented Unit (EOU) and Software Technology Parks of India (STPI) Units, IGST on testing services were also discussed by them.

17. The Chairman thanked the representatives of SIAM, ACMA, EEPC and NASSCOM for presenting their views and requested them to furnish replies on the issues raised by the Members during the interaction.

18. A verbatim record of the proceedings of the meeting was kept.

19. The Committee then adjourned at 3.22 P.M.

V

FIFTH MEETING

The Department-related Parliamentary Standing Committee on Commerce met at 03.00 P.M. on Monday, the 20th November, 2017 in Committee Room 'C', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. Shri Naresh Gujral —*Chairman*

RAJYA SABHA

2. Shri Joy Abraham
3. Shrimati Roopa Ganguly
4. Shri Ram Kumar Kashyap
5. Shri Kiranmay Nanda
6. Shri Vayalar Ravi

LOK SABHA

7. Shri Dibyendu Adhikari
8. Shri Subhash Chandra Baheria
9. Shri Dushyant Chautala
10. Shri Chhotelal
11. Dr. Kambhampati Haribabu
12. Shri Saumitra Khan
13. Shri Dhananjay Mahadik
14. Shri K.R.P. Prabhakaran
15. Shri D.S. Rathod

SECRETARIAT

Shri Jagdish Kumar, *Joint Secretary*

Shri Narendra Kumar, *Additional Director*

Shri Amit Kumar, *Deputy Secretary*

Ms. Kiran K., *Research Officer*

WITNESSES

Representatives of Wool & Woollens Export Promotion Council

1. Shri Sushil Kaura, Chairman

2. Shri Harmit Singh Bhalla, Member

3. Shri Mahesh N Sanil, Executive Director

Representatives of Sports Goods Export Promotion Council

1. Shri Dharam Mahajan, Chairman

2. Shri Rajesh Arora, Member

Representatives of Moradabad Handicrafts Exporters Association

1. Shri Satyapal, General Secretary

2. Shri Ajai Gupta, Executive General Secretary

2. At the outset, the Chairman welcomed the Members of the Committee and informed them the agenda of the meeting.

Oral Evidence of Representatives of (i) Wool and Woollens Export Promotion Council, (ii) Sports Goods Export Promotion Council and (iii) Moradabad Handicrafts Exporters Association

3. The Chairman welcomed the representatives of Wool and Woollens Export Promotion Council, Sports Goods Export Promotion Council and Moradabad Handicrafts Exporters Association and sought their views on various issues pertaining to the subject 'Impact of (GST) on Exports'. The representatives of Wool and Woollens Export Promotion Council submitted that though GST *per se* is good yet its implementation has caused hardship to small exporters, especially merchant exporters. An overview of the GST rate of various items of wool and woolen products sector was given and it was pointed out the anomalies in tax structure exists which need to be removed. Concerns were raised over considerable reduction in duty draw back rates on various items and non refund of embedded tax. It was pointed out that GST imposed on services like rail/shipping freight, warehousing, customs sale, marine insurance, ECGC cover was eating away much of their funds. Further, the remittances received are also being taxed by banks which have added to the cost. It was submitted that such taxations must be done away with.

4. The representatives of Moradabad Handicrafts Exporters Association submitted that the biggest problem being faced by them was the delay in GST refund. It was pointed out that as estimated ₹600 crore is blocked on this account. Further, the rise in metal prices which already attract very high rate of GST and reduced duty drawback rate has added to their woes. Other issues affecting this sector like GST on job work, different tax rate on same metal product, non-payment of small workers and artisans were also raised.

5. The representative of the Sports Goods Export Promotion Council submitted that sports goods are subject to three different GST slabs. It was requested that a uniform 12 per cent GST may rather be imposed across all goods in the sector. Issues like difficulty arising on account of GST on job work, reduced duty drawback rates on export were also flagged. It was also requested that GST on sea freight and air freight for export may be withdrawn. It was suggested that banks may be instructed to pay the refund claims to the extent of 90 per cent after verification of the documents. This will help the exporters overcome the problem of blocked capital.

6. All witnesses were unanimous that duty drawback rate should be realistic and the Government should go back to old system of giving them the duty drawback so that they do not have to claim refunds.

7. The Chairman thanked all the representatives of the three organizations for presenting their views on the subject. He requested them to furnish replies on issues raised by the Members during the interaction.

8. A verbatim record of proceedings of the meeting was kept.

9. The Committee then adjourned at 3.53 P.M. to meet again on 28th November, 2017.

VI

SIXTH MEETING

The Department-related Parliamentary Standing Committee on Commerce met at 3.00 P.M. on Monday, the 28th November, 2017 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. Shri Naresh Gujral —*Chairman*

RAJYA SABHA

2. Shri Joy Abraham
3. Shrimati Roopa Ganguly
4. Shri Ram Kumar Kashyap
5. Shri Kiranmay Nanda
6. Dr. Kanwar Deep Singh

LOK SABHA

7. Shri Dibyendu Adhikari
8. Shri Subhash Chandra Baheria
9. Shri Bodhsingh Bhagat
10. Shrimati Bijoya Chakravarty
11. Shri Jitendra Chaudhury
12. Dr. Kambhampati Haribabu
13. Shri Thota Narasimham
14. Shri Kamlesh Paswan
15. Shri Janak Ram
16. Shri D.S. Rathod
17. Adv. Narendra Keshav Sawaikar

SECRETARIAT

Shri Narendra Kumar, *Additional Director*

Shri Amit Kumar, *Deputy Secretary*

Ms. Kiran K., *Research Officer*

WITNESSES

Representatives of Department of Revenue, Ministry of Finance

1. Dr. Hasmukh Adhia, Secretary (Finance)
2. Shri B.N. Sharma, Additional Secretary (Revenue)
3. Mrs. Vanaja N. Sarna, Chairperson (CBEC)
4. Shri Prakash Kumar, CEO, GSTN
5. Shri L.S. Srinivas, Joint Secretary (Customs)
6. Shri Nitish Kumar Sinha, Joint Secretary (Drawback)

Representatives of Department of Commerce, Ministry of Commerce and Industry

1. Ms. Rita Teaotia, Secretary (Commerce)
2. Shri Alok Vardhan Chaturvedi, Director General, DGFT
3. Shri Nikunj Kumar Shrivastava, Additional Director General, DGFT

2. At the outset, the Chairman welcomed the Members of the Committee and informed them the agenda of the meeting.

3. The Chairman thereafter welcomed the representatives of Department of Commerce, Ministry of Commerce and Industry and representatives of Department of Revenue, Ministry of Finance and flagged various issues and concerns *vis-a-vis* the subject 'Impact of Goods and Services Tax (GST) on Exports' and sought their views thereon. Responding to the issues raised by the Chairman in his opening remarks, the Commerce Secretary submitted that the Department of Commerce is working closely with the Department of Revenue to address the concerns of exporters rising under the GST regime. The Committee was then briefed about the performance of exports in the months following the implementation of GST as compared to the same period last year. It was stated that labour intensive exports have been adversely affected in these months. The Committee was informed that the Government has decided to increase the rates for incentives under Merchandise Exports from India Scheme (MEIS) for two sub-sectors of the textile industry and the measure would stimulate the exports of labour intensive sectors of the readymade garment industry. Thereafter, it was submitted that Department of Commerce is constantly engaged with Export Promotion Council and Department of Revenue to expedite the refund of IGST and input tax credit, the delay of which is the main concern of exporters.

4. The Finance Secretary informed the Committee that the overall impact of GST on exports is going to be hugely positive. Under GST structure, there would be complete refund of CGST and SGST making it very friendly for the exporters as compared to the earlier tax regime where delay in the refund of VAT component of taxes paid by exporters was excruciating. The Committee was apprised that the duty drawback scheme, which the exporters found attractive and were comfortable with, was continued for three months even after the advent of GST. This led to advancing of export orders and front loading of exports in the month of September this year. Then there was a decline in exports as the duty drawback scheme ended on 30th September, 2017. It was submitted that the overall picture of exports is positive and in addition to GST, the global factors have also propped up the export.

5. The Committee was apprised of the functioning of e-wallet mechanism. It was submitted that the applicability of Duty Drawback Scheme within the GST structure and MEIS and SEIS scrips as payment for IGST would be explored in the GST council.

6. Issues such as refund of unutilized input tax credit, decline in services exports, non-refund on capital goods import, grievance redressal cell for exporters, non-uniform freight rates, fluctuating rates of GST, GST on job work and its refund, tax on sports goods, effect of GST on labour intensive industries, amount of refunds pending disbursement and revenue generated in the pre-GST regime and the GST regime were also raised.

7. The Chairman thanked the representatives of the Department of Commerce and Department of Revenue for information provided on the subject. He requested them to furnish replies on issues raised by the Members not addressed during the interaction and also to the questionnaire handed over to them.

8. A verbatim record of proceedings of the meeting was kept.

9. The Committee then adjourned at 4.17 P.M.

VII

SEVENTH MEETING

The Department-related Parliamentary Standing Committee on Commerce met at 3.00 P.M. on Tuesday, the 12th December, 2017 in Committee Room 'E', Basement, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. Shri Naresh Gujral —*Chairman*

RAJYA SABHA

2. Shri Joy Abraham
3. Shrimati Roopa Ganguly
4. Shri Ram Kumar Kashyap
5. Shri Kiranmay Nanda
6. Shri Vayalar Ravi

LOK SABHA

7. Shri Dibyendu Adhikari
8. Shri Subhash Chandra Baheria
9. Shri Jitendra Chaudhury
10. Shrimati Kavitha Kalvakuntla
11. Shri Janak Ram

SECRETARIAT

Shri A.K. Gandhi, *Director*

Shri Narendra Kumar, *Additional Director*

Shri Amit Kumar, *Deputy Secretary*

Ms. Kiran K., *Research Officer*

2. At the outset, the Chairman welcomed the Members to the meeting and informed them about the agenda of the meeting. The Committee, then, took up for consideration the draft 139th Report on 'Impact of Goods and Services Tax (GST) on Exports'. After some discussion, the Committee adopted the draft 139th Report with some modifications/alterations. The Committee then authorized the Chairman to make corrections/alteration, if any, of minor nature, in the Report on behalf of the Committee. The Committee decided to present the said Report on Tuesday, 19th December, 2017.

3. It was decided that the said Report will be presented in Rajya Sabha by the Chairman and in his absence, by Shri Kiranmay Nanda, M.P. and in the absence of both of these Members, Shri Joy Abraham,

M.P. will present the Report. In Lok Sabha, the Report would be laid by Shri Janak Ram, M.P. and in his absence by Shri Jitendra Chaudhury, M.P. would lay the Report.

4. * * *

5. * * *

6. The Committee then adjourned at 3.45 P.M.

*** Relates to other matter.

ANNEXURES

रजिस्ट्री सं. एल.-(एन)04/0007/2003-17 REGISTERED NO. DL-(N)04/0007/2003-17

भारत का राजपत्र
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 12th April, 2017 Chaitra 22, 1939 (Saka)

The following Act of Parliament received the assent of the President on the 12th April, 2017, and is hereby published for general information:—

THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017

No. 13 of 2017

[12th April, 2017.]

An Act to make a provision for levy and collection of tax on inter-State supply of goods or services or both by the Central Government and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement

1. *(1)* This Act may be called the Integrated Goods and Services Tax Act, 2017.

(2) It shall extend to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. In this Act, unless the context otherwise requires,—

Definitions

(1) "Central Goods and Services Tax Act" means the Central Goods and Services Tax Act, 2017;

(2) "central tax" means the tax levied and collected under the Central Goods and Services Tax Act;

(3) "continuous journey" means a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued.

Explanation.—For the purposes of this clause, the term "stopover" means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time;

(4) "customs frontiers of India" means the limits of a customs area as defined in section 2 of the Customs Act, 1962; 52 of 1962

(5) "export of goods" with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India;

(6) "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; 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;

(7) "fixed establishment" means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services or to receive and use services for its own needs;

(8) "Goods and Services Tax (Compensation to States) Act" means the Goods and Services Tax (Compensation to States) Act, 2017;

(9) "Government" means the Central Government;

(10) "import of goods" with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India;

(11) "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;

(12) "integrated tax" means the integrated goods and services tax levied under this Act;

(13) "intermediary" means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account;

(14) "location of the recipient of services" means,—

(a) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;

(b) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and

(d) in absence of such places, the location of the usual place of residence of the recipient;

(15) "location of the supplier of services" means,—

(a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;

(b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and

(d) in absence of such places, the location of the usual place of residence of the supplier;

(16) "non-taxable online recipient" means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.

Explanation.—For the purposes of this clause, the expression "governmental authority" means an authority or a board or any other body, —

(i) set up by an Act of Parliament or a State Legislature; or

(ii) established by any Government,

with ninety per cent or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution;

(17) "online information and database access or retrieval services" means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic services such as,—

(i) advertising on the internet;

(ii) providing cloud services;

(iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;

(iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;

(v) online supplies of digital content (movies, television shows, music and the like);

(vi) digital data storage; and

(vii) online gaming;

(18) "output tax", in relation to a taxable person, means the integrated tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis;

(19) "Special Economic Zone" shall have the same meaning as assigned to it in clause *(za)* of section 2 of the Special Economic Zones Act, 2005; 28 of 2005.

(20) "Special Economic Zone developer" shall have the same meaning as assigned to it in clause *(g)* of section 2 of the Special Economic Zones Act, 2005 and includes an Authority as defined in clause *(d)* and a Co-Developer as defined in clause *(f)* of section 2 of the said Act; 28 of 2005.

(21) "supply" shall have the same meaning as assigned to it in section 7 of the Central Goods and Services Tax Act;

(22) "taxable territory" means the territory to which the provisions of this Act apply;

(23) "zero-rated supply" shall have the meaning assigned to it in section 16;

(24) words and expressions used and not defined in this Act but defined in the Central Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act shall have the same meaning as assigned to them in those Acts;

(25) any reference in this Act to a law which is not in force in the State of Jammu and Kashmir, shall, in relation to that State be construed as a reference to the corresponding law, if any, in force in that State.

CHAPTER II

ADMINISTRATION

Appointment of officers.

3. The Board may appoint such central tax officers as it thinks fit for exercising the powers under this Act.

Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances.

4. Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such exceptions and conditions as the Government shall, on the recommendations of the Council, by notification, specify.

CHAPTER III

LEVY AND COLLECTION OF TAX

Levy and collection.

5.*(1)* Subject to the provisions of sub-section *(2)*, there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty 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:

Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962. 51 of 1975. 51 of 1962.

(2) The integrated 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 integrated tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient 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.

(5) The Government may, on the recommendations of the Council, by notification, specify categories of services, the tax on inter-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 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.

Power to grant exemption from tax.

6.*(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.

CHAPTER IV

DETERMINATION OF NATURE OF SUPPLY

Inter-State supply.

7. *(1)* Subject to the provisions of section 10, supply of goods, where the location of the supplier and the place of supply are in—

(a) two different States;

(b) two different Union territories; or

(c) a State and a Union territory,

shall be treated as a supply of goods in the course of inter-State trade or commerce.

(2) Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade or commerce.

(3) Subject to the provisions of section 12, supply of services, where the location of the supplier and the place of supply are in—

(a) two different States;

(b) two different Union territories; or

(c) a State and a Union territory,

shall be treated as a supply of services in the course of inter-State trade or commerce.

(4) Supply of services imported into the territory of India shall be treated to be a supply of services in the course of inter-State trade or commerce.

(5) Supply of goods or services or both,—

(a) when the supplier is located in India and the place of supply is outside India;

(b) to or by a Special Economic Zone developer or a Special Economic Zone unit; or

(c) in the taxable territory, not being an intra-State supply and not covered elsewhere in this section,

shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.

Intra-State supply.

8. *(1)* Subject to the provisions of section 10, supply of goods where the location of the supplier and the place of supply of goods are in the same State or same Union territory shall be treated as intra-State supply:

Provided that the following supply of goods shall not be treated as intra-State supply, namely:—

(i) supply of goods to or by a Special Economic Zone developer or a Special Economic Zone unit;

(ii) goods imported into the territory of India till they cross the customs frontiers of India; or

(iii) supplies made to a tourist referred to in section 15.

(2) Subject to the provisions of section 12, supply of services where the location of the supplier and the place of supply of services are in the same State or same Union territory shall be treated as intra-State supply:

Provided that the intra-State supply of services shall not include supply of services to or by a Special Economic Zone developer or a Special Economic Zone unit.

Explanation 1.—For the purposes of this Act, where a person has,—

(i) an establishment in India and any other establishment outside India;

(ii) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or

(iii) an establishment in a State or Union territory and any other establishment being a business vertical registered within that State or Union territory,

then such establishments shall be treated as establishments of distinct persons.

Explanation 2.—A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.

Supplies in territorial waters.

9. Notwithstanding anything contained in this Act,—

(a) where the location of the supplier is in the territorial waters, the location of such supplier; or

(b) where the place of supply is in the territorial waters, the place of supply,

shall, for the purposes of this Act, be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

CHAPTER V

PLACE OF SUPPLY OF GOODS OR SERVICES OR BOTH

Place of supply of goods other than supply of goods imported into, or exported from India.

10. *(1)* The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under, —

(a) where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient;

(b) where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person;

(c) where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient;

(d) where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly;

(e) where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board.

(2) Where the place of supply of goods cannot be determined, the place of supply shall be determined in such manner as may be prescribed.

Place of supply of goods imported into, or exported from India.

11. The place of supply of goods,—

(a) imported into India shall be the location of the importer;

(b) exported from India shall be the location outside India.

Place of supply of services where location of supplier and recipient is in India.

12. *(1)* The provisions of this section shall apply to determine the place of supply of services where the location of supplier of services and the location of the recipient of services is in India.

(2) The place of supply of services, except the services specified in sub-sections *(5)* to *(14)*, —

(a) made to a registered person shall be the location of such person;

(b) made to any person other than a registered person shall be,—

(i) the location of the recipient where the address on record exists; and

(ii) the location of the supplier of services in other cases.

(3) The place of supply of services,—

(a) directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors,

engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work; or

(b) by way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel; or

(c) by way of accommodation in any immovable property for organising any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property; or

(d) any services ancillary to the services referred to in clauses *(a)*, *(b)* and *(c)*,

shall be the location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located:

Provided that if the location of the immovable property or boat or vessel is located or intended to be located outside India, the place of supply shall be the location of the recipient.

Explanation.—Where the immovable property or boat or vessel is located in more than one State or Union territory, the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

(4) The place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery shall be the location where the services are actually performed.

(5) The place of supply of services in relation to training and performance appraisal to,—

(a) a registered person, shall be the location of such person;

(b) a person other than a registered person, shall be the location where the services are actually performed.

(6) The place of supply of services provided by way of admission to a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place and services ancillary thereto, shall be the place where the event is actually held or where the park or such other place is located.

(7) The place of supply of services provided by way of,—

(a) organisation of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events; or

(b) services ancillary to organisation of any of the events or services referred to in clause *(a)*, or assigning of sponsorship to such events,—

(i) to a registered person, shall be the location of such person;

(ii) to a person other than a registered person, shall be the place where the event is actually held and if the event is held outside India, the place of supply shall be the location of the recipient.

Explanation.—Where the event is held in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such event, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

(8) The place of supply of services by way of transportation of goods, including by mail or courier to,—

(a) a registered person, shall be the location of such person;

(b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.

(9) The place of supply of passenger transportation service to,—

(a) a registered person, shall be the location of such person;

(b) a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey:

Provided that where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in accordance with the provisions of sub-section *(2)*.

Explanation.—For the purposes of this sub-section, the return journey shall be treated as a separate journey, even if the right to passage for onward and return journey is issued at the same time.

(10) The place of supply of services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, shall be the location of the first scheduled point of departure of that conveyance for the journey.

(11) The place of supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall,—

(a) in case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna, be the location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;

(b) in case of mobile connection for telecommunication and internet services provided on post-paid basis, be the location of billing address of the recipient of services on the record of the supplier of services;

(c) in cases where mobile connection for telecommunication, internet service and direct to home television services are provided on pre-payment basis through a voucher or any other means,—

(i) through a selling agent or a re-seller or a distributor of subscriber identity module card or re-charge voucher, be the address of the selling agent or re-seller or distributor as per the record of the supplier at the time of supply; or

(ii) by any person to the final subscriber, be the location where such pre-payment is received or such vouchers are sold;

(d) in other cases, be the address of the recipient as per the records of the supplier of services and where such address is not available, the place of supply shall be location of the supplier of services:

Provided that where the address of the recipient as per the records of the supplier of services is not available, the place of supply shall be location of the supplier of services:

Provided further that if such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment,

the location of the recipient of services on the record of the supplier of services shall be the place of supply of such services.

Explanation.—Where the leased circuit is installed in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such circuit, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

(12) The place of supply of banking and other financial services, including stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services:

Provided that if the location of recipient of services is not on the records of the supplier, the place of supply shall be the location of the supplier of services.

(13) The place of supply of insurance services shall,—

(a) to a registered person, be the location of such person;

(b) to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services.

(14) The place of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement shall be taken as being in each of such States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the amount attributable to services provided by way of dissemination in the respective States or Union territories as may be determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

Place of supply of services where location of supplier or location of recipient is outside India.

13.*(1)* The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India.

(2) The place of supply of services except the services specified in sub-sections *(3)* to *(13)* shall be the location of the recipient of services:

Provided that where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.

(3) The place of supply of the following services shall be the location where the services are actually performed, namely:—

(a) services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services:

Provided that when such services are provided from a remote location by way of electronic means, the place of supply shall be the location where goods are situated at the time of supply of services:

Provided further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs and are exported after repairs without being put to any other use in India, than that which is required for such repairs;

(b) services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which require the physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services.

(4) The place of supply of services supplied directly in relation to an immovable property, including services supplied in this regard by experts and estate agents, supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including that of architects or interior decorators, shall be the place where the immovable property is located or intended to be located.

(5) The place of supply of services supplied by way of admission to, or organisation of a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events, and of services ancillary to such admission or organisation, shall be the place where the event is actually held.

(6) Where any services referred to in sub-section *(5)* or sub-section *(4)* or sub-section *(5)* is supplied at more than one location, including a location in the taxable territory, its place of supply shall be the location in the taxable territory.

(7) Where the services referred to in sub-section *(5)* or sub-section *(4)* or sub-section *(5)* are supplied in more than one State or Union territory, the place of supply of such services shall be taken as

being in each of the respective States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

(8) The place of supply of the following services shall be the location of the supplier of services, namely:—

(a) services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders;

(b) intermediary services;

(c) services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month.

Explanation.—For the purposes of this sub-section, the expression,—

(a) "account" means an account bearing interest to the depositor, and includes a non-resident external account and a non-resident ordinary account;

(b) "banking company" shall have the same meaning as assigned to it under clause *(a)* of section 45A of the Reserve Bank of India Act, 1934; 2 of 1934.

(c) "financial institution" shall have the same meaning as assigned to it in clause *(c)* of section 45-I of the Reserve Bank of India Act, 1934; 2 of 1934.

(d) "non-banking financial company" means,—

(i) a financial institution which is a company;

(ii) a non-banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner; or

(iii) such other non-banking institution or class of such institutions, as the Reserve Bank of India may, with the previous approval of the Central Government and by notification in the official Gazette, specify.

(9) The place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods.

(10) The place of supply in respect of passenger transportation services shall be the place where the passenger embarks on the conveyance for a continuous journey.

(11) The place of supply of services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board, shall be the first scheduled point of departure of that conveyance for the journey.

(12) The place of supply of online information and database access or retrieval services shall be the location of the recipient of services.

Explanation.—For the purposes of this sub-section, person receiving such services shall be deemed to be located in the taxable territory, if any two of the following non-contradictory conditions are satisfied, namely:—

(a) the location of address presented by the recipient of services through internet is in the taxable territory;

(b) the credit card or debit card or store value card or charge card or smart card or any other card by which the recipient of services settles payment has been issued in the taxable territory;

(c) the billing address of the recipient of services is in the taxable territory;

(d) the internet protocol address of the device used by the recipient of services is in the taxable territory;

(e) the bank of the recipient of services in which the account used for payment is maintained is in the taxable territory;

(f) the country code of the subscriber identity module card used by the recipient of services is of taxable territory;

(g) the location of the fixed land line through which the service is received by the recipient is in the taxable territory.

(13) In order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, the Government shall have the power to notify any description of services or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service.

Special provision for payment of tax by a supplier of online information and database access or retrieval services.

14. *(1)* On supply of online information and database access or retrieval services by any person located in a non-taxable territory and received by a non-taxable online recipient, the supplier of services located in a non-taxable territory shall be the person liable for paying integrated tax on such supply of services:

Provided that in the case of supply of online information and database access or retrieval services by any person located in a non-taxable territory and received by a non-taxable online recipient, an intermediary located in the non-taxable territory, who arranges or facilitates the supply of such services, shall be deemed to be the recipient of such services from the supplier of services in non-taxable territory and supplying such services to the non-taxable online recipient except when such intermediary satisfies the following conditions, namely:—

(a) the invoice or customer's bill or receipt issued or made available by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory;

(b) the intermediary involved in the supply does not authorise the charge to the customer or take part in its charge which is that the intermediary neither collects or processes payment in any manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services;

(c) the intermediary involved in the supply does not authorise delivery; and

(d) the general terms and conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.

(2) The supplier of online information and database access or retrieval services referred to in sub-section *(1)* shall, for payment of integrated tax, take a single registration under the Simplified Registration Scheme to be notified by the Government:

Provided that any person located in the taxable territory representing such supplier for any purpose in the taxable territory shall get registered and pay integrated tax on behalf of the supplier:

Provided further that if such supplier does not have a physical presence or does not have a representative for any purpose in the taxable territory, he may appoint a person in the taxable territory for the purpose of paying integrated tax and such person shall be liable for payment of such tax.

CHAPTER VI

REFUND OF INTEGRATED TAX TO INTERNATIONAL TOURIST

Refund of integrated tax paid suppliy of goods to tourist leaving India.

15. The integrated tax paid by tourist leaving India on any supply of goods taken out of India by him shall be refunded in such manner and subject to such conditions and safeguards as may be prescribed.

Explanation.—For the purposes of this section, the term "tourist" means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

CHAPTER VII

ZERO RATED SUPPLY

Zero rated supply.

16. *(1)* "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 to a Special Economic Zone developer or a Special Economic Zone unit.

(2) Subject to the provisions of sub-section *(5)* of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.

(3) A registered person making zero rated supply shall be eligible to claim refund under either of the following options, namely:—

(a) he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or

(b) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied,

in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder.

CHAPTER VIII

APPORTIONMENT OF TAX AND SETTLEMENT OF FUNDS

Apprortionment of tax and settlement of funds.

17. *(1)* Out of the integrated tax paid to the Central Government,—

(a) in respect of inter-State supply of goods or services or both to an unregistered person or to a registered person paying tax under section 10 of the Central Goods and Services Tax Act;

(b) in respect of inter-State supply of goods or services or both where the registered person is not eligible for input tax credit;

(c) in respect of inter-State supply of goods or services or both made in a financial year to a registered person, where he does not avail of the input tax credit within the specified period and thus remains in the integrated tax account after expiry of the due date for furnishing of annual return for such year in which the supply was made;

(d) in respect of import of goods or services or both by an unregistered person or by a registered person paying tax under section 10 of the Central Goods and Services Tax Act;

(e) in respect of import of goods or services or both where the registered person is not eligible for input tax credit;

(f) in respect of import of goods or services or both made in a financial year by a registered person, where he does not avail of the said credit within the specified period and thus remains in the integrated tax account after expiry of the due date for furnishing of annual return for such year in which the supply was received,

the amount of tax calculated at the rate equivalent to the central tax on similar intra-State supply shall be apportioned to the Central Government.

(2) The balance amount of integrated tax remaining in the integrated tax account in respect of the supply for which an apportionment to the Central Government has been done under sub-section *(1)* shall be apportioned to the,—

(a) State where such supply takes place; and

(b) Central Government where such supply takes place in a Union territory:

Provided that where the place of such supply made by any taxable person cannot be determined separately, the said balance amount shall be apportioned to,—

(a) each of the States; and

(b) Central Government in relation to Union territories,

in proportion to the total supplies made by such taxable person to each of such States or Union territories, as the case may be, in a financial year:

Provided further that where the taxable person making such supplies is not identifiable, the said balance amount shall be apportioned to all States and the Central Government in proportion to the amount collected as State tax or, as the case may be, Union territory tax, by the

respective State or, as the case may be, by the Central Government during the immediately preceding financial year.

(3) The provisions of sub-sections *(1)* and *(2)* relating to apportionment of integrated tax shall, mutatis mutandis, apply to the apportionment of interest, penalty and compounding amount realised in connection with the tax so apportioned.

(4) Where an amount has been apportioned to the Central Government or a State Government under sub-section *(1)* or sub-section *(2)* or sub-section *(3)*, the amount collected as integrated tax shall stand reduced by an amount equal to the amount so apportioned and the Central Government shall transfer to the central tax account or Union territory tax account, an amount equal to the respective amounts apportioned to the Central Government and shall transfer to the State tax account of the respective States an amount equal to the amount apportioned to that State, in such manner and within such time as may be prescribed.

(5) Any integrated tax apportioned to a State or, as the case may be, to the Central Government on account of a Union territory, if subsequently found to be refundable to any person and refunded to such person, shall be reduced from the amount to be apportioned under this section, to such State, or Central Government on account of such Union territory, in such manner and within such time as may be prescribed.

Transfer of input tax credit.

18. On utilisation of credit of integrated tax availed under this Act for payment of,—

(a) central tax in accordance with the provisions of sub-section *(5)* of section 49 of the Central Goods and Services Tax Act, the amount collected as integrated tax shall stand reduced by an amount equal to the credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the integrated tax account to the central tax account in such manner and within such time as may be prescribed;

(b) Union territory tax in accordance with the provisions of section 9 of the Union Territory Goods and Services Tax Act, the amount collected as integrated tax shall stand reduced by an amount equal to the credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the integrated tax account to the Union territory tax account in such manner and within such time as may be prescribed;

(c) State tax in accordance with the provisions of the respective State Goods and Services Tax Act, the amount collected as integrated tax shall stand reduced by an amount equal to the credit so utilised and shall be apportioned to the appropriate State Government and the Central Government shall transfer the amount so apportioned to the account of the appropriate State Government in such manner and within such time as may be prescribed.

Explanation.—For the purposes of this Chapter, "appropriate State" in relation to a taxable person, means the State or Union territory where he is registered or is liable to be registered under the provisions of the Central Goods and Services Tax Act.

Tax wrongfully collected and paid to Central Government or State Government.

19. *(1)* A registered person who has paid integrated tax on a supply considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall be granted refund of the amount of integrated tax so paid in such manner and subject to such conditions as may be prescribed.

(2) A registered person who has paid central tax and State tax or Union territory tax, as the case may be, on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall not be required to pay any interest on the amount of integrated tax payable.

CHAPTER IX

MISCELLANEOUS

Application of provisions of Central Goods and Services Tax Act.

20. Subject to the provisions of this Act and the rules made thereunder, the provisions of Central Goods and Services Tax Act relating to,—

(i) scope of supply;

(ii) composite supply and mixed supply;

(iii) time and value of supply;

(iv) input tax credit;

(v) registration;

(vi) tax invoice, credit and debit notes;

(vii) accounts and records;

(viii) returns, other than late fee;

(ix) payment of tax;

(x) tax deduction at source;

(xi) collection of tax at source;

(xii) assessment;

(xiii) refunds;

(xiv) audit;

(xv) inspection, search, seizure and arrest;

(xvi) demands and recovery;

(xvii) liability to pay in certain cases;

(xviii) advance ruling;

(xix) appeals and revision;

(xx) presumption as to documents;

(xxi) offences and penalties;

(xxii) job work;

(xxiii) electronic commerce;

(xxiv) transitional provisions; and

(xxv) miscellaneous provisions including the provisions relating to the imposition of interest and penalty,

shall, *mutatis mutandis*, apply, so far as may be, in relation to integrated tax as they apply in relation to central tax as if they are enacted under this Act:

Provided that in the case of tax deducted at source, the deductor shall deduct tax at the rate of two per cent. from the payment made or credited to the supplier:

Provided further that in the case of tax collected at source, the operator shall collect tax at such rate not exceeding two per cent, as may be notified on the recommendations of the Council, of the net value of taxable supplies:

Provided also that for the purposes of this Act, the value of a supply shall include any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier:

Provided also that in cases where the penalty is leviable under the Central Goods and Services Tax Act and the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, the penalty leviable under this Act shall be the sum total of the said penalties.

Import of services made or after the appointed day.

21. Import of services made on or after the appointed day shall be liable to tax under the provisions of this Act regardless of whether the transactions for such import of services had been initiated before the appointed day:

Provided that if the tax on such import of services had been paid in full under the existing law, no tax shall be payable on such import under this Act:

Provided further that if the tax on such import of services had been paid in part under the existing law, the balance amount of tax shall be payable on such import under this Act.

Explanation.—For the purposes of this section, a transaction shall be deemed to have been initiated before the appointed day if either the invoice relating to such supply or payment, either in full or in part, has been received or made before the appointed day.

Power to make rules.

22. *(1)* The Government may, on the recommendations of the Council, by notification, make rules for carrying out the provisions of this Act.

(2) Without prejudice to the generality of the provisions of sub-section *(1)*, the Government may make rules for all or any of the matters which by this Act are required to be, or may be, prescribed or in respect of which provisions are to be or may be made by rules.

(3) The power to make rules conferred by this section shall include the power to give retrospective effect to the rules or any of them from a date not earlier than the date on which the provisions of this Act come into force.

(4) Any rules made under sub-section *(1)* may provide that a contravention thereof shall be liable to a penalty not exceeding ten thousand rupees.

Power to make regulations.

23. The Board may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

Laying of rules, regulations and notifications.

24. Every rule made by the Government, every regulation made by the Board and every notification issued by the Government under this Act, shall be laid, as soon as may be, after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or in the

notification, as the case may be, or both Houses agree that the rule or regulation or the notification should not be made, the rule or regulation or notification, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification, as the case may be.

Removal of difficulties

25. *(1)* If any difficulty arises in giving effect to any provision of this Act, the Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

DR. G. NARAYANA RAJU

Secretary to the Govt. of India.

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 12th April, 2017/Chaitra 22, 1939 (Saka)

The following Act of Parliament received the assent of the President on the 12th April, 2017, and is hereby published for general information:—

THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 NO. 12 OF 2017

[12th April, 2017.]

An Act to make a provision for levy and collection of tax on intra-State supply of goods or services or both by the Central Government and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title extent and commencement.

1. *(1)* This Act may be called the Central Goods and Services Tax Act, 2017.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. In this Act, unless the context otherwise requires,— Definitions.

(1) "actionable claim" shall have the same meaning as assigned to it in section 3 of the Transfer of Property Act, 1882;

(2) "address of delivery" means the address of the recipient of goods or services or both indicated on the tax invoice issued by a registered person for delivery of such goods or services or both;

(3) "address on record" means the address of the recipient as available in the records of the supplier;

(4) "adjudicating authority" means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Central Board of Excise and Customs, the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority and the Appellate Tribunal;

(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;

(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 Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess;

(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;

(8) "Appellate Authority" means an authority appointed or authorised to hear appeals as referred to in section 107;

(9) "Appellate Tribunal" means the Goods and Services Tax Appellate Tribunal constituted under section 109;

(10) "appointed day" means the date on which the provisions of this Act shall come into force;

(11) "assessment" means determination of tax liability under this Act and includes self-assessment, re-assessment, provisional assessment, summary assessment and best judgment assessment;

(12) "associated enterprises" shall have the same meaning as assigned to it in section 92A of the Income-tax Act, 1961;

(13) "audit" means the examination of records, returns and other documents maintained or furnished by the registered person under this Act or the rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of this Act or the rules made thereunder;

(14) "authorised bank" shall mean a bank or a branch of a bank authorised by the Government to collect the tax or any other amount payable under this Act;

(15) "authorised representative" means the representative as referred to in section 116;

(16) "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963;

(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;

(h) services provided by a race club by way of totalisator or a licence to book maker in such club; and

(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;

(18) "business vertical" means a distinguishable component of an enterprise that is engaged in the 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.

Explanation.—For the purposes of this clause, factors that should be considered in determining whether goods or services are related include—

(a) the nature of the goods or services;

(b) the nature of the production processes;

(c) the type or class of customers for the goods or services;

(d) the methods used to distribute the goods or supply of services; and

(e) the nature of regulatory environment (wherever applicable), including banking, insurance, or public utilities;

(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;

(20) "casual taxable person" means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business;

(21) "central tax" means the central goods and services tax levied under section 9;

(22) "cess" shall have the same meaning as assigned to it in the Goods and Services Tax (Compensation to States) Act;

(23) "chartered accountant" means a chartered accountant as defined in clause *(b)* of sub-section *(1)* of section 2 of the Chartered Accountants Act, 1949; 38 of 1949.

(24) "Commissioner" means the Commissioner of central tax and includes the Principal Commissioner of central tax appointed under section 3 and the Commissioner of integrated tax appointed under the Integrated Goods and Services Tax Act;

(25) "Commissioner in the Board" means the Commissioner referred to in section 168;

(26) "common portal" means the common goods and services tax electronic portal referred to in section 146;

(27) "common working days" in respect of a State or Union territory shall mean such days in succession which are not declared as gazetted holidays by the Central Government or the concerned State or Union territory Government;

(28) "company secretary" means a company secretary as defined in clause *(c)* of sub-section *(1)* of section 2 of the Company Secretaries Act, 1980; 56 of 1980.

(29) "competent authority" means such authority as may be notified by the Government;

(30) "composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

Ellustration.— Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

(31) "consideration" in relation to the supply of goods or services or both includes—

(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;

(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:

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;

(32) "continuous supply of goods" means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify;

(33) "continuous supply of services" means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify;

(34) "conveyance" includes a vessel, an aircraft and a vehicle;

(35) "cost accountant" means a cost accountant as defined in clause *(c)* of sub-section *(1)* of section 2 of the Cost and Works Accountants Act, 1959; 23 of 1959

(36) "Council" means the Goods and Services Tax Council established under article 279A of the Constitution;

(37) "credit note" means a document issued by a registered person under sub-section *(1)* of section 34;

(38) "debit note" means a document issued by a registered person under sub-section *(3)* of section 34;

(39) "deemed exports" means such supplies of goods as may be notified under section 147;

(40) "designated authority" means such authority as may be notified by the Board;

(41) "document" includes written or printed record of any sort and electronic record as defined in clause (t) of section 2 of the Information Technology Act, 2000; 21 of 2000

(42) "drawback" in relation to any goods manufactured in India and exported, means the rebate of duty, tax or cess chargeable on any imported inputs or on any domestic inputs or input services used in the manufacture of such goods;

(43) "electronic cash ledger" means the electronic cash ledger referred to in sub-section *(1)* of section 49;

(44) "electronic commerce" means the supply of goods or services or both, including digital products over digital or electronic network;

(45) "electronic commerce operator" means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce;

(46) "electronic credit ledger" means the electronic credit ledger referred to in sub-section *(2)* of section 49;

(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;

(48) "existing law" means any law, notification, order, rule or regulation relating to levy and collection of duty or tax on goods or services or both passed or made before the commencement of this Act by Parliament or any Authority or person having the power to make such law, notification, order, rule or regulation;

(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;

(50) "fixed establishment" means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs;

(51) "Fund" means the Consumer Welfare Fund established under section 57;

(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;

(53) "Government" means the Central Government;

(54) "Goods and Services Tax (Compensation to States) Act" means the Goods and Services Tax (Compensation to States) Act, 2017;

(55) "goods and services tax practitioner" means any person who has been approved under section 48 to act as such practitioner;

(56) "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;

80 of 1976.

(57) "Integrated Goods and Services Tax Act" means the Integrated Goods and Services Tax Act, 2017;

(58) "integrated tax" means the integrated goods and services tax levied under the Integrated Goods and Services Tax Act;

(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;

(60) "input service" means any service used or intended to be used by a supplier in the course or furtherance of business;

(61) "Input Service Distributor" means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office;

(62) "input tax" in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—

(a) the integrated goods and services tax charged on import of goods;

(b) the tax payable under the provisions of sub-sections *(3)* and *(4)* of section 9;

(c) the tax payable under the provisions of sub-sections *(3)* and *(4)* of section 5 of the Integrated Goods and Services Tax Act;

(d) the tax payable under the provisions of sub-sections *(3)* and *(4)* of section 9 of the respective State Goods and Services Tax Act; or

(e) the tax payable under the provisions of sub-sections *(3)* and *(4)* of section 7 of the Union Territory Goods and Services Tax Act,

but does not include the tax paid under the composition levy;

(65) "input tax credit" means the credit of input tax;

(64) "intra-State supply of goods" shall have the same meaning as assigned to it in section 8 of the Integrated Goods and Services Tax Act;

(65) "intra-State supply of services" shall have the same meaning as assigned to it in section 8 of the Integrated Goods and Services Tax Act;

(66) "invoice" or "tax invoice" means the tax invoice referred to in section 31;

(67) "inward supply" in relation to a person, shall mean receipt of goods or services or both whether by purchase, acquisition or any other means with or without consideration;

(68) "job work" means any treatment or process undertaken by a person on goods belonging to another registered person and the expression "job worker" shall be construed accordingly;

(69) "local authority" means—

(a) a "Panchayat" as defined in clause *(d)* of article 243 of the Constitution;

(b) a "Municipality" as defined in clause *(e)* of article 243P of the Constitution;

(c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;

(d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006; 41 of 2006.

(e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution;

(f) a Development Board constituted under article 371 of the Constitution;

or

(g) a Regional Council constituted under article 371A of the Constitution;

(70) "location of the recipient of services" means,—

(a) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;

(b) where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(c) where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and

(d) in absence of such places, the location of the usual place of residence of the recipient;

(71) "location of the supplier of services" means,—

(a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;

(b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provisions of the supply; and

(d) in absence of such places, the location of the usual place of residence of the supplier;

(72) "manufacture" means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly;

(73) "market value" shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods or services or both of like kind and quality at or about the same time and at the same commercial level where the recipient and the supplier are not related;

(74) "mixed supply" means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Illustration.— A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately;

(75) "money" means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;

(76) "motor vehicle" shall have the same meaning as assigned to it in clause *(28)* of section 2 of the Motor Vehicles Act, 1988; 59 of 1988.

(77) "non-resident taxable person" means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India;

(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;

(79) "non-taxable territory" means the territory which is outside the taxable territory;

(80) "notification" means a notification published in the Official Gazette and the expressions "notify" and "notified" shall be construed accordingly;

(81) "other territory" includes territories other than those comprising in a State and those referred to in sub-clauses *(a)* to *(e)* of clause (114);

(82) "output tax" in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis;

(83) "outward supply" in relation to a taxable person, means supply of goods or services or both, whether by sale, transfer, barter, exchange,

licence, rental, lease or disposal or any other mode, made or agreed to be made by such person in the course or furtherance of business;

(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 India or outside India;

(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;

18 of 2013.

(h) any body corporate incorporated by or under the laws of a country outside India;

(i) a co-operative society registered under any law relating to co-operative societies;

(j) a local authority;

(k) Central Government or a State Government;

(l) society as defined under the Societies Registration Act, 1860;

21 of 1860.

(m) trust; and

(n) every artificial juridical person, not falling within any of the above;

(85) "place of business" includes—

(a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or

(b) a place where a taxable person maintains his books of account; or

(c) a place where a taxable person is engaged in business through an agent, by whatever name called;

(86) "place of supply" means the place of supply as referred to in Chapter V of the Integrated Goods and Services Tax Act;

(87) "prescribed" means prescribed by rules made under this Act on the recommendations of the Council;

(88) "principal" means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both;

(89) "principal place of business" means the place of business specified as the principal place of business in the certificate of registration;

(90) "principal supply" means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;

(91) "proper officer" in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board;

(92) "quarter" shall mean a period comprising three consecutive calendar months, ending on the last day of March, June, September and December of a calendar year;

(93) "recipient" of supply of goods or services or both, means—

(a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;

(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

(c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied;

(94) "registered person" means a person who is registered under section 25 but does not include a person having a Unique Identity Number;

(95) "regulations" means the regulations made by the Board under this Act on the recommendations of the Council;

(96) "removal" in relation to goods, means—

(a) despatch of the goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier; or

(b) collection of the goods by the recipient thereof or by any other person acting on behalf of such recipient;

(97) "return" means any return prescribed or otherwise required to be furnished by or under this Act or the rules made thereunder;

(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;

(99) "Revisional Authority" means an authority appointed or authorised for revision of decision or orders as referred to in section 108;

(100) "Schedule" means a Schedule appended to this Act;

(101) "securities" shall have the same meaning as assigned to it in clause *(h)* of section 2 of the Securities Contracts (Regulation) Act, 1956;

42 of 1956.

(102) "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;

(103) "State" includes a Union territory with Legislature;

(104) "State tax" means the tax levied under any State Goods and Services Tax Act;

(105) "supplier" in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied;

(106) "tax period" means the period for which the return is required to be furnished;

(107) "taxable person" means a person who is registered or liable to be registered under section 22 or section 24;

(108) "taxable supply" means a supply of goods or services or both which is leviable to tax under this Act;

(109) "taxable territory" means the territory to which the provisions of this Act apply;

(110) "telecommunication service" means service of any description (including electronic mail, voice mail, data services, audio text services, video text services, radio paging and cellular mobile telephone services) which is made available to users by means of any transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature, by wire, radio, visual or other electromagnetic means;

(111) "the State Goods and Services Tax Act" means the respective State Goods and Services Tax Act, 2017;

(112) "turnover in State" or "turnover in Union territory" 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) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess;

(113) "usual place of residence" means—

(a) in case of an individual, the place where he ordinarily resides;

(b) in other cases, the place where the person is incorporated or otherwise legally constituted;

(114) "Union territory" means the territory of—

(a) the Andaman and Nicobar Islands;

(b) Lakshadweep;

(c) Dadra and Nagar Haveli;

(d) Daman and Diu;

(e) Chandigarh; and

(f) other territory.

Explanation.—For the purposes of this Act, each of the territories specified in sub-clauses *(a)* to *(f)* shall be considered to be a separate Union territory;

(115) "Union territory tax" means the Union territory goods and services tax levied under the Union Territory Goods and Services Tax Act;

(116) "Union Territory Goods and Services Tax Act" means the Union Territory Goods and Services Tax Act, 2017;

(117) "valid return" means a return furnished under sub-section *(1)* of section 39 on which self-assessed tax has been paid in full;

(118) "voucher" means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument;

(119) "works contract" means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract;

(120) words and expressions used and not defined in this Act but defined in the Integrated Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act shall have the same meaning as assigned to them in those Acts;

(121) any reference in this Act to a law which is not in force in the State of Jammu and Kashmir, shall, in relation to that State be construed as a reference to the corresponding law, if any, in force in that State.

CHAPTER II

ADMINISTRATION

Officers under this Act.

3. The Government shall, by notification, appoint the following classes of officers for the purposes of this Act, namely:—

(a) Principal Chief Commissioners of Central Tax or Principal Directors General of Central Tax,

(b) Chief Commissioners of Central Tax or Directors General of Central Tax,

(c) Principal Commissioners of Central Tax or Principal Additional Directors General of Central Tax,

(d) Commissioners of Central Tax or Additional Directors General of Central Tax,

(e) Additional Commissioners of Central Tax or Additional Directors of Central Tax,

(f) Joint Commissioners of Central Tax or Joint Directors of Central Tax,

(g) Deputy Commissioners of Central Tax or Deputy Directors of Central Tax,

(h) Assistant Commissioners of Central Tax or Assistant Directors of Central Tax, and

(i) any other class of officers as it may deem fit:

Provided that the officers appointed under the Central Excise Act, 1944 shall be deemed to be the officers appointed under the provisions of this Act. 1 of 1944.

Appointment of officers.

4. *(1)* The Board may, in addition to the officers as may be notified by the Government under section 3, appoint such persons as it may think fit to be the officers under this Act.

(2) Without prejudice to the provisions of sub-section *(1)*, the Board may, by order, authorise any officer referred to in clauses *(a)* to *(h)* of section 3 to appoint officers of central tax below the rank of Assistant Commissioner of central tax for the administration of this Act.

Powers of officers.

5. *(1)* Subject to such conditions and limitations as the Board may impose, an officer of central tax may exercise the powers and discharge the duties conferred or imposed on him under this Act.

(2) An officer of central tax may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of central tax who is subordinate to him.

(3) The Commissioner may, subject to such conditions and limitations as may be specified in this behalf by him, delegate his powers to any other officer who is subordinate to him.

(4) Notwithstanding anything contained in this section, an Appellate Authority shall not exercise the powers and discharge the duties conferred or imposed on any other officer of central tax.

Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances.

6. *(1)* Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify.

(2) Subject to the conditions specified in the notification issued under sub-section *(1)*, —

(a) where any proper officer issues an order under this Act, he shall also issue an order under the State Goods and Services Tax

Act or the Union Territory Goods and Services Tax Act, as authorised by the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, under intimation to the jurisdictional officer of State tax or Union territory tax;

(b) where a proper officer under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act has initiated any proceedings on a subject matter, no proceedings shall be initiated by the proper officer under this Act on the same subject matter.

(3) Any proceedings for rectification, appeal and revision, wherever applicable, of any order passed by an officer appointed under this Act shall not lie before an officer appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.

CHAPTER III

LEVY AND COLLECTION OF TAX

Scope of supply.

7. *(1)* For the purposes of this Act, the expression "supply" includes—

(a) 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 the course or furtherance of business;

(b) import of services for a consideration whether or not in the course or furtherance of business;

(c) the activities specified in Schedule I, made or agreed to be made without a consideration; and

(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

(2) Notwithstanding anything contained in sub-section *(1)*, —

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council,

shall be treated neither as a supply of goods nor a supply of services.

(3) Subject to the provisions of sub-sections *(1)* and *(2)*, the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—

(a) a supply of goods and not as a supply of services; or

(b) a supply of services and not as a supply of goods.

Tax liability on composite and mixed supplies.

8. The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:—

(a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and

(b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

Levy and collection.

9. *(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, 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 central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient 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.

(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.

Composition levy.

10. *(1)* Notwithstanding anything to the contrary contained in this Act but 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:

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.

(2) The registered person shall be eligible to opt under sub-section *(1)*, 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. 43 of 1961.

(3) The option availed of by a registered person under sub-section*(1)* shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section *(1)*.

(4) 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.

(5) If the proper officer has reasons to believe that a taxable person has paid tax under sub-section *(1)* despite not being eligible, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of section 73 or section 74 shall, *mutatis mutandis*, apply for determination of tax and penalty.

Power to grant exemption from tax.

11. *(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.

CHAPTER IV

TIME AND VALUE OF SUPPLY

Time of supply of goods.

12. *(1)* The liability to pay tax on goods shall arise at the time of supply, as determined in accordance with the provisions of this section.

(2) The time of supply of goods shall be the earlier of the following dates, namely:—

(a) the date of issue of invoice by the supplier or the last date on which he is required, under sub-section *(1)* of section 31, to issue the invoice with respect to the supply; or

(b) the date on which the supplier receives the payment with respect to the supply:

Provided that where the supplier of taxable goods receives an amount up to 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.

Explanation 1.—For the purposes of clauses *(a)* and *(b)*, "supply" shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.

Explanation 2.—For the purposes of clause *(b)*, "the date on which the supplier receives the payment" shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier.

(3) 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.

(4) In case of supply of vouchers by a supplier, the time of supply shall be—

(a) the date of issue of voucher, if the supply is identifiable at that point; or

(b) the date of redemption of voucher, in all other cases.

(5) Where it is not possible to determine the time of supply under the provisions of sub-section *(2)* or sub-section *(3)* or sub-section *(4)*, the time of supply shall—

(a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or

(b) in any other case, be the date on which the tax is paid.

(6) The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

Time of supply of services.

13. *(1)* The liability to pay tax on services shall arise at the time of supply, as determined in accordance with the provisions of this section.

(2) The time of supply of services shall be the earliest of the following dates, namely:—

(a) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under sub-section *(2)* of section 31 or the date of receipt of payment, whichever is earlier; or

(b) the date of provision of service, if the invoice is not issued within the period prescribed under sub-section *(2)* of section 31 or the date of receipt of payment, whichever is earlier; or

(c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause *(a)* or clause *(b)* do not apply:

Provided that where the supplier of taxable service receives an amount up to 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 relating to such excess amount.

Explanation.—For the purposes of clauses *(a)* and *(b)*—

(i) the supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment;

(ii) "the date of receipt of payment" shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

(3) 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 earlier of the following dates, namely:—

(a) 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

(b) the date immediately following sixty 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)*, the time of supply shall be the date of entry in the books of account of the recipient of supply:

Provided further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.

(4) In case of supply of vouchers by a supplier, the time of supply shall be—

(a) the date of issue of voucher, if the supply is identifiable at that point; or

(b) the date of redemption of voucher, in all other cases.

(5) Where it is not possible to determine the time of supply under the provisions of sub-section *(2)* or sub-section *(3)* or sub-section *(4)*, the time of supply shall—

(a) in a case where a periodical return has to be filed, be the date on which such return is to be filed; or

(b) in any other case, be the date on which the tax is paid.

(6) The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

Change in rate of tax in respect of supply of goods or services.

14. Notwithstanding anything contained in section 12 or section 13, the time of supply, where there is a change in the rate of tax in respect of goods or services or both, shall be determined in the following manner, namely:—

(a) in case the goods or services or both have been supplied before the change in rate of tax , —

(i) where the invoice for the same has been issued and the payment is also received after the change in rate of tax, the time of supply shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or

(ii) where the invoice has been issued prior to the change in rate of tax but payment is received after the change in rate of tax, the time of supply shall be the date of issue of invoice; or

(iii) where the payment has been received before the change in rate of tax, but the invoice for the same is issued after the change in rate of tax, the time of supply shall be the date of receipt of payment;

(b) in case the goods or services or both have been supplied after the change in rate of tax,—

(i) where the payment is received after the change in rate of tax but the invoice has been issued prior to the change in rate of tax, the time of supply shall be the date of receipt of payment; or

(ii) where the invoice has been issued and payment is received before the change in rate of tax, the time of supply shall be the date of receipt of payment or date of issue of invoice, whichever is earlier; or

(iii) where the invoice has been issued after the change in rate of tax but the payment is received before the change in rate of tax, the time of supply shall be the date of issue of invoice:

Provided that the date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after four working days from the date of change in the rate of tax.

Explanation.—For the purposes of this section, "the date of receipt of payment" shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

Value of taxable supply.

15. *(1)* The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.

(2) The value of supply shall include-

(a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the State Goods and Services Tax Act, the Union Territory Goods and Services Tax Act and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier;

(b) any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;

(c) incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services;

(d) interest or late fee or penalty for delayed payment of any consideration for any supply; and

(e) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

Explanation.—For the purposes of this sub-section, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.

(3) The value of the supply shall not include any discount which is given—

(a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and

(b) after the supply has been effected, if—

(i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and

(ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

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

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

Explanation.—For the purposes of this Act,—

(a) persons shall be deemed to be "related persons" if—

(i) such persons are officers or directors of one another's businesses;

(ii) such persons are legally recognised partners in business;

(iii) such persons are employer and employee;

(iv) any person directly or indirectly owns, controls or holds twenty-five per cent. or more of the outstanding voting stock or shares of both of them;

(v) one of them directly or indirectly controls the other;

(vi) both of them are directly or indirectly controlled by a third person;

(vii) together they directly or indirectly control a third person; or

*(viii)*they are members of the same family;

(b) the term "person" also includes legal persons;

(c) persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other, shall be deemed to be related.

CHAPTER V

INPUT TAX CREDIT

Eligibility and conditions for taking input tax credit.

16. *(1)* Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;

(b) he has received the goods or services or both.

Explanation.—For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise;

(c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and

(d) he has furnished the return under section 39:

Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed:

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

(3) 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, the input tax credit on the said tax component shall not be allowed. 43 of 1961.

(4) 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 due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Appointment of credit and blocked credits.

17. *(1)* Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

(3) The value of exempt supply under sub-section *(2)* shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause *(b)* of paragraph 5 of Schedule II, sale of building.

(4) 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 shall have the option to either comply with the provisions of sub-section *(2)*, or avail of, every month, an amount equal to fifty per cent. of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse:

Provided that the option once exercised shall not be withdrawn during the remaining part of the financial year:

Provided further that the restriction of fifty per cent. shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.

(5) 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:—

(a) motor vehicles and other conveyances except when they are used—

(i) for making the following taxable supplies, namely:—

(A) further supply of such vehicles or conveyances ; or

(B) transportation of passengers; or

(C) imparting training on driving, flying, navigating such vehicles or conveyances;

(ii) for transportation of goods;

(b) the following supply of goods or services or both—

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(ii) membership of a club, health and fitness centre;

(iii) rent-a-cab, life insurance and health insurance except where—

(A) the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or

(B) such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and

(iv) travel benefits extended to employees on vacation such as leave or home travel concession;

(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

Explanation.—For the purposes of clauses *(c)* and *(d)*, the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;

(e) goods or services or both on which tax has been paid under section 10;

(f) goods or services or both received by a non-resident taxable person except on goods imported by him;

(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; and

(i) any tax paid in accordance with the provisions of sections 74, 129 and 130.

(6) The Government may prescribe the manner in which the credit referred to in sub-sections *(1)* and *(2)* may be attributed.

Explanation.—For the purposes of this Chapter and Chapter VI, the expression "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes—

(i) land, building or any other civil structures;

(ii) telecommunication towers; and

(iii) pipelines laid outside the factory premises.

Availability of credit in special circumstances.

18. *(1)* Subject to such conditions and restrictions as may be prescribed—

(a) a person who has applied for registration under this Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall be entitled

to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act;

(b) a person who takes registration under sub-section *(5)* of section 25 shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration;

(c) where any registered person ceases to pay tax under section 10, he shall be entitled to take credit of input tax in respect of inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under section 9:

Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed;

(d) where an exempt supply of goods or services or both by a registered person becomes a taxable supply, such person shall be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock relatable to such exempt supply and on capital goods exclusively used for such exempt supply on the day immediately preceding the date from which such supply becomes taxable:

Provided that the credit on capital goods shall be reduced by such percentage points as may be prescribed.

(2) A registered person shall not be entitled to take input tax credit under sub-section *(1)* in respect of any supply of goods or services or both to him after the expiry of one year from the date of issue of tax invoice relating to such supply.

(3) Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilised in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business in such manner as may be prescribed.

(4) Where any registered person who has availed of input tax credit opts to pay tax under section 10 or, where the goods or services

or both supplied by him become wholly exempt, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption:

Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

(5) The amount of credit under sub-section *(1)* and the amount payable under sub-section *(4)* shall be calculated in such manner as may be prescribed.

(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:

Provided that where refractory bricks, moulds and dies, jigs and fixtures are supplied as scrap, the taxable person may pay tax on the transaction value of such goods determined under section 15.

Taking input tax credit in respect of inputs and capital goods sent for job work.

19. *(1)* The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on inputs sent to a job worker for job work.

(2) Notwithstanding anything contained in clause *(b)* of sub-section *(2)* of section 16, the principal shall be entitled to take credit of input tax on inputs even if the inputs are directly sent to a job worker for job work without being first brought to his place of business.

(3) Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise or are not supplied from the place of business of the job worker in accordance with clause *(a)* or clause *(b)* of sub-section *(1)* of section 143 within one year of being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out:

Provided that where the inputs are sent directly to a job worker, the period of one year shall be counted from the date of receipt of inputs by the job worker.

(4) The principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on capital goods sent to a job worker for job work.

(5) Notwithstanding anything contained in clause *(b)* of sub-section *(2)* of section 16, the principal shall be entitled to take credit of input tax on capital goods even if the capital goods are directly sent to a job worker for job work without being first brought to his place of business.

(6) Where the capital goods sent for job work are not received back by the principal within a period of three years of being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out:

Provided that where the capital goods are sent directly to a job worker, the period of three years shall be counted from the date of receipt of capital goods by the job worker.

(7) Nothing contained in sub-section *(3)* or sub-section *(6)* shall apply to moulds and dies, jigs and fixtures, or tools sent out to a job worker for job work.

Explanation.—For the purpose of this section, "principal" means the person referred to in section 143.

Manner of distribution of credit by Input Service Distributor.

20. *(1)* The Input Service Distributor shall distribute the credit of central tax as central tax or integrated tax and integrated tax as integrated tax or central tax, by way of issue of a document containing the amount of input tax credit being distributed in such manner as may be prescribed.

(2) The Input Service Distributor may distribute the credit subject to the following conditions, namely:—

(a) the credit can be distributed to the recipients of credit against a document containing such details as may be prescribed;

(b) the amount of the credit distributed shall not exceed the amount of credit available for distribution;

(c) the credit of tax paid on input services attributable to a recipient of credit shall be distributed only to that recipient;

(d) the credit of tax paid on input services attributable to more than one recipient of credit shall be distributed amongst such recipients to whom the input service is attributable and such distribution shall be *pro rata* on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant

period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period;

(e) the credit of tax paid on input services attributable to all recipients of credit shall be distributed amongst such recipients and such distribution shall be *pro rata* on the basis of the turnover in a State or turnover in a Union territory of such recipient, during the relevant period, to the aggregate of the turnover of all recipients and which are operational in the current year, during the said relevant period.

Explanation.—For the purposes of this section,—

(a) the "relevant period" shall be—

(i) if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or

(ii) if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed;

(b) the expression "recipient of credit" means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor;

(c) the term "turnover", in relation to any registered person engaged in the supply of taxable goods as well as goods not taxable under this Act, means the value of turnover, reduced by the amount of any duty or tax levied under entry 84 of List I of the Seventh Schedule to the Constitution and entries 51 and 54 of List II of the said Schedule.

Manner of recovery of credit distributed in excess.

21. Where the Input Service Distributor distributes the credit in contravention of the provisions contained in section 20 resulting in excess distribution of credit to one or more recipients of credit, the excess credit so distributed shall be recovered from such recipients along with interest, and the provisions of section 73 or section 74, as the case may be, shall, *mutatis mutandis*, apply for determination of amount to be recovered.

CHAPTER VI

REGISTRATION

Persons liable for registration.

22. *(1)* 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:

Provided 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.

(2) Every person who, on the day immediately preceding the appointed day, is registered or holds a licence under an existing law, shall be liable to be registered under this Act with effect from the appointed day.

(3) Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.

(4) Notwithstanding anything contained in sub-sections *(1)* and *(3)*, in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, demerger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, the transferee shall be liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal.

Explanation.—For the purposes of this section,—

(i) the expression "aggregate turnover" shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals;

(ii) the supply of goods, after completion of job work, by a registered job worker shall be treated as the supply of goods by the principal referred to in section 143, and the value of such goods shall not be included in the aggregate turnover of the registered job worker;

(iii) the expression "special category States" shall mean the States as specified in sub-clause *(g)* of clause *(4)* of article 279A of the Constitution.

Persons not liable for registration.

23. *(1)* The following persons shall not be liable to 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.

(2) The Government may, on the recommendations of the Council, by notification, specify the category of persons who may be exempted from obtaining registration under this Act.

Compulsory registration in certain cases.

24. Notwithstanding anything contained in sub-section *(1)* of section 22, the following categories of persons shall be required to be registered under this Act,—

(i) persons making any inter-State taxable supply;

(ii) casual taxable persons making taxable supply;

(iii) persons who are required to pay tax under reverse charge;

(iv) person who are required to pay tax under sub-section *(5)* of section 9;

(v) non-resident taxable persons making taxable supply;

(vi) persons who are required to deduct tax 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 sub-section *(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;

(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; and

(xii) such other person or class of persons as may be notified by the Government on the recommendations of the Council.

Procedure for registration.

25. *(1)* Every person who is liable to be registered under section 22 or section 24 shall apply for registration in every such State or Union territory in which he is so liable within thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed:

Provided that a casual taxable person or a non-resident taxable person shall apply for registration at least five days prior to the commencement of business.

Explanation.—Every person who makes a supply from the territorial waters of India shall obtain registration in the coastal State or Union territory where the nearest point of the appropriate baseline is located.

(2) A person seeking registration under this Act shall be granted a single registration in a State or Union territory:

Provided that a person having multiple business verticals in a State or Union territory may be granted a separate registration for each business vertical, subject to such conditions as may be prescribed.

(3) A person, though not liable to be registered under section 22 or section 24 may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered person, shall apply to such person.

(4) A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.

(5) Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

(6) Every person shall have a Permanent Account Number issued under the Income-tax Act, 1961 in order to be eligible for grant of registration:

43 of 1961.

Provided that a person required to deduct tax under section 51 may have, *in lieu* of a Permanent Account Number, a Tax Deduction and Collection Account Number issued under the said Act in order to be eligible for grant of registration.

(7) Notwithstanding anything contained in sub-section *(6)*, a non-resident taxable person may be granted registration under sub-section *(1)* on the basis of such other documents as may be prescribed.

(8) Where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action which may be taken under this Act or under any other law for the time being in force, proceed to register such person in such manner as may be prescribed.

(9) Notwithstanding anything contained in sub-section *(1)*, —

(a) any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries; and 46 of 1947.

(b) any other person or class of persons, as may be notified by the Commissioner, shall be granted a Unique Identity Number in such manner and for such purposes, including refund of taxes on the notified supplies of goods or services or both received by them, as may be prescribed.

(10) The registration or the Unique Identity Number shall be granted or rejected after due verification in such manner and within such period as may be prescribed.

(11) A certificate of registration shall be issued in such form and with effect from such date as may be prescribed.

(12) A registration or a Unique Identity Number shall be deemed to have been granted after the expiry of the period prescribed under sub-section *(10)*, if no deficiency has been communicated to the applicant within that period.

Deemed registration

26. *(1)* The grant of registration or the Unique Identity Number under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be a grant of registration or the Unique Identity Number under this Act subject to the condition that the application for registration or the Unique Identity Number has not been rejected under this Act within the time specified in sub-section *(10)* of section 25.

(2) Notwithstanding anything contained in sub-section *(10)* of section 25, any rejection of application for registration or the Unique Identity Number under the State Goods and Services Tax Act or the

Union Territory Goods and Services Tax Act shall be deemed to be a rejection of application for registration under this Act.

Special provisions relating to casual taxable person and non-resident taxable person.

27. *(1)* The certificate of registration issued to a casual taxable person or a non-resident taxable person shall be valid for the period specified in the application for registration or ninety days from the effective date of registration, whichever is earlier and such person shall make taxable supplies only after the issuance of the certificate of registration:

Provided that the proper officer may, on sufficient cause being shown by the said taxable person, extend the said period of ninety days by a further period not exceeding ninety days.

(2) A casual taxable person or a non-resident taxable person shall, at the time of submission of application for registration under sub-section *(1)* of section 25, make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought:

Provided that where any extension of time is sought under sub-section *(1)*, such taxable person shall deposit an additional amount of tax equivalent to the estimated tax liability of such person for the period for which the extension is sought.

(3) The amount deposited under sub-section *(2)* shall be credited to the electronic cash ledger of such person and shall be utilised in the manner provided under section 49.

Amendment of registration.

28. *(1)* Every registered person and a person to whom a Unique Identity Number has been assigned shall inform the proper officer of any changes in the information furnished at the time of registration or subsequent thereto, in such form and manner and within such period as may be prescribed.

(2) The proper officer may, on the basis of information furnished under sub-section *(1)* or as ascertained by him, approve or reject amendments in the registration particulars in such manner and within such period as may be prescribed:

Provided that approval of the proper officer shall not be required in respect of amendment of such particulars as may be prescribed:

Provided further that the proper officer shall not reject the application for amendment in the registration particulars without giving the person an opportunity of being heard.

(3) Any rejection or approval of amendments under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a rejection or approval under this Act.

Cancellation of registration

29. *(1)* The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where,—

(a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or

(b) there is any change in the constitution of the business; or

(c) the taxable person, other than the person registered under sub-section *(3)* of section 25, is no longer liable to be registered under section 22 or section 24.

(2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,—

(a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or

(b) a person paying tax under section 10 has not furnished returns for three consecutive tax periods; or

(c) any registered person, other than a person specified in clause *(b)*, has not furnished returns for a continuous period of six months; or

(d) any person who has taken voluntary registration under sub-section *(3)* of section 25 has not commenced business within six months from the date of registration; or

(e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts:

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.

(3) The cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder

for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.

(4) The cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a cancellation of registration under this Act.

(5) Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed:

Provided that in case of capital goods or plant and machinery, the taxable 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 under section 15, whichever is higher.

(6) The amount payable under sub-section *(5)* shall be calculated in such manner as may be prescribed.

Revocation of cancellation of registration.

30. *(1)* Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order.

(2) The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application:

Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.

(3) The revocation of cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.

CHAPTER VII

TAX INVOICE, CREDIT AND DEBIT NOTES

Tax invoice.

31. *(1)* A registered person supplying taxable goods shall, before or at the time of,—

(a) removal of goods for supply to the recipient, where the supply involves movement of goods; or

(b) delivery of goods or making available thereof to the recipient, in any other case,

issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed:

Provided that the Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.

(2) A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed:

Provided that the Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which—

(a) any other document issued in relation to the supply shall be deemed to be a tax invoice; or

(b) tax invoice may not be issued.

(3) Notwithstanding anything contained in sub-sections *(1)* and *(2)*—

(a) a registered person may, within one month from the date of issuance of certificate of registration and in such manner as may be prescribed, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him;

(b) a registered person may not issue a tax invoice if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;

(c) a registered person supplying exempted goods or services or both or paying tax under the provisions of section 10 shall issue,

instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed:

Provided that the registered person may not issue a bill of supply if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;

(d) a registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a receipt voucher or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment;

(e) where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment;

(f) a registered person who is liable to pay tax under sub-section *(5)* or sub-section *(4)* of section 9 shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both;

(g) a registered person who is liable to pay tax under sub-section *(5)* or sub-section *(4)* of section 9 shall issue a payment voucher at the time of making payment to the supplier.

(4) In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.

(5) Subject to the provisions of clause *(d)* of sub-section *(5)*, in case of continuous supply of services,—

(a) where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;

(b) where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;

(c) where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.

(6) In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.

(7) Notwithstanding anything contained in sub-section *(1)*, where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

Explanation.—For the purposes of this section, the expression "tax invoice" shall include any revised invoice issued by the supplier in respect of a supply made earlier.

Prohibition of unauthorised collection of tax.

32. *(1)* A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this Act.

(2) No registered person shall collect tax except in accordance with the provisions of this Act or the rules made thereunder.

Amount of tax to be indicated in tax invoice and other documents.

33. Notwithstanding anything contained in this Act or any other law for the time being in force, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.

Credit and debit notes.

34. *(1)* Where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient a credit note containing such particulars as may be prescribed.

(2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:

Provided that no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

(3) Where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient a debit note containing such particulars as may be prescribed.

(4) Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued and the tax liability shall be adjusted in such manner as may be prescribed.

Explanation.—For the purposes of this Act, the expression "debit note" shall include a supplementary invoice.

CHAPTER VIII

ACCOUNTS AND RECORDS

Accounts and other records.

35. *(1)* 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:

Provided that 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 places of business:

Provided further that the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.

(2) 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.

(3) The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.

(4) Where the Commissioner considers that any class of taxable person is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.

(5) Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section *(2)* of section 44 and such other documents in such form and manner as may be prescribed.

(6) Subject to the provisions of clause *(h)* of sub-section *(5)* of section 17, where the registered person fails to account for the goods or services or both in accordance with the provisions of sub-section *(1)*, the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73 or section 74, as the case may be, shall, *mutatis mutandis*, apply for determination of such tax.

Period of retention of accounts.

36. Every registered person required to keep and maintain books of account or other records in accordance with the provisions of sub-section *(1)* of section 35 shall retain them until the expiry of seventy-two months from the due date of furnishing of annual return for the year pertaining to such accounts and records:

Provided that a registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

CHAPTER IX

RETURNS

Furnishing details of outward supplies.

37. *(1)* Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed:

Provided that the registered person shall not be allowed to furnish the details of outward supplies during the period from the eleventh day to the fifteenth day of the month succeeding the tax period:

Provided further that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

Provided also that any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

(2) Every registered person who has been communicated the details under sub-section *(3)* of section 38 or the details pertaining to inward supplies of Input Service Distributor under sub-section *(4)* of section 38, shall either accept or reject the details so communicated, on or before the seventeenth day, but not before the fifteenth day, of the month succeeding the tax period and the details furnished by him under sub-section *(1)* shall stand amended accordingly.

(3) Any registered person, who has furnished the details under sub-section *(1)* for any tax period and which have remained unmatched under section 42 or section 43, shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section *(1)* shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

Explanation.—For the purposes of this Chapter, the expression "details of outward supplies" shall include details of invoices, debit notes, credit notes and revised invoices issued in relation to outward supplies made during any tax period.

Furnishing details of inward supplies.

38. *(1)* Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, shall verify, validate, modify or delete, if required, the details relating to outward supplies and credit or debit notes communicated under sub-section *(1)* of section 37 to prepare the details of his inward supplies and credit or debit notes and may include therein, the details of inward supplies and credit or debit notes received by him in respect of such supplies that have not been declared by the supplier under sub-section *(1)* of section 37.

(2) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, the details of inward supplies of taxable goods or services or both, including inward supplies of goods or services or both on which the tax is payable on reverse charge basis under this Act and inward supplies of goods or services or both taxable under the Integrated Goods and Services Tax Act or on which integrated goods and services tax is payable under section 3 of the Customs Tariff Act, 1975, and credit or debit notes received in respect of such supplies during a tax period after the tenth day but on or before the fifteenth day of the month succeeding the tax period in such form and manner as may be prescribed: 51 of 1975

Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

(3) The details of supplies modified, deleted or included by the recipient and furnished under sub-section *(2)* shall be communicated to the supplier concerned in such manner and within such time as may be prescribed.

(4) The details of supplies modified, deleted or included by the recipient in the return furnished under sub-section *(2)* or sub-section *(4)* of section 39 shall be communicated to the supplier concerned in such manner and within such time as may be prescribed.

(5) Any registered person, who has furnished the details under sub-section *(2)* for any tax period and which have remained unmatched under section 42 or section 43, shall, upon discovery of any error or omission therein, rectify such error or omission in the tax period during which such error or omission is noticed in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period:

Provided that no rectification of error or omission in respect of the details furnished under sub-section *(2)* shall be allowed after furnishing of the return under section 39 for the month of September following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

Furnishing of returns.

39. *(1)* Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars as may be prescribed, on or before the twentieth day of the month succeeding such calendar month or part thereof.

(2) A registered person paying tax under the provisions of section 10 shall, for each quarter or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, of turnover in the State or Union territory, inward supplies of goods or services or both, tax payable and tax paid within eighteen days after the end of such quarter.

(3) Every registered person required to deduct tax at source under the provisions of section 51 shall furnish, in such form and manner as may be prescribed, a return, electronically, for the month in which such deductions have been made within ten days after the end of such month.

(4) Every taxable person registered as an Input Service Distributor shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within thirteen days after the end of such month.

(5) Every registered non-resident taxable person shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a return, electronically, within twenty days after the

end of a calendar month or within seven days after the last day of the period of registration specified under sub-section *(1)* of section 27, whichever is earlier.

(6) The Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the returns under this section for such class of registered persons as may be specified therein:

Provided that any extension of time limit notified by the Commissioner of State tax or Union territory tax shall be deemed to be notified by the Commissioner.

(7) Every registered person, who is required to furnish a return under sub-section *(1)* or sub-section *(2)* or sub-section *(3)* or sub-section *(5)*, shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return.

(8) Every registered person who is required to furnish a return under sub-section *(1)* or sub-section *(2)* shall furnish a return for every tax period whether or not any supplies of goods or services or both have been made during such tax period.

(9) Subject to the provisions of sections 37 and 38, if any registered person after furnishing a return under sub-section *(1)* or sub-section *(2)* or sub-section *(3)* or sub-section *(4)* or sub-section *(5)* discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the return to be furnished for the month or quarter during which such omission or incorrect particulars are noticed, subject to payment of interest under this Act:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of return for the month of September or second quarter following the end of the financial year, or the actual date of furnishing of relevant annual return, whichever is earlier.

(10) A registered person shall not be allowed to furnish a return for a tax period if the return for any of the previous tax periods has not been furnished by him.

First return.

40. Every registered person who has made outward supplies in the period between the date on which he became liable to registration till the date on which registration has been granted shall declare the same in the first return furnished by him after grant of registration.

Claim of input tax credit and provisional acceptance thereof.

41. *(1)* Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a provisional basis to his electronic credit ledger.

(2) The credit referred to in sub-section *(1)* shall be utilised only for payment of self-assessed output tax as per the return referred to in the said sub-section.

Matching, reversal and reclaim of input tax credit.

42. *(1)* The details of every inward supply furnished by a registered person (hereafter in this section referred to as the "recipient") for a tax period shall, in such manner and within such time as may be prescribed, be matched—

(a) with the corresponding details of outward supply furnished by the corresponding registered person (hereafter in this section referred to as the "supplier") in his valid return for the same tax period or any preceding tax period;

(b) with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him; and

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(c) for duplication of claims of input tax credit.

(2) The claim of input tax credit in respect of invoices or debit notes relating to inward supply that match with the details of corresponding outward supply or with the integrated goods and services tax paid under section 3 of the Customs Tariff Act, 1975 in respect of goods imported by him shall be finally accepted and such acceptance shall be communicated, in such manner as may be prescribed, to the recipient.

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(3) Where the input tax credit claimed by a recipient in respect of an inward supply is in excess of the tax declared by the supplier for the same supply or the outward supply is not declared by the supplier in his valid returns, the discrepancy shall be communicated to both such persons in such manner as may be prescribed.

(4) The duplication of claims of input tax credit shall be communicated to the recipient in such manner as may be prescribed.

(5) The amount in respect of which any discrepancy is communicated under sub-section *(3)* and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the recipient, in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.

(6) The amount claimed as input tax credit that is found to be in excess on account of duplication of claims shall be added to the output tax liability of the recipient in his return for the month in which the duplication is communicated.

(7) The recipient shall be eligible to reduce, from his output tax liability, the amount added under sub-section *(5)*, if the supplier declares the details of the invoice or debit note in his valid return within the time specified in sub-section *(9)* of section 39.

(8) A recipient in whose output tax liability any amount has been added under sub-section *(5)* or sub-section *(6)*, shall be liable to pay interest at the rate specified under sub-section *(1)* of section 50 on the amount so added from the date of availing of credit till the corresponding additions are made under the said sub-sections.

(9) Where any reduction in output tax liability is accepted under sub-section *(7)*, the interest paid under sub-section *(8)* shall be refunded to the recipient by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed:

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the supplier.

(10) The amount reduced from the output tax liability in contravention of the provisions of sub-section *(7)* shall be added to the output tax liability of the recipient in his return for the month in which such contravention takes place and such recipient shall be liable to pay interest on the amount so added at the rate specified in sub-section *(3)* of section 50.

Matching, reversal and reclaim of reduction in output tax liability.

43. *(1)* The details of every credit note relating to outward supply furnished by a registered person (hereafter in this section referred to as the "supplier") for a tax period shall, in such manner and within such time as may be prescribed, be matched—

(a) with the corresponding reduction in the claim for input tax credit by the corresponding registered person (hereafter in this section referred to as the "recipient") in his valid return for the same tax period or any subsequent tax period; and

(b) for duplication of claims for reduction in output tax liability.

(2) The claim for reduction in output tax liability by the supplier that matches with the corresponding reduction in the claim for input tax credit by the recipient shall be finally accepted and communicated, in such manner as may be prescribed, to the supplier.

(3) Where the reduction of output tax liability in respect of outward supplies exceeds the corresponding reduction in the claim for input tax credit or the corresponding credit note is not declared by the recipient in his valid returns, the discrepancy shall be communicated to both such persons in such manner as may be prescribed.

(4) The duplication of claims for reduction in output tax liability shall be communicated to the supplier in such manner as may be prescribed.

(5) The amount in respect of which any discrepancy is communicated under sub-section *(3)* and which is not rectified by the recipient in his valid return for the month in which discrepancy is communicated shall be added to the output tax liability of the supplier, in such manner as may be prescribed, in his return for the month succeeding the month in which the discrepancy is communicated.

(6) The amount in respect of any reduction in output tax liability that is found to be on account of duplication of claims shall be added to the output tax liability of the supplier in his return for the month in which such duplication is communicated.

(7) The supplier shall be eligible to reduce, from his output tax liability, the amount added under sub-section *(5)* if the recipient declares the details of the credit note in his valid return within the time specified in sub-section *(9)* of section 39.

(8) A supplier in whose output tax liability any amount has been added under sub-section *(5)* or sub-section *(6)*, shall be liable to pay interest at the rate specified under sub-section *(1)* of section 50 in respect of the amount so added from the date of such claim for reduction in the output tax liability till the corresponding additions are made under the said sub-sections.

(9) Where any reduction in output tax liability is accepted under sub-section *(7)*, the interest paid under sub-section *(8)* shall be refunded to the supplier by crediting the amount in the corresponding head of his electronic cash ledger in such manner as may be prescribed:

Provided that the amount of interest to be credited in any case shall not exceed the amount of interest paid by the recipient.

(10) The amount reduced from output tax liability in contravention of the provisions of sub-section *(7)* shall be added to the output tax liability of the supplier in his return for the month in which such contravention takes place and such supplier shall be liable to pay interest

on the amount so added at the rate specified in sub-section *(3)* of section 50.

Annual return.

44. *(1)* Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year.

(2) Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section *(5)* of section 35 shall furnish, electronically, the annual return under sub-section *(1)* along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.

Final return.

45. Every registered person who is required to furnish a return under sub-section *(1)* of section 39 and whose registration has been cancelled shall furnish a final return within three months of the date of cancellation or date of order of cancellation, whichever is later, in such form and manner as may be prescribed.

Notice to return defaulters.

46. Where a registered person fails to furnish a return under section 39 or section 44 or section 45, a notice shall be issued requiring him to furnish such return within fifteen days in such form and manner as may be prescribed.

Levy of late fee.

47. *(1)* Any registered person who fails to furnish the details of outward or inward supplies required under section 37 or section 38 or returns required under section 39 or section 45 by the due date shall pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum amount of five thousand rupees.

(2) Any registered person who fails to furnish the return required under section 44 by the due date shall be liable to pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at a quarter per cent. of his turnover in the State or Union territory.

Goods and services tax practioners.

48. *(1)* The manner of approval of goods and services tax practitioners, their eligibility conditions, duties and obligations, manner of removal and other conditions relevant for their functioning shall be such as may be prescribed.

(2) A registered person may authorise an approved goods and services tax practitioner to furnish the details of outward supplies under section 37, the details of inward supplies under section 38 and the return under section 39 or section 44 or section 45 in such manner as may be prescribed.

(3) Notwithstanding anything contained in sub-section *(2)*, the responsibility for correctness of any particulars furnished in the return or other details filed by the goods and services tax practitioners shall continue to rest with the registered person on whose behalf such return and details are furnished.

CHAPTER X

PAYMENT OF TAX

Payment of tax, interest, penalty and other amounts.

49. *(1)* Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed.

(2) The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41, to be maintained in such manner as may be prescribed.

(3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

(4) The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed.

(5) The amount of input tax credit available in the electronic credit ledger of the registered person on account of—

(a) integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, Union territory tax, in that order;

(b) the central tax shall first be utilised towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;

(c) the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax;

(d) the Union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax;

(e) the central tax shall not be utilised towards payment of State tax or Union territory tax; and

(f) the State tax or Union territory tax shall not be utilised towards payment of central tax.

(6) The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder may be refunded in accordance with the provisions of section 54.

(7) All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic liability register in such manner as may be prescribed.

(8) Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:—

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

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

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

(9) Every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.

Explanation.—For the purposes of this section,—

(a) the date of credit to the account of the Government in the authorised bank shall be deemed to be the date of deposit in the electronic cash ledger;

(b) the expression,—

(i) "tax dues" means the tax payable under this Act and does not include interest, fee and penalty; and

(ii) "other dues" means interest, penalty, fee or any other amount payable under this Act or the rules made thereunder.

Interest on delayed payment of tax.

50. *(1)* Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.

(2) The interest under sub-section *(1)* shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.

(3) A taxable person who makes an undue or excess claim of input tax credit under sub-section *(10)* of section 42 or undue or excess reduction in output tax liability under sub-section *(10)* of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty-four per cent., as may be notified by the Government on the recommendations of the Council.

Tax deduction at source.

51. *(1)* Notwithstanding anything to the contrary contained in this Act, the Government may mandate,—

(a) a department or establishment of the Central Government or State Government; or

(b) local authority; or

(c) Governmental agencies; or

(d) such persons or category of persons as may be notified by the Government on the recommendations of the Council,

(hereafter in this section referred to as "the deductor"), to deduct tax at the rate of one per cent. from the payment made or credited to the supplier (hereafter in this section referred to as "the deductee") of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees:

Provided that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.

Explanation.—For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.

(2) The amount deducted as tax under this section shall be paid to the Government by the deductor within ten days after the end of the month in which such deduction is made, in such manner as may be prescribed.

(3) The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed.

(4) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees.

(5) The deductee shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor furnished under sub-section *(3)* of section 39, in such manner as may be prescribed.

(6) If any deductor fails to pay to the Government the amount deducted as tax under sub-section *(1)*, he shall pay interest in accordance with the provisions of sub-section *(1)* of section 50, in addition to the amount of tax deducted.

(7) The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74.

(8) The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54:

Provided that no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee.

Collection of tax at source.

52. *(1)* Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the "operator"), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the

Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

Explanation.—For the purposes of this sub-section, the expression "net value of taxable supplies" shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section *(5)* of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.

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

(3) The amount collected under sub-section *(1)* shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed.

(4) Every operator who collects the amount specified in sub-section *(1)* shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section *(1)* during a month, in such form and manner as may be prescribed, within ten days after the end of such month.

(5) Every operator who collects the amount specified in sub-section *(1)* shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, before the thirty first day of December following the end of such financial year.

(6) If any operator after furnishing a statement under sub-section *(4)* discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section *(1)* of section 50:

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

(7) The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-section *(4)*, in such manner as may be prescribed.

(8) The details of supplies furnished by every operator under sub-section *(4)* shall be matched with the corresponding details of outward supplies furnished by the concerned supplier registered under this Act in such manner and within such time as may be prescribed.

(9) Where the details of outward supplies furnished by the operator under sub-section *(4)* do not match with the corresponding details furnished by the supplier under section 37, the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed.

(10) The amount in respect of which any discrepancy is communicated under sub-section *(9)* and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated in such manner as may be prescribed.

(11) The concerned supplier, in whose output tax liability any amount has been added under sub-section *(10)*, shall pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section *(1)* of section 50 on the amount so added from the date such tax was due till the date of its payment.

(12) Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to —

(a) supplies of goods or services or both effected through such operator during any period; or

(b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever

name called, managed by such operator and declared as additional places of business by such suppliers,

as may be specified in the notice.

(13) Every operator on whom a notice has been served under sub-section *(12)* shall furnish the required information within fifteen working days of the date of service of such notice.

(14) Any person who fails to furnish the information required by the notice served under sub-section *(12)* shall, without prejudice to any action that may be taken under section 122, be liable to a penalty which may extend to twenty-five thousand rupees.

Explanation.—For the purposes of this section, the expression "concerned supplier" shall mean the supplier of goods or services or both making supplies through the operator.

Transfer of input tax credit.

53. On utilisation of input tax credit availed under this Act for payment of tax dues under the Integrated Goods and Services Tax Act in accordance with the provisions of sub-section *(5)* of section 49, as reflected in the valid return furnished under sub-section *(1)* of section 39, the amount collected as central tax shall stand reduced by an amount equal to such credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the central tax account to the integrated tax account in such manner and within such time as may be prescribed.

CHAPTER XI

REFUNDS

Refund of tax.

54. *(1)* Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed:

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

(2) A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application

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for such refund, in such form and manner as may be prescribed, before the expiry of six months from the last day of the quarter in which such supply was received.

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

Provided that no refund of unutilised input tax credit shall be allowed in cases other than—

(i) zero rated supplies made without payment of tax;

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

Provided further that no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty:

Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

(4) The application shall be accompanied by—

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

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

Provided that where the amount claimed as refund is less than two lakh rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.

(5) If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is

refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund referred to in section 57.

(6) Notwithstanding anything contained in sub-section *(5)*, the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent. of the total amount so claimed, excluding the amount of input tax credit provisionally accepted, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section *(5)* for final settlement of the refund claim after due verification of documents furnished by the applicant.

(7) The proper officer shall issue the order under sub-section *(5)* within sixty days from the date of receipt of application complete in all respects.

(8) Notwithstanding anything contained in sub-section *(5)*, the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to—

(a) 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;

(b) refund of unutilised input tax credit under sub-section *(3)*;

(c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;

(d) refund of tax in pursuance of section 77;

(e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or

(f) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

(9) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any court or in any other provisions of this Act or the rules made thereunder or in any other law for the time being in force, no refund shall be made except in accordance with the provisions of sub-section *(8)*.

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

(a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;

(b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law.

Explanation.—For the purposes of this sub-section, the expression "specified date" shall mean the last date for filing an appeal under this Act.

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

(12) Where a refund is withheld under sub-section *(11)*, the taxable person shall, notwithstanding anything contained in section 56, be entitled to interest at such rate not exceeding six per cent. as may be notified on the recommendations of the Council, if as a result of the appeal or further proceedings he becomes entitled to refund.

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

(14) Notwithstanding anything contained in this section, no refund under sub-section *(5)* or sub-section *(6)* shall be paid to an applicant, if the amount is less than one thousand rupees.

Explanation.—For the purposes of this section,—

(1) "refund" includes refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making

such zero-rated supplies, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilised input tax credit as provided under sub-section *(3)*.

(2) "relevant date" means—

(a) in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods,—

(i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or

(ii) if the goods are exported by land, the date on which such goods pass the frontier; or

(iii) if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;

(b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;

(c) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of—

(i) receipt of payment in convertible foreign exchange, where the supply of services had been completed prior to the receipt of such payment; or

(ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;

(d) in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;

(e) in the case of refund of unutilised input tax credit under sub-section *(3)*, the end of the financial year in which such claim for refund arises;

(f) in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;

(g) in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and

(h) in any other case, the date of payment of tax.

Refund in certain cases.

55. The Government may, on the recommendations of the Council, by notification, specify any specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries and any other person or class of persons as may be specified in this behalf, who shall, subject to such conditions and restrictions as may be prescribed, be entitled to claim a refund of taxes paid on the notified supplies of goods or services or both received by them. 46 of 1947.

Interest on delayed refunds.

56. If any tax ordered to be refunded under sub-section *(5)* of section 54 to any applicant is not refunded within sixty days from the date of receipt of application under sub-section *(1)* of that section, interest at such rate not exceeding six per cent. as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax:

Provided that where any claim of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same is not refunded within sixty days from the date of receipt of application filed consequent to such order, interest at such rate not exceeding nine per cent. as may be notified by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund.

Explanation.—For the purposes of this section, where any order of refund is made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under sub-section *(5)* of section 54, the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section *(5)*.

Consumer Welfare Fund.

57. The Government shall constitute a Fund, to be called the Consumer Welfare Fund and there shall be credited to the Fund,—

(a) the amount referred to in sub-section *(5)* of section 54;

(b) any income from investment of the amount credited to the Fund; and

(c) such other monies received by it, in such manner as may be prescribed.

Utilisation of Fund.

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

(2) The Government or the authority specified by it shall maintain proper and separate account and other relevant records in relation to the Fund and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

CHAPTER XII

ASSESSMENT

Self-assessment.

59. Every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period as specified under section 39.

Provisional assessment.

60. *(1)* Subject to the provisions of sub-section *(2)*, where the taxable person is unable to determine the value of goods or services or both or determine the rate of tax applicable thereto, he may request the proper officer in writing giving reasons for payment of tax on a provisional basis and the proper officer shall pass an order, within a period not later than ninety days from the date of receipt of such request, allowing payment of tax on provisional basis at such rate or on such value as may be specified by him.

(2) The payment of tax on provisional basis may be allowed, if the taxable person executes a bond in such form as may be prescribed, and with such surety or security as the proper officer may deem fit, binding the taxable person for payment of the difference between the amount of tax as may be finally assessed and the amount of tax provisionally assessed.

(3) The proper officer shall, within a period not exceeding six months from the date of the communication of the order issued under sub-section *(1)*, pass the final assessment order after taking into account such information as may be required for finalizing the assessment:

Provided that the period specified in this sub-section may, on sufficient cause being shown and for reasons to be recorded in writing, be extended by the Joint Commissioner or Additional Commissioner for a further period not exceeding six months and by the Commissioner for such further period not exceeding four years.

(4) The registered person shall be liable to pay interest on any tax payable on the supply of goods or services or both under provisional assessment but not paid on the due date specified under sub-section *(7)* of section 39 or the rules made thereunder, at the rate specified under sub-section *(1)* of section 50, from the first day after the due date of payment of tax in respect of the said supply of goods or services or both till the date of actual payment, whether such amount is paid before or after the issuance of order for final assessment.

(5) Where the registered person is entitled to a refund consequent to the order of final assessment under sub-section *(3)*, subject to the provisions of sub-section *(8)* of section 54, interest shall be paid on such refund as provided in section 56.

Scrutiny of returns.

61. *(1)* The proper officer may scrutinize the return and related particulars furnished by the registered person to verify the correctness of the return and inform him of the discrepancies noticed, if any, in such manner as may be prescribed and seek his explanation thereto.

(2) In case the explanation is found acceptable, the registered person shall be informed accordingly and no further action shall be taken in this regard.

(3) In case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action including those under section 65 or section 66 or section 67, or proceed to determine the tax and other dues under section 73 or section 74.

Assessment of non-filers of returns.

62. *(1)* Notwithstanding anything to the contrary contained in section 73 or section 74, where a registered person fails to furnish the return under section 39 or section 45, even after the service of a notice under section 46, the proper officer may proceed to assess the tax liability of the said person to the best of his judgement taking into account all the relevant material which is available or which he has gathered and issue an assessment order within a period of five years from the date specified

under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates.

(2) Where the registered person furnishes a valid return within thirty days of the service of the assessment order under sub-section *(1)*, the said assessment order shall be deemed to have been withdrawn but the liability for payment of interest under sub-section *(1)* of section 50 or for payment of late fee under section 47 shall continue.

Assessment of unregistered persons.

63. Notwithstanding anything to the contrary contained in section 73 or section 74, where a taxable person fails to obtain registration even though liable to do so or whose registration has been cancelled under sub-section *(2)* of section 29 but who was liable to pay tax, the proper officer may proceed to assess the tax liability of such taxable person to the best of his judgment for the relevant tax periods and issue an assessment order within a period of five years from the date specified under section 44 for furnishing of the annual return for the financial year to which the tax not paid relates:

Provided that no such assessment order shall be passed without giving the person an opportunity of being heard.

Summary assessment in certain special cases.

64. *(1)* The proper officer may, on any evidence showing a tax liability of a person coming to his notice, with the previous permission of Additional Commissioner or Joint Commissioner, proceed to assess the tax liability of such person to protect the interest of revenue and issue an assessment order, if he has sufficient grounds to believe that any delay in doing so may adversely affect the interest of revenue:

Provided that where the taxable person to whom the liability pertains is not ascertainable and such liability pertains to supply of goods, the person in charge of such goods shall be deemed to be the taxable person liable to be assessed and liable to pay tax and any other amount due under this section.

(2) On an application made by the taxable person within thirty days from the date of receipt of order passed under sub-section *(1)* or on his own motion, if the Additional Commissioner or Joint Commissioner considers that such order is erroneous, he may withdraw such order and follow the procedure laid down in section 73 or section 74.

CHAPTER XIII

AUDIT

Audit by tax authorities.

65. *(1)* The Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed.

(2) The officers referred to in sub-section *(1)* may conduct audit at the place of business of the registered person or in their office.

(3) The registered person shall be informed by way of a notice not less than fifteen working days prior to the conduct of audit in such manner as may be prescribed.

(4) The audit under sub-section *(1)* shall be completed within a period of three months from the date of commencement of the audit:

Provided that where the Commissioner is satisfied that audit in respect of such registered person cannot be completed within three months, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months.

Explanation.—For the purposes of this sub-section, the expression "commencement of audit" shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the registered person or the actual institution of audit at the place of business, whichever is later.

(5) During the course of audit, the authorised officer may require the registered person,—

(i) to afford him the necessary facility to verify the books of account or other documents as he may require;

(ii) to furnish such information as he may require and render assistance for timely completion of the audit.

(6) On conclusion of audit, the proper officer shall, within thirty days, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings.

(7) Where the audit conducted under sub-section *(1)* results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74.

Special audit.

66. *(1)* If at any stage of scrutiny, inquiry, investigation or any other proceedings before him, any officer not below the rank of Assistant Commissioner, having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits, he may, with the prior approval of the Commissioner, direct such registered person by a communication in writing to get his records including books of account examined and audited by a chartered accountant or a cost accountant as may be nominated by the Commissioner.

(2) The chartered accountant or cost accountant so nominated shall, within the period of ninety days, submit a report of such audit duly signed and certified by him to the said Assistant Commissioner mentioning therein such other particulars as may be specified:

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

(3) The provisions of sub-section *(1)* shall have effect notwithstanding that the accounts of the registered person have been audited under any other provisions of this Act or any other law for the time being in force.

(4) The registered person shall be given an opportunity of being heard in respect of any material gathered on the basis of special audit under sub-section *(1)* which is proposed to be used in any proceedings against him under this Act or the rules made thereunder.

(5) The expenses of the examination and audit of records under sub-section *(1)*, including the remuneration of such chartered accountant or cost accountant, shall be determined and paid by the Commissioner and such determination shall be final.

(6) Where the special audit conducted under sub-section *(1)* results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74.

CHAPTER XIV

INSPECTION, SEARCH, SEIZURE AND ARREST

Power of inspection, search and seizure.

67. *(1)* Where the proper officer, not below the rank of Joint Commissioner, has reasons to believe that—

(a) a taxable person has suppressed any transaction relating to supply of goods or services or both or the stock of goods in hand, or has claimed input tax credit in excess of his entitlement under this Act or has indulged in contravention of any of the provisions of this Act or the rules made thereunder to evade tax under this Act; or

(b) any person engaged in the business of transporting goods or an owner or operator of a warehouse or a godown or any other place is keeping goods which have escaped payment of tax or has kept his accounts or goods in such a manner as is likely to cause evasion of tax payable under this Act,

he may authorise in writing any other officer of central tax to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place.

(2) Where the proper officer, not below the rank of Joint Commissioner, either pursuant to an inspection carried out under sub-section *(1)* or otherwise, has reasons to believe that any goods liable to confiscation or any documents or books or things, which in his opinion shall be useful for or relevant to any proceedings under this Act, are secreted in any place, he may authorise in writing any other officer of central tax to search and seize or may himself search and seize such goods, documents or books or things:

Provided that where it is not practicable to seize any such goods, the proper officer, or any officer authorised by him, may serve on the owner or the custodian of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer:

Provided further that the documents or books or things so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceedings under this Act.

(3) The documents, books or things referred to in sub-section *(2)* or any other documents, books or things produced by a taxable person or any other person, which have not been relied upon for the issue of notice under this Act or the rules made thereunder, shall be returned to such person within a period not exceeding thirty days of the issue of the said notice.

(4) The officer authorised under sub-section *(2)* shall have the power to seal or break open the door of any premises or to break open any *almirah,* electronic devices, box, receptacle in which any goods, accounts, registers or documents of the person are suspected to be concealed, where access to such premises, *almirah,* electronic devices, box or receptacle is denied.

(5) The person from whose custody any documents are seized under sub-section *(2)* shall be entitled to make copies thereof or take extracts therefrom in the presence of an authorised officer at such place and time as such officer may indicate in this behalf except where making such copies or taking such extracts may, in the opinion of the proper officer, prejudicially affect the investigation.

(6) The goods so seized under sub-section *(2)* shall be released, on a provisional basis, upon execution of a bond and furnishing of a security, in such manner and of such quantum, respectively, as may be prescribed or on payment of applicable tax, interest and penalty payable, as the case may be.

(7) Where any goods are seized under sub-section *(2)* and no notice in respect thereof is given within six months of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized:

Provided that the period of six months may, on sufficient cause being shown, be extended by the proper officer for a further period not exceeding six months.

(8) The Government may, having regard to the perishable or hazardous nature of any goods, depreciation in the value of the goods with the passage of time, constraints of storage space for the goods or any other relevant considerations, by notification, specify the goods or class of goods which shall, as soon as may be after its seizure under sub-section *(2)*, be disposed of by the proper officer in such manner as may be prescribed.

(9) Where any goods, being goods specified under sub-section *(8)*, have been seized by a proper officer, or any officer authorised by him under sub-section *(2)*, he shall prepare an inventory of such goods in such manner as may be prescribed.

2 of 1974.

(10) The provisions of the Code of Criminal Procedure, 1973, relating to search and seizure, shall, so far as may be, apply to search and seizure under this section subject to the modification that sub-section *(5)* of section 165 of the said Code shall have effect as if for the word "Magistrate", wherever it occurs, the word "Commissioner" were substituted.

(11) Where the proper officer has reasons to believe that any person has evaded or is attempting to evade the payment of any tax, he may, for reasons to be recorded in writing, seize the accounts, registers or documents of such person produced before him and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with any proceedings under this Act or the rules made thereunder for prosecution.

(12) The Commissioner or an officer authorised by him may cause purchase of any goods or services or both by any person authorised by him from the business premises of any taxable person, to check the

issue of tax invoices or bills of supply by such taxable person, and on return of goods so purchased by such officer, such taxable person or any person in charge of the business premises shall refund the amount so paid towards the goods after cancelling any tax invoice or bill of supply issued earlier.

Inspection of goods in movement.

68. *(1)* The Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.

(2) The details of documents required to be carried under sub-section *(1)* shall be validated in such manner as may be prescribed.

(3) Where any conveyance referred to in sub-section *(1)* is intercepted by the proper officer at any place, he may require the person in charge of the said conveyance to produce the documents prescribed under the said sub-section and devices for verification, and the said person shall be liable to produce the documents and devices and also allow the inspection of goods.

Power to arrest.

69. *(1)* Where the Commissioner has reasons to believe that a person has committed any offence specified in clause *(a)* or clause *(b)* or clause *(c)* or clause *(d)* of sub-section *(1)* of section 132 which is punishable under clause *(i)* or *(ii)* of sub-section *(1)*, or sub-section *(2)* of the said section, he may, by order, authorise any officer of central tax to arrest such person.

(2) Where a person is arrested under sub-section *(1)* for an offence specified under sub-section *(5)* of section 132, the officer authorised to arrest the person shall inform such person of the grounds of arrest and produce him before a Magistrate within twenty-four hours.

(3) Subject to the provisions of the Code of Criminal Procedure, 1973,—

(a) where a person is arrested under sub-section *(1)* for any offence specified under sub-section *(4)* of section 132, he shall be admitted to bail or in default of bail, forwarded to the custody of the Magistrate;

(b) in the case of a non-cognizable and bailable offence, the Deputy Commissioner or the Assistant Commissioner shall, for the purpose of releasing an arrested person on bail or otherwise, have the same powers and be subject to the same provisions as an officer-in-charge of a police station.

70. *(1)* The proper officer under this Act shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908. Power to summon persons to give evidence and produce documents. 5 of 1908.

(2) Every such inquiry referred to in sub-section *(1)* shall be deemed to be a "judicial proceedings" within the meaning of section 193 and section 228 of the Indian Penal Code. 45 of 1860.

71. *(1)* Any officer under this Act, authorised by the proper officer not below the rank of Joint Commissioner, shall have access to any place of business of a registered person to inspect books of account, documents, computers, computer programs, computer software whether installed in a computer or otherwise and such other things as he may require and which may be available at such place, for the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue. Access to business premises.

(2) Every person in charge of place referred to in sub-section *(1)* shall, on demand, make available to the officer authorised under sub-section *(1)* or the audit party deputed by the proper officer or a cost accountant or chartered accountant nominated under section 66—

(i) such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;

(ii) trial balance or its equivalent;

(iii) statements of annual financial accounts, duly audited, wherever required;

(iv) cost audit report, if any, under section 148 of the Companies Act, 2013;

(v) the income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961; and

(vi) any other relevant record,

for the scrutiny by the officer or audit party or the chartered accountant or cost accountant within a period not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed by the said officer or the audit party or the chartered accountant or cost accountant.

72. *(1)* All officers of Police, Railways, Customs, and those officers engaged in the collection of land revenue, including village officers, Offcers to assist proper officers.

officers of State tax and officers of Union territory tax shall assist the proper officers in the implementation of this Act.

(2) The Government may, by notification, empower and require any other class of officers to assist the proper officers in the implementation of this Act when called upon to do so by the Commissioner.

CHAPTER XV

DEMANDS AND RECOVERY

Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful-misstatement or suppression of facts.

73. *(1)* Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder.

(2) The proper officer shall issue the notice under sub-section *(1)* at least three months prior to the time limit specified in sub-section *(10)* for issuance of order.

(3) Where a notice has been issued for any period under sub-section *(1)*, the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section *(1)*, on the person chargeable with tax.

(4) The service of such statement shall be deemed to be service of notice on such person under sub-section *(1)*, subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section *(1)* are the same as are mentioned in the earlier notice.

(5) The person chargeable with tax may, before service of notice under sub-section *(1)* or, as the case may be, the statement under sub-section *(3)*, pay the amount of tax along with interest payable thereon under section 50 on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.

(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section *(1)* or, as the case may be, the statement under sub-section *(3)*, in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.

(7) Where the proper officer is of the opinion that the amount paid under sub-section *(5)* falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section *(1)* in respect of such amount which falls short of the amount actually payable.

(8) Where any person chargeable with tax under sub-section *(1)* or sub-section *(3)* pays the said tax along with interest payable under section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.

(9) The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.

(10) The proper officer shall issue the order under sub-section *(9)* within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund.

(11) Notwithstanding anything contained in sub-section *(6)* or sub-section *(8)*, penalty under sub-section *(9)* shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.

Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful-misstatement or suppression of facts.

74. *(1)* Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.

(2) The proper officer shall issue the notice under sub-section *(1)* at least six months prior to the time limit specified in sub-section *(10)* for issuance of order.

(3) Where a notice has been issued for any period under sub-section *(1)*, the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section *(1)*, on the person chargeable with tax.

(4) The service of statement under sub-section *(3)* shall be deemed to be service of notice under sub-section *(1)* of section 73, subject to the condition that the grounds relied upon in the said statement, except the ground of fraud, or any wilful-misstatement or suppression of facts to evade tax, for periods other than those covered under sub-section *(1)* are the same as are mentioned in the earlier notice.

(5) The person chargeable with tax may, before service of notice under sub-section *(1)*, pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment.

(6) The proper officer, on receipt of such information, shall not serve any notice under sub-section *(1)*, in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder.

(7) Where the proper officer is of the opinion that the amount paid under sub-section *(5)* falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section *(1)* in respect of such amount which falls short of the amount actually payable.

(8) Where any person chargeable with tax under sub-section *(1)* pays the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent. of such tax within thirty days of issue of the notice, all proceedings in respect of the said notice shall be deemed to be concluded.

(9) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.

(10) The proper officer shall issue the order under sub-section *(9)* within a period of five years from the due date for furnishing of annual

return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.

(11) Where any person served with an order issued under sub-section *(9)* pays the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent. of such tax within thirty days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded.

Explanation 1.—For the purposes of section 73 and this section,—

(i) the expression "all proceedings in respect of the said notice" shall not include proceedings under section 132;

(ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under sections 122, 125, 129 and 130 are deemed to be concluded.

Explanation 2.—For the purposes of this Act, the expression "suppression" shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer.

General provisions relating to determination of tax.

75. *(1)* Where the service of notice or issuance of order is stayed by an order of a court or Appellate Tribunal, the period of such stay shall be excluded in computing the period specified in sub-sections *(2)* and *(10)* of section 73 or sub-sections *(2)* and *(10)* of section 74, as the case may be.

(2) Where any Appellate Authority or Appellate Tribunal or court concludes that the notice issued under sub-section *(1)* of section 74 is not sustainable for the reason that the charges of fraud or any wilful-misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person, deeming as if the notice were issued under sub-section *(1)* of section 73.

(3) Where any order is required to be issued in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court, such order shall be issued within two years from the date of communication of the said direction.

(4) An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.

(5) The proper officer shall, if sufficient cause is shown by the person chargeable with tax, grant time to the said person and adjourn the hearing for reasons to be recorded in writing:

Provided that no such adjournment shall be granted for more than three times to a person during the proceedings.

(6) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

(7) The amount of tax, interest and penalty demanded in the order shall not be in excess of the amount specified in the notice and no demand shall be confirmed on the grounds other than the grounds specified in the notice.

(8) Where the Appellate Authority or Appellate Tribunal or court modifies the amount of tax determined by the proper officer, the amount of interest and penalty shall stand modified accordingly, taking into account the amount of tax so modified.

(9) The interest on the tax short paid or not paid shall be payable whether or not specified in the order determining the tax liability.

(10) The adjudication proceedings shall be deemed to be concluded, if the order is not issued within three years as provided for in sub-section *(10)* of section 73 or within five years as provided for in sub-section *(10)* of section 74.

(11) An issue on which the Appellate Authority or the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the Appellate Tribunal or the High Court or the Supreme Court against such decision of the Appellate Authority or the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Authority and that of the Appellate Tribunal or the date of decision of the Appellate Tribunal and that of the High Court or the date of the decision of the High Court and that of the Supreme Court shall be excluded in computing the period referred to in sub-section *(10)* of section 73 or sub-section *(10)* of section 74 where proceedings are initiated by way of issue of a show cause notice under the said sections.

(12) Notwithstanding anything contained in section 73 or section 74, where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79.

(13) Where any penalty is imposed under section 73 or section 74, no penalty for the same act or omission shall be imposed on the same person under any other provision of this Act.

Tax collected but not paid to Government

76. *(1)* Notwithstanding anything to the contrary contained in any order or direction of any Appellate Authority or Appellate Tribunal or court or in any other provisions of this Act or the rules made thereunder or any other law for the time being in force, every person who has collected from any other person any amount as representing the tax under this Act, and has not paid the said amount to the Government, shall forthwith pay the said amount to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not.

(2) Where any amount is required to be paid to the Government under sub-section *(1)*, and which has not been so paid, the proper officer may serve on the person liable to pay such amount a notice requiring him to show cause as to why the said amount as specified in the notice, should not be paid by him to the Government and why a penalty equivalent to the amount specified in the notice should not be imposed on him under the provisions of this Act.

(3) The proper officer shall, after considering the representation, if any, made by the person on whom the notice is served under sub-section *(2)*, determine the amount due from such person and thereupon such person shall pay the amount so determined.

(4) The person referred to in sub-section *(1)* shall in addition to paying the amount referred to in sub-section *(1)* or sub-section *(3)* also be liable to pay interest thereon at the rate specified under section 50 from the date such amount was collected by him to the date such amount is paid by him to the Government.

(5) An opportunity of hearing shall be granted where a request is received in writing from the person to whom the notice was issued to show cause.

(6) The proper officer shall issue an order within one year from the date of issue of the notice.

(7) Where the issuance of order is stayed by an order of the court or Appellate Tribunal, the period of such stay shall be excluded in computing the period of one year.

(8) The proper officer, in his order, shall set out the relevant facts and the basis of his decision.

(9) The amount paid to the Government under sub-section *(1)* or sub-section *(3)* shall be adjusted against the tax payable, if any, by the person in relation to the supplies referred to in sub-section *(1)*.

(10) Where any surplus is left after the adjustment under sub-section *(9)*, the amount of such surplus shall either be credited to the Fund or refunded to the person who has borne the incidence of such amount.

(11) The person who has borne the incidence of the amount, may apply for the refund of the same in accordance with the provisions of section 54.

Tax wrongfully collected and paid to Central Government or State Government.

77. *(1)* A registered person who has paid the Central tax and State tax or, as the case may be, the Central tax and the Union Territory tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, shall be refunded the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.

(2) A registered person who has paid integrated tax on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, shall not be required to pay any interest on the amount of central tax and State tax or, as the case may be, the Central tax and the Union Territory tax payable.

Initiation of recovery proceedings.

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

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

Recovery of tax.

79. *(1)* Where any amount payable by a person to the Government under any of the provisions of this Act or the rules made thereunder is

not paid, the proper officer shall proceed to recover the amount by one or more of the following modes, namely:—

(a) the proper officer may deduct or may require any other specified officer to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other specified officer;

(b) the proper officer may recover or may require any other specified officer to recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the proper officer or such other specified officer;

(c) (i) the proper officer may, by a notice in writing, require any other person from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the Government either forthwith upon the money becoming due or being held, or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount;

(ii) every person to whom the notice is issued under sub-clause *(i)* shall be bound to comply with such notice, and in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary to produce any pass book, deposit receipt, policy or any other document for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary;

(iii) in case the person to whom a notice under sub-clause *(i)* has been issued, fails to make the payment in pursuance thereof to the Government, he shall be deemed to be a defaulter in respect of the amount specified in the notice and all the consequences of this Act or the rules made thereunder shall follow;

(iv) the officer issuing a notice under sub-clause *(i)* may, at any time, amend or revoke such notice or extend the time for making any payment in pursuance of the notice;

(v) any person making any payment in compliance with a notice issued under sub-clause *(i)* shall be deemed to have made the payment under the authority of the person in default and such payment being credited to the Government shall be deemed to

Recovery of tax.

constitute a good and sufficient discharge of the liability of such person to the person in default to the extent of the amount specified in the receipt;

(vi) any person discharging any liability to the person in default after service on him of the notice issued under sub-clause *(i)* shall be personally liable to the Government to the extent of the liability discharged or to the extent of the liability of the person in default for tax, interest and penalty, whichever is less;

(vii) where a person on whom a notice is served under sub-clause *(i)* proves to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold any money for or on account of the person in default, at the time the notice was served on him, nor is the money demanded or any part thereof, likely to become due to the said person or be held for or on account of such person, nothing contained in this section shall be deemed to require the person on whom the notice has been served to pay to the Government any such money or part thereof;

(d) the proper officer may, in accordance with the rules to be made in this behalf, distrain any movable or immovable property belonging to or under the control of such person, and detain the same until the amount payable is paid; and in case, any part of the said amount payable or of the cost of the distress or keeping of the property, remains unpaid for a period of thirty days next after any such distress, may cause the said property to be sold and with the proceeds of such sale, may satisfy the amount payable and the costs including cost of sale remaining unpaid and shall render the surplus amount, if any, to such person;

(e) the proper officer may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business or to any officer authorised by the Government and the said Collector or the said officer, on receipt of such certificate, shall proceed to recover from such person the amount specified thereunder as if it were an arrear of land revenue;

(f) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the proper officer may file an application to the appropriate Magistrate and such Magistrate shall proceed to recover from such person the amount specified thereunder as if it were a fine imposed by him.

(2) Where the terms of any bond or other instrument executed under this Act or any rules or regulations made thereunder provide that any amount due under such instrument may be recovered in the manner laid down in sub-section *(1)*, the amount may, without prejudice to any other mode of recovery, be recovered in accordance with the provisions of that sub-section.

(3) Where any amount of tax, interest or penalty is payable by a person to the Government under any of the provisions of this Act or the rules made thereunder and which remains unpaid, the proper officer of state tax or Union Territory tax, during the course of recovery of said tax arrears, may recover the amount from the said person as if it were an arrear of State tax or Union territory tax and credit the amount so recovered to the account of the Government.

(4) Where the amount recovered under sub-section *(3)* is less than the amount due to the Central Government and State Government, the amount to be credited to the account of the respective Governments shall be in proportion to the amount due to each such Government.

Payment of tax and other amount in instalments.

80. On an application filed by a taxable person, the Commissioner may, for reasons to be recorded in writing, extend the time for payment or allow payment of any amount due under this Act, other than the amount due as per the liability self-assessed in any return, by such person in monthly instalments not exceeding twenty four, subject to payment of interest under section 50 and subject to such conditions and limitations as may be prescribed:

Provided that where there is default in payment of any one instalment on its due date, the whole outstanding balance payable on such date shall become due and payable forthwith and shall, without any further notice being served on the person, be liable for recovery.

Transfer of property to be void in certain cases.

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

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

Tax to be first charge on property

82. Notwithstanding anything to the contrary contained in any law for the time being in force, save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, any amount payable by a taxable person or any other person on account of tax, interest or penalty which he is liable to pay to the Government shall be a first charge on the property of such taxable person or such person. 31 of 2016.

Provisional attachment to protect revenue in certain cases.

83. *(1)* Where during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the taxable person in such manner as may be prescribed.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section *(1)*.

Continuation and validation of certain recovery proceedings.

84. Where any notice of demand in respect of any tax, penalty, interest or any other amount payable under this Act, (hereafter in this section referred to as "Government dues"), is served upon any taxable person or any other person and any appeal or revision application is filed or any other proceedings is initiated in respect of such Government dues, then—

(a) where such Government dues are enhanced in such appeal, revision or other proceedings, the Commissioner shall serve upon the taxable person or any other person another notice of demand in respect of the amount by which such Government dues are enhanced and any recovery proceedings in relation to such Government dues as are covered by the notice of demand served upon him before the disposal of such appeal, revision or other proceedings may, without the service of any fresh notice of demand, be continued from the stage at which such proceedings stood immediately before such disposal;

(b) where such Government dues are reduced in such appeal, revision or in other proceedings—

(i) it shall not be necessary for the Commissioner to serve upon the taxable person a fresh notice of demand;

(ii) the Commissioner shall give intimation of such reduction to him and to the appropriate authority with whom recovery proceedings is pending;

(iii) any recovery proceedings initiated on the basis of the demand served upon him prior to the disposal of such appeal, revision or other proceedings may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal.

CHAPTER XVI

LIABILITY TO PAY IN CERTAIN CASES

Liability in case of transfer of business.

85. *(1)* Where a taxable person, liable to pay tax under this Act, transfers his business in whole or in part, by sale, gift, lease, leave and license, hire or in any other manner whatsoever, the taxable person and the person to whom the business is so transferred shall, jointly and severally, be liable wholly or to the extent of such transfer, to pay the tax, interest or any penalty due from the taxable person upto the time of such transfer, whether such tax, interest or penalty has been determined before such transfer, but has remained unpaid or is determined thereafter.

(2) Where the transferee of a business referred to in sub-section *(1)* carries on such business either in his own name or in some other name, he shall be liable to pay tax on the supply of goods or services or both effected by him with effect from the date of such transfer and shall, if he is a registered person under this Act, apply within the prescribed time for amendment of his certificate of registration.

Liability of agent and principal.

86. Where an agent supplies or receives any taxable goods on behalf of his principal, such agent and his principal shall, jointly and severally, be liable to pay the tax payable on such goods under this Act.

87. *(1)* When two or more companies are amalgamated or merged in pursuance of an order of court or of Tribunal or otherwise and the order is to take effect from a date earlier to the date of the order and any two or more of such companies have supplied or received any goods or services or both to or from each other during the period commencing on the date from which the order takes effect till the date of the order, then such transactions of supply and receipt shall be included in the turnover of supply or receipt of the respective companies and they shall be liable to pay tax accordingly.

(2) Notwithstanding anything contained in the said order, for the purposes of this Act, the said two or more companies shall be treated as distinct companies for the period up to the date of the said order and the registration certificates of the said companies shall be cancelled with effect from the date of the said order.

Liability in case of company in liquidation.

88. *(1)* When any company is being wound up whether under the orders of a court or Tribunal or otherwise, every person appointed as receiver of any assets of a company (hereafter in this section referred to as the "liquidator"), shall, within thirty days after his appointment, give intimation of his appointment to the Commissioner.

(2) The Commissioner shall, after making such inquiry or calling for such information as he may deem fit, notify the liquidator within three months from the date on which he receives intimation of the appointment of the liquidator, the amount which in the opinion of the Commissioner would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter to become, payable by the company.

(3) When any private company is wound up and any tax, interest or penalty determined under this Act on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of such company at any time during the period for which the tax was due shall, jointly and severally, be liable for the payment of such tax, interest or penalty, unless he proves to the satisfaction of the Commissioner that such non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

Liability of directors of private company.

89. *(1)* Notwithstanding anything contained in the Companies Act, 2013, where any tax, interest or penalty due from a private company in respect of any supply of goods or services or both for any period cannot be recovered, then, every person who was a director of the private company during such period shall, jointly and severally, be liable for the payment of such tax, interest or penalty unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company. 18 of 2013.

(2) Where a private company is converted into a public company and the tax, interest or penalty in respect of any supply of goods or services or both for any period during which such company was a private company cannot be recovered before such conversion, then, nothing contained in sub-section *(1)* shall apply to any person who was a director of such private company in relation to any tax, interest or penalty in respect of such supply of goods or services or both of such private company:

Provided that nothing contained in this sub-section shall apply to any personal penalty imposed on such director.

Liabilty of partners of firm to pay tax.

90. Notwithstanding any contract to the contrary and any other law for the time being in force, where any firm is liable to pay any tax, interest or penalty under this Act, the firm and each of the partners of the firm shall, jointly and severally, be liable for such payment:

Provided that where any partner retires from the firm, he or the firm, shall intimate the date of retirement of the said partner to the Commissioner by a notice in that behalf in writing and such partner shall be liable to pay tax, interest or penalty due up to the date of his retirement whether determined or not, on that date:

Provided further that if no such intimation is given within one month from the date of retirement, the liability of such partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

Liability of guardians, trustees, etc.

91. Where the business in respect of which any tax, interest or penalty is payable under this Act is carried on by any guardian, trustee or agent of a minor or other incapacitated person on behalf of and for the benefit of such minor or other incapacitated person, the tax, interest or penalty shall be levied upon and recoverable from such guardian, trustee or agent in like manner and to the same extent as it would be determined and recoverable from any such minor or other incapacitated person, as if he were a major or capacitated person and as if he were conducting the business himself, and all the provisions of this Act or the rules made thereunder shall apply accordingly.

Liability of Court of Wards, etc.

92. Where the estate or any portion of the estate of a taxable person owning a business in respect of which any tax, interest or penalty is payable under this Act is under the control of the Court of Wards, the Administrator General, the Official Trustee or any receiver or manager (including any person, whatever be his designation, who in fact manages the business) appointed by or under any order of a court, the tax, interest or penalty shall be levied upon and be recoverable from such Court of Wards, Administrator General, Official Trustee, receiver or manager in like manner and to the same extent as it would be determined and be recoverable from the taxable person as if he were conducting the business himself, and all the provisions of this Act or the rules made thereunder shall apply accordingly.

Special provisions regarding liability to pay tax, interest or penalty in certain cases.

93. *(1)* Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a person, liable to pay tax, interest or penalty under this Act, dies, then— 31 of 2016.

(a) if a business carried on by the person is continued after his death by his legal representative or any other person, such legal

representative or other person, shall be liable to pay tax, interest or penalty due from such person under this Act; and

(b) if the business carried on by the person is discontinued, whether before or after his death, his legal representative shall be liable to pay, out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, interest or penalty due from such person under this Act,

whether such tax, interest or penalty has been determined before his death but has remained unpaid or is determined after his death.

(2) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person, liable to pay tax, interest or penalty under this Act, is a Hindu Undivided Family or an association of persons and the property of the Hindu Undivided Family or the association of persons is partitioned amongst the various members or groups of members, then, each member or group of members shall, jointly and severally, be liable to pay the tax, interest or penalty due from the taxable person under this Act up to the time of the partition whether such tax, penalty or interest has been determined before partition but has remained unpaid or is determined after the partition. 31 of 2016.

(3) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person, liable to pay tax, interest or penalty under this Act, is a firm, and the firm is dissolved, then, every person who was a partner shall, jointly and severally, be liable to pay the tax, interest or penalty due from the firm under this Act up to the time of dissolution whether such tax, interest or penalty has been determined before the dissolution, but has remained unpaid or is determined after dissolution. 31 of 2016.

(4) Save as otherwise provided in the Insolvency and Bankruptcy Code, 2016, where a taxable person liable to pay tax, interest or penalty under this Act,— 31 of 2016.

(a) is the guardian of a ward on whose behalf the business is carried on by the guardian; or

(b) is a trustee who carries on the business under a trust for a beneficiary,

then, if the guardianship or trust is terminated, the ward or the beneficiary shall be liable to pay the tax, interest or penalty due from the taxable person upto the time of the termination of the guardianship or trust, whether such tax, interest or penalty has been determined before the

termination of guardianship or trust but has remained unpaid or is determined thereafter.

Liability in other cases.

94. *(1)* Where a taxable person is a firm or an association of persons or a Hindu Undivided Family and such firm, association or family has discontinued business—

(a) the tax, interest or penalty payable under this Act by such firm, association or family up to the date of such discontinuance may be determined as if no such discontinuance had taken place; and

(b) every person who, at the time of such discontinuance, was a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance, jointly and severally, be liable for the payment of tax and interest determined and penalty imposed and payable by such firm, association or family, whether such tax and interest has been determined or penalty imposed prior to or after such discontinuance and subject as aforesaid, the provisions of this Act shall, so far as may be, apply as if every such person or partner or member were himself a taxable person.

(2) Where a change has occurred in the constitution of a firm or an association of persons, the partners of the firm or members of association, as it existed before and as it exists after the reconstitution, shall, without prejudice to the provisions of section 90, jointly and severally, be liable to pay tax, interest or penalty due from such firm or association for any period before its reconstitution.

(3) The provisions of sub-section *(1)* shall, so far as may be, apply where the taxable person, being a firm or association of persons is dissolved or where the taxable person, being a Hindu Undivided Family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as reference to dissolution or to partition.

Explanation.—For the purposes of this Chapter, —

6 of 2009.

(i) a "Limited Liability Partnership" formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a firm;

(ii) "court" means the District Court, High Court or Supreme Court.

CHAPTER XVII

ADVANCE RULING

Definitions

95. In this Chapter, unless the context otherwise requires,—

(a) "advance ruling" means a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions

specified in sub-section *(2)* of section 97 or sub-section *(1)* of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;

(b) "Appellate Authority" means the Appellate Authority for Advance Ruling referred to in section 99;

(c) "applicant" means any person registered or desirous of obtaining registration under this Act;

(d) "application" means an application made to the Authority under sub-section *(1)* of section 97;

(e) "Authority" means the Authority for Advance Ruling referred to in section 96.

Authority for advance ruling.

96. Subject to the provisions of this Chapter, for the purposes of this Act, the Authority for advance ruling constituted under the provisions of a State Goods and Services Tax Act or Union Territory Goods and Services Tax Act shall be deemed to be the Authority for advance ruling in respect of that State or Union territory.

Application for advance ruling.

97. *(1)* An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and manner and accompanied by such fee as may be prescribed, stating the question on which the advance ruling is sought.

(2) The question on which the advance ruling is sought under this Act, shall be in respect of,—

(a) classification of any goods or services or both;

(b) applicability of a notification issued under the provisions of this Act;

(c) determination of time and value of supply of goods or services or both;

(d) admissibility of input tax credit of tax paid or deemed to have been paid;

(e) determination of the liability to pay tax on any goods or services or both;

(f) whether applicant is required to be registered;

(g) whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.

Procedure on receipt of application.

98. *(1)* on receipt of an application, the Authority shall cause a copy thereof to be forwarded to the concerned officer and, if necessary, call upon him to furnish the relevant records:

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the said concerned officer.

(2) The Authority may, after examining the application and the records called for and after hearing the applicant or his authorised representative and the concerned officer or his authorised representative, by order, either admit or reject the application:

Provided that the Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act:

Provided further that no application shall be rejected under this sub-section unless an opportunity of hearing has been given to the applicant:

Provided also that where the application is rejected, the reasons for such rejection shall be specified in the order.

(3) A copy of every order made under sub-section *(2)* shall be sent to the applicant and to the concerned officer.

(4) Where an application is admitted under sub-section *(2)*, the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority and after providing an opportunity of being heard to the applicant or his authorised representative as well as to the concerned officer or his authorised representative, pronounce its advance ruling on the question specified in the application.

(5) Where the members of the Authority differ on any question on which the advance ruling is sought, they shall state the point or points on which they differ and make a reference to the Appellate Authority for hearing and decision on such question.

(6) The Authority shall pronounce its advance ruling in writing within ninety days from the date of receipt of application.

(7) A copy of the advance ruling pronounced by the Authority duly signed by the members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer and the jurisdictional officer after such pronouncement.

Appellate Authority for Advance Ruling.

99. Subject to the provisions of this Chapter, for the purposes of this Act, the Appellate Authority for Advance Ruling constituted under the provisions of a State Goods and Services Tax Act or a Union Territory Goods and Services Tax Act shall be deemed to be the Appellate Authority in respect of that State or Union territory.

Appeal to Appellate Authority

100. *(1)* The concerned officer, the jurisdictional officer or an applicant aggrieved by any advance ruling pronounced under sub-section *(4)* of section 98, may appeal to the Appellate Authority.

(2) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the concerned officer, the jurisdictional officer and the applicant:

Provided that the Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, allow it to be presented within a further period not exceeding thirty days.

(3) Every appeal under this section shall be in such form, accompanied by such fee and verified in such manner as may be prescribed.

Orders of Appellate Authority.

101. *(1)* The Appellate Authority may, after giving the parties to the appeal or reference an opportunity of being heard, pass such order as it thinks fit, confirming or modifying the ruling appealed against or referred to.

(2) The order referred to in sub-section *(1)* shall be passed within a period of ninety days from the date of filing of the appeal under section 100 or a reference under sub-section *(5)* of section 98.

(3) Where the members of the Appellate Authority differ on any point or points referred to in appeal or reference, it shall be deemed that no advance ruling can be issued in respect of the question under the appeal or reference.

(4) A copy of the advance ruling pronounced by the Appellate Authority duly signed by the Members and certified in such manner as may be prescribed shall be sent to the applicant, the concerned officer, the jurisdictional officer and to the Authority after such pronouncement.

Rectification of advance ruling.

102. The Authority or the Appellate Authority may amend any order passed by it under section 98 or section 101, so as to rectify any error apparent on the face of the record, if such error is noticed by the Authority or the Appellate Authority on its own accord, or is brought to

its notice by the concerned officer, the jurisdictional officer, the applicant or the appellant within a period of six months from the date of the order:

Provided that no rectification which has the effect of enhancing the tax liability or reducing the amount of admissible input tax credit shall be made unless the applicant or the appellant has been given an opportunity of being heard.

Applicability of advance ruling.

103. *(1)* The advance ruling pronounced by the Authority or the Appellate Authority under this Chapter shall be binding only—

(a) on the applicant who had sought it in respect of any matter referred to in sub-section *(2)* of section 97 for advance ruling;

(b) on the concerned officer or the jurisdictional officer in respect of the applicant.

(2) The advance ruling referred to in sub-section *(1)* shall be binding unless the law, facts or circumstances supporting the original advance ruling have changed.

Advance ruling to be void in certain circumstances.

104. *(1)* Where the Authority or the Appellate Authority finds that advance ruling pronounced by it under sub-section *(4)* of section 98 or under sub-section *(1)* of section 101 has been obtained by the applicant or the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void *ab-initio* and thereupon all the provisions of this Act or the rules made thereunder shall apply to the applicant or the appellant as if such advance ruling had never been made:

Provided that no order shall be passed under this sub-section unless an opportunity of being heard has been given to the applicant or the appellant.

Explanation.—The period beginning with the date of such advance ruling and ending with the date of order under this sub-section shall be excluded while computing the period specified in sub-sections *(2)* and *(10)* of section 73 or sub-sections *(2)* and *(10)* of section 74.

(2) A copy of the order made under sub-section *(1)* shall be sent to the applicant, the concerned officer and the jurisdictional officer.

Powers of Authority and Appellate Authority.

105. *(1)* The Authority or the Appellate Authority shall, for the purpose of exercising its powers regarding—

(a) discovery and inspection;

(b) enforcing the attendance of any person and examining him on oath;

(c) issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908. 5 of 1908.

(2) The Authority or the Appellate Authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973, and every proceeding before the Authority or the Appellate Authority shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code. 2 of 1974. 45 of 1860.

Procedure of Authority and Appellate Authority

106. The Authority or the Appellate Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure.

CHAPTER XVIII

APPEALS AND REVISION

Appeals to Appellate Authority

107. *(1)* Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.

(2) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or the Commissioner of Union territory tax, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any officer subordinate to him to apply to the Appellate Authority within six months from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order.

(3) Where, in pursuance of an order under sub-section *(2)*, the authorised officer makes an application to the Appellate Authority, such application shall be dealt with by the Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and such authorised officer were an appellant and the provisions of this Act relating to appeals shall apply to such application.

(4) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the

aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month.

(5) Every appeal under this section shall be in such form and shall be verified in such manner as may be prescribed.

(6) No appeal shall be filed under sub-section *(1)*, unless the appellant has paid—

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and

(b) a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order, in relation to which the appeal has been filed.

(7) Where the appellant has paid the amount under sub-section *(6)*, the recovery proceedings for the balance amount shall be deemed to be stayed.

(8) The Appellate Authority shall give an opportunity to the appellant of being heard.

(9) The Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

(10) The Appellate Authority may, at the time of hearing of an appeal, allow an appellant to add any ground of appeal not specified in the grounds of appeal, if it is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.

(11) The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order:

Provided that an order enhancing any fee or penalty or fine *in lieu* of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

Provided further that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or section 74.

(12) The order of the Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for such decision.

(13) The Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:

Provided that where the issuance of order is stayed by an order of a court or Tribunal, the period of such stay shall be excluded in computing the period of one year.

(14) On disposal of the appeal, the Appellate Authority shall communicate the order passed by it to the appellant, respondent and to the adjudicating authority.

(15) A copy of the order passed by the Appellate Authority shall also be sent to the jurisdictional Commissioner or the authority designated by him in this behalf and the jurisdictional Commissioner of State tax or Commissioner of Union Territory Tax or an authority designated by him in this behalf.

(16) Every order passed under this section shall, subject to the provisions of section 108 or section 113 or section 117 or section 118 be final and binding on the parties.

Powers of Revisional Authority.

108. *(1)* Subject to the provisions of section 121 and any rules made thereunder, the Revisional Authority may, on his own motion, or upon information received by him or on request from the Commissioner of State tax, or the Commissioner of Union territory tax, call for and examine the record of any proceedings, and if he considers that any decision or order passed under this Act or under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by any officer subordinate to him is erroneous in so far as it is prejudicial to the interest of revenue and is illegal or improper or has not taken into account certain material facts, whether available at the time of issuance of the said order or not or in consequence of an observation by the Comptroller and Auditor General of India, he may, if necessary, stay the

operation of such decision or order for such period as he deems fit and after giving the person concerned an opportunity of being heard and after making such further inquiry as may be necessary, pass such order, as he thinks just and proper, including enhancing or modifying or annulling the said decision or order.

(2) The Revisional Authority shall not exercise any power under sub-section *(1)*, if—

(a) the order has been subject to an appeal under section 107 or section 112 or section 117 or section 118; or

(b) the period specified under sub-section *(2)* of section 107 has not yet expired or more than three years have expired after the passing of the decision or order sought to be revised; or

(c) the order has already been taken for revision under this section at an earlier stage; or

(d) the order has been passed in exercise of the powers under sub-section *(1)*:

Provided that the Revisional Authority may pass an order under sub-section *(1)* on any point which has not been raised and decided in an appeal referred to in clause *(a)* of sub-section *(2)*, before the expiry of a period of one year from the date of the order in such appeal or before the expiry of a period of three years referred to in clause *(b)* of that sub-section, whichever is later.

(3) Every order passed in revision under sub-section *(1)* shall, subject to the provisions of section 113 or section 117 or section 118, be final and binding on the parties.

(4) If the said decision or order involves an issue on which the Appellate Tribunal or the High Court has given its decision in some other proceedings and an appeal to the High Court or the Supreme Court against such decision of the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Tribunal and the date of the decision of the High Court or the date of the decision of the High Court and the date of the decision of the Supreme Court shall be excluded in computing the period of limitation referred to in clause *(b)* of sub-section *(2)* where proceedings for revision have been initiated by way of issue of a notice under this section.

(5) Where the issuance of an order under sub-section *(1)* is stayed by the order of a court or Appellate Tribunal, the period of such

stay shall be excluded in computing the period of limitation referred to in clause *(b)* of sub-section *(2)*.

(6) For the purposes of this section, the term,—

(i) "record" shall include all records relating to any proceedings under this Act available at the time of examination by the Revisional Authority;

(ii) "decision" shall include intimation given by any officer lower in rank than the Revisional Authority.

Constitution of Appellate Tribunal and Benches thereof.

109. *(1)* The Government shall, on the recommendations of the Council, by notification, constitute with effect from such date as may be specified therein, an Appellate Tribunal known as the Goods and Services Tax Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority.

(2) The powers of the Appellate Tribunal shall be exercisable by the National Bench and Benches thereof (hereinafter in this Chapter referred to as "Regional Benches"), State Bench and Benches thereof (hereafter in this Chapter referred to as "Area Benches").

(3) The National Bench of the Appellate Tribunal shall be situated at New Delhi which shall be presided over by the President and shall consist of one Technical Member (Centre) and one Technical Member (State).

(4) The Government shall, on the recommendations of the Council, by notification, constitute such number of Regional Benches as may be required and such Regional Benches shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State).

(5) The National Bench or Regional Benches of the Appellate Tribunal shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases where one of the issues involved relates to the place of supply.

(6) The Government shall, by notification, specify for each State or Union territory, a Bench of the Appellate Tribunal (hereafter in this Chapter, referred to as "State Bench") for exercising the powers of the Appellate Tribunal within the concerned State or Union territory:

Provided that the Government shall, on receipt of a request from any State Government, constitute such number of Area Benches in that State, as may be recommended by the Council:

Provided further that the Government may, on receipt of a request from any State, or on its own motion for a Union territory, notify the

Appellate Tribunal in a State to act as the Appellate Tribunal for any other State or Union territory, as may be recommended by the Council, subject to such terms and conditions as may be prescribed.

(7) The State Bench or Area Benches shall have jurisdiction to hear appeals against the orders passed by the Appellate Authority or the Revisional Authority in the cases involving matters other than those referred to in sub-section *(5)*.

(8) The President and the State President shall, by general or special order, distribute the business or transfer cases among Regional Benches or, as the case may be, Area Benches in a State.

(9) Each State Bench and Area Benches of the Appellate Tribunal shall consist of a Judicial Member, one Technical Member (Centre) and one Technical Member (State) and the State Government may designate the senior most Judicial Member in a State as the State President.

(10) In the absence of a Member in any Bench due to vacancy or otherwise, any appeal may, with the approval of the President or, as the case may be, the State President, be heard by a Bench of two Members:

Provided that any appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined in any order appealed against, does not exceed five lakh rupees and which does not involve any question of law may, with the approval of the President and subject to such conditions as may be prescribed on the recommendations of the Council, be heard by a bench consisting of a single member.

(11) If the Members of the National Bench, Regional Benches, State Bench or Area Benches differ in opinion on any point or points, it shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President or as the case may be, State President for hearing on such point or points to one or more of the other Members of the National Bench, Regional Benches, State Bench or Area Benches and such point or points shall be decided according to the opinion of the majority of Members who have heard the case, including those who first heard it.

(12) The Government, in consultation with the President may, for the administrative convenience, transfer—

(a) any Judicial Member or a Member Technical (State) from one Bench to another Bench, whether National or Regional; or

(b) any Member Technical (Centre) from one Bench to another Bench, whether National, Regional, State or Area.

(13) The State Government, in consultation with the State President may, for the administrative convenience, transfer a Judicial Member or a Member Technical (State) from one Bench to another Bench within the State.

(14) No act or proceedings of the Appellate Tribunal shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Appellate Tribunal.

President and Members of Appellate Tribunal, their qualification, appointment, conditions of services, etc.

110. *(1)* A person shall not be qualified for appointment as—

(a) the President, unless he has been a Judge of the Supreme Court or is or has been the Chief Justice of a High Court, or is or has been a Judge of a High Court for a period not less than five years;

(b) a Judicial Member, unless he—

(i) has been a Judge of the High Court; or

(ii) is or has been a District Judge qualified to be appointed as a Judge of a High Court; or

(iii) is or has been a Member of Indian Legal Service and has held a post not less than Additional Secretary for three years;

(c) a Technical Member (Centre) unless he is or has been a member of Indian Revenue (Customs and Central Excise) Service, Group A, and has completed at least fifteen years of service in Group A;

(d) a Technical Member (State) unless he is or has been an officer of the State Government not below the rank of Additional Commissioner of Value Added Tax or the State goods and services tax or such rank as may be notified by the concerned State Government on the recommendations of the Council with at least three years of experience in the administration of an existing law or the State Goods and Services Tax Act or in the field of finance and taxation.

(2) The President and the Judicial Members of the National Bench and the Regional Benches shall be appointed by the Government after consultation with the Chief Justice of India or his nominee:

Provided that in the event of the occurrence of any vacancy in the office of the President by reason of his death, resignation or otherwise,

the senior most Member of the National Bench shall act as the President until the date on which a new President, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office:

Provided further that where the President is unable to discharge his functions owing to absence, illness or any other cause, the senior most Member of the National Bench shall discharge the functions of the President until the date on which the President resumes his duties.

(3) The Technical Member (Centre) and Technical Member (State) of the National Bench and Regional Benches shall be appointed by the Government on the recommendations of a Selection Committee consisting of such persons and in such manner as may be prescribed.

(4) The Judicial Member of the State Bench or Area Benches shall be appointed by the State Government after consultation with the Chief Justice of the High Court of the State or his nominee.

(5) The Technical Member (Centre) of the State Bench or Area Benches shall be appointed by the Central Government and Technical Member (State) of the State Bench or Area Benches shall be appointed by the State Government in such manner as may be prescribed.

(6) No appointment of the Members of the Appellate Tribunal shall be invalid merely by the reason of any vacancy or defect in the constitution of the Selection Committee.

(7) Before appointing any person as the President or Members of the Appellate Tribunal, the Central Government or, as the case may be, the State Government, shall satisfy itself that such person does not have any financial or other interests which are likely to prejudicially affect his functions as such President or Member.

(8) The salary, allowances and other terms and conditions of service of the President, State President and the Members of the Appellate Tribunal shall be such as may be prescribed:

Provided that neither salary and allowances nor other terms and conditions of service of the President, State President or Members of the Appellate Tribunal shall be varied to their disadvantage after their appointment.

(9) The President of the Appellate Tribunal shall hold office for a term of three years from the date on which he enters upon his office, or until he attains the age of seventy years, whichever is earlier and shall be eligible for reappointment.

(10) The Judicial Member of the Appellate Tribunal and the State President shall hold office for a term of three years from the date on

which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment.

(11) The Technical Member (Centre) or Technical Member (State) of the Appellate Tribunal shall hold office for a term of five years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment.

(12) The President, State President or any Member may, by notice in writing under his hand addressed to the Central Government or, as the case may be, the State Government resign from his office:

Provided that the President, State President or Member shall continue to hold office until the expiry of three months from the date of receipt of such notice by the Central Government, or, as the case may be, the State Government or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(13) The Central Government may, after consultation with the Chief Justice of India, in case of the President, Judicial Members and Technical Members of the National Bench, Regional Benches or Technical Members (Centre) of the State Bench or Area Benches, and the State Government may, after consultation with the Chief Justice of High Court, in case of the State President, Judicial Members, Technical Members (State) of the State Bench or Area Benches, may remove from the office such President or Member, who—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of such Government involves moral turpitude; or

(c) has become physically or mentally incapable of acting as such President, State President or Member; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as such President, State President or Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that the President, State President or the Member shall not be removed on any of the grounds specified in clauses *(d)* and *(e)*, unless he has been informed of the charges against him and has been given an opportunity of being heard.

(14) Without prejudice to the provisions of sub-section *(13)*, —

(a) the President or a Judicial and Technical Member of the National Bench or Regional Benches, Technical Member (Centre) of the State Bench or Area Benches shall not be removed from their office except by an order made by the Central Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court nominated by the Chief Justice of India on a reference made to him by the Central Government and of which the President or the said Member had been given an opportunity of being heard;

(b) the Judicial Member or Technical Member (State) of the State Bench or Area Benches shall not be removed from their office except by an order made by the State Government on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the concerned High Court nominated by the Chief Justice of the concerned High Court on a reference made to him by the State Government and of which the said Member had been given an opportunity of being heard.

(15) The Central Government, with the concurrence of the Chief Justice of India, may suspend from office, the President or a Judicial or Technical Members of the National Bench or the Regional Benches or the Technical Member (Centre) of the State Bench or Area Benches in respect of whom a reference has been made to the Judge of the Supreme Court under sub-section *(14)*.

(16) The State Government, with the concurrence of the Chief Justice of the High Court, may suspend from office, a Judicial Member or Technical Member (State) of the State Bench or Area Benches in respect of whom a reference has been made to the Judge of the High Court under sub-section *(14)*.

(17) Subject to the provisions of article 220 of the Constitution, the President, State President or other Members, on ceasing to hold their office, shall not be eligible to appear, act or plead before the National Bench and the Regional Benches or the State Bench and the Area Benches thereof where he was the President or, as the case may be, a Member.

Procedure before Appellate Tribunal.

111. *(1)* The Appellate Tribunal shall not, while disposing of any proceedings before it or an appeal before it, be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and subject to the other provisions of this Act and the rules made thereunder, the Appellate Tribunal shall have power to regulate its own procedure.

5 of 1908.

(2) The Appellate Tribunal shall, for the purposes of discharging its functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely:— 5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

(d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or a copy of such record or document from any office; 1 of 1872.

(e) issuing commissions for the examination of witnesses or documents;

(f) dismissing a representation for default or deciding it *ex parte;*

(g) setting aside any order of dismissal of any representation for default or any order passed by it *ex parte*; and

(h) any other matter which may be prescribed.

(3) Any order made by the Appellate Tribunal may be enforced by it in the same manner as if it were a decree made by a court in a suit pending therein, and it shall be lawful for the Appellate Tribunal to send for execution of its orders to the court within the local limits of whose jurisdiction,—

(a) in the case of an order against a company, the registered office of the company is situated; or

(b) in the case of an order against any other person, the person concerned voluntarily resides or carries on business or personally works for gain.

(4) All proceedings before the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, and the Appellate Tribunal shall be deemed to be civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973. 45 of 1860. 2 of 1974.

Appeals to Appellate Tribunal.

112. *(1)* Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within three

months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.

(2) The Appellate Tribunal may, in its discretion, refuse to admit any such appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order, does not exceed fifty thousand rupees.

(3) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or Commissioner of Union territory tax, call for and examine the record of any order passed by the Appellate Authority or the Revisional Authority under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act for the purpose of satisfying himself as to the legality or propriety of the said order and may, by order, direct any officer subordinate to him to apply to the Appellate Tribunal within six months from the date on which the said order has been passed for determination of such points arising out of the said order as may be specified by the Commissioner in his order.

(4) Where in pursuance of an order under sub-section *(3)* the authorised officer makes an application to the Appellate Tribunal, such application shall be dealt with by the Appellate Tribunal as if it were an appeal made against the order under sub-section *(11)* of section 107 or under sub-section *(1)* of section 108 and the provisions of this Act shall apply to such application, as they apply in relation to appeals filed under sub-section *(1)*.

(5) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of notice, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal, as if it were an appeal presented within the time specified in sub-section *(1)*.

(6) The Appellate Tribunal may admit an appeal within three months after the expiry of the period referred to in sub-section *(1)*, or permit the filing of a memorandum of cross-objections within forty-five days after the expiry of the period referred to in sub-section *(5)* if it is satisfied that there was sufficient cause for not presenting it within that period.

(7) An appeal to the Appellate Tribunal shall be in such form, verified in such manner and shall be accompanied by such fee, as may be prescribed.

(8) No appeal shall be filed under sub-section *(1)*, unless the appellant has paid—

(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and

(b) a sum equal to twenty per cent. of the remaining amount of tax in dispute, in addition to the amount paid under sub-section *(6)* of section 107, arising from the said order, in relation to which the appeal has been filed.

(9) Where the appellant has paid the amount as per sub-section *(8)*, the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.

(10) Every application made before the Appellate Tribunal,—

(a) in an appeal for rectification of error or for any other purpose; or

(b) for restoration of an appeal or an application,

shall be accompanied by such fees as may be prescribed.

Orders of Appellate Tribunal.

113. *(1)* The Appellate Tribunal may, after giving the parties to the appeal an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the decision or order appealed against or may refer the case back to the Appellate Authority, or the Revisional Authority or to the original adjudicating authority, with such directions as it may think fit, for a fresh adjudication or decision after taking additional evidence, if necessary.

(2) The Appellate Tribunal may, if sufficient cause is shown, at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:

Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.

(3) The Appellate Tribunal may amend any order passed by it under sub-section *(1)* so as to rectify any error apparent on the face of the record, if such error is noticed by it on its own accord, or is brought to its notice by the Commissioner or the Commissioner of State

tax or the Commissioner of the Union territory tax or the other party to the appeal within a period of three months from the date of the order:

Provided that no amendment which has the effect of enhancing an assessment or reducing a refund or input tax credit or otherwise increasing the liability of the other party, shall be made under this sub-section, unless the party has been given an opportunity of being heard.

(4) The Appellate Tribunal shall, as far as possible, hear and decide every appeal within a period of one year from the date on which it is filed.

(5) The Appellate Tribunal shall send a copy of every order passed under this section to the Appellate Authority or the Revisional Authority, or the original adjudicating authority, as the case may be, the appellant and the jurisdictional Commissioner or the Commissioner of State tax or the Union territory tax.

(6) Save as provided in section 117 or section 118, orders passed by the Appellate Tribunal on an appeal shall be final and binding on the parties.

Financial and administrative powers of President.

114. The President shall exercise such financial and administrative powers over the National Bench and Regional Benches of the Appellate Tribunal as may be prescribed:

Provided that the President shall have the authority to delegate such of his financial and administrative powers as he may think fit to any other Member or any officer of the National Bench and Regional Benches, subject to the condition that such Member or officer shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the President.

Interest on refund of amount paid for admission of appeal.

115. Where an amount paid by the appellant under sub-section *(6)* of section 107 or sub-section *(8)* of section 112 is required to be refunded consequent to any order of the Appellate Authority or of the Appellate Tribunal, interest at the rate specified under section 56 shall be payable in respect of such refund from the date of payment of the amount till the date of refund of such amount.

Appearance by authorised representative.

116. *(1)* Any person who is entitled or required to appear before an officer appointed under this Act, or the Appellate Authority or the Appellate Tribunal in connection with any proceedings under this Act, may, otherwise than when required under this Act to appear personally for examination on oath or affirmation, subject to the other provisions of this section, appear by an authorised representative.

(2) For the purposes of this Act, the expression "authorised representative" shall mean a person authorised by the person referred to in sub-section *(1)* to appear on his behalf, being—

(a) his relative or regular employee; or

(b) an advocate who is entitled to practice in any court in India, and who has not been debarred from practicing before any court in India; or

(c) any chartered accountant, a cost accountant or a company secretary, who holds a certificate of practice and who has not been debarred from practice; or

(d) a retired officer of the Commercial Tax Department of any State Government or Union territory or of the Board who, during his service under the Government, had worked in a post not below the rank than that of a Group-B Gazetted officer for a period of not less than two years:

Provided that such officer shall not be entitled to appear before any proceedings under this Act for a period of one year from the date of his retirement or resignation; or

(e) any person who has been authorised to act as a goods and services tax practitioner on behalf of the concerned registered person.

(3) No person,—

(a) who has been dismissed or removed from Government service; or

(b) who is convicted of an offence connected with any proceedings under this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, or under the existing law or under any of the Acts passed by a State Legislature dealing with the imposition of taxes on sale of goods or supply of goods or services or both; or

(c) who is found guilty of misconduct by the prescribed authority;

(d) who has been adjudged as an insolvent,

shall be qualified to represent any person under sub-section *(1)*—

(i) for all times in case of persons referred to in clauses *(a)*, *(b)* and *(c)*; and

(ii) for the period during which the insolvency continues in the case of a person referred to in clause *(d)*.

(4) Any person who has been disqualified under the provisions of the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be disqualified under this Act.

Appeal to High Court.

117. *(1)* Any person aggrieved by any order passed by the State Bench or Area Benches of the Appellate Tribunal may file an appeal to the High Court and the High Court may admit such appeal, if it is satisfied that the case involves a substantial question of law.

(2) An appeal under sub-section *(1)* shall be filed within a period of one hundred and eighty days from the date on which the order appealed against is received by the aggrieved person and it shall be in such form, verified in such manner as may be prescribed:

Provided that the High Court may entertain an appeal after the expiry of the said period if it is satisfied that there was sufficient cause for not filing it within such period.

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question and the appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(4) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(5) The High Court may determine any issue which—

(a) has not been determined by the State Bench or Area Benches; or

(b) has been wrongly determined by the State Bench or Area Benches, by reason of a decision on such question of law as herein referred to in sub-section *(3)*.

(6) Where an appeal has been filed before the High Court, it shall be heard by a Bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

(7) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only, by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

(8) Where the High Court delivers a judgment in an appeal filed before it under this section, effect shall be given to such judgment by either side on the basis of a certified copy of the judgment.

(9) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.

Appeal to Supreme Court.

118. *(1)* An appeal shall lie to the Supreme Court—

(a) from any order passed by the National Bench or Regional Benches of the Appellate Tribunal; or

(b) from any judgment or order passed by the High Court in an appeal made under section 117 in any case which, on its own motion or on an application made by or on behalf of the party aggrieved, immediately after passing of the judgment or order, the High Court certifies to be a fit one for appeal to the Supreme Court.

(2) The provisions of the Code of Civil Procedure, 1908, relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under this section as they apply in the case of appeals from decrees of a High Court.

(3) Where the judgment of the High Court is varied or reversed in the appeal, effect shall be given to the order of the Supreme Court in the manner provided in section 117 in the case of a judgment of the High Court.

Sums due to be paid notwithstanding appeal, etc.

119. Notwithstanding that an appeal has been preferred to the High Court or the Supreme Court, sums due to the Government as a result of an order passed by the National or Regional Benches of the Appellate Tribunal under sub-section *(1)* of section 113 or an order passed by the State Bench or Area Benches of the Appellate Tribunal under sub-section *(1)* of section 113 or an order passed by the High Court under section 117, as the case may be, shall be payable in accordance with the order so passed.

Appeal not be filed in certain cases.

120. *(1)* The Board may, on the recommendations of the Council, from time to time, issue orders or instructions or directions fixing such

monetary limits, as it may deem fit, for the purposes of regulating the filing of appeal or application by the officer of the central tax under the provisions of this Chapter.

(2) Where, in pursuance of the orders or instructions or directions issued under sub-section *(1)*, the officer of the central tax has not filed an appeal or application against any decision or order passed under the provisions of this Act, it shall not preclude such officer of the central tax from filing appeal or application in any other case involving the same or similar issues or questions of law.

(3) Notwithstanding the fact that no appeal or application has been filed by the officer of the central tax pursuant to the orders or instructions or directions issued under sub-section *(1)*, no person, being a party in appeal or application shall contend that the officer of the central tax has acquiesced in the decision on the disputed issue by not filing an appeal or application.

(4) The Appellate Tribunal or court hearing such appeal or application shall have regard to the circumstances under which appeal or application was not filed by the officer of the central tax in pursuance of the orders or instructions or directions issued under sub-section *(1)*.

Non-appealable decisions and orders.

121. Notwithstanding anything to the contrary in any provisions of this Act, no appeal shall lie against any decision taken or order passed by an officer of central tax if such decision taken or order passed relates to any one or more of the following matters, namely:—

(a) an order of the Commissioner or other authority empowered to direct transfer of proceedings from one officer to another officer; or

(b) an order pertaining to the seizure or retention of books of account, register and other documents; or

(c) an order sanctioning prosecution under this Act; or

(d) an order passed under section 80.

CHAPTER XIX

OFFENCES AND PENALTIES

Penalty for certain offences.

122. *(1)* Where a taxable person who—

(i) supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regard to any such supply;

(ii) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made thereunder;

(iii) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

(iv) collects any tax in contravention of the provisions of this Act but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

(v) fails to deduct the tax in accordance with the provisions of sub-section *(1)* of section 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or where he fails to pay to the Government under sub-section *(2)* thereof, the amount deducted as tax;

(vi) fails to collect tax in accordance with the provisions of sub-section *(1)* of section 52, or collects an amount which is less than the amount required to be collected under the said sub-section or where he fails to pay to the Government the amount collected as tax under sub-section *(3)* of section 52;

(vii) takes or utilises input tax credit without actual receipt of goods or services or both either fully or partially, in contravention of the provisions of this Act or the rules made thereunder;

(viii) fraudulently obtains refund of tax under this Act;

(ix) takes or distributes input tax credit in contravention of section 20, or the rules made thereunder;

(x) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information or return with an intention to evade payment of tax due under this Act;

(xi) is liable to be registered under this Act but fails to obtain registration;

(xii) furnishes any false information with regard to registration particulars, either at the time of applying for registration, or subsequently;

(xiii) obstructs or prevents any officer in discharge of his duties under this Act;

(xiv) transports any taxable goods without the cover of documents as may be specified in this behalf;

(xv) suppresses his turnover leading to evasion of tax under this Act;

(xvi) fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder;

(xvii) fails to furnish information or documents called for by an officer in accordance with the provisions of this Act or the rules made thereunder or furnishes false information or documents during any proceedings under this Act;

(xviii) supplies, transports or stores any goods which he has reasons to believe are liable to confiscation under this Act;

(xix) issues any invoice or document by using the registration number of another registered person;

(xx) tampers with, or destroys any material evidence or document;

(xxi) disposes off or tampers with any goods that have been detained, seized, or attached under this Act,

he shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded or the tax not deducted under section 51 or short deducted or deducted but not paid to the Government or tax not collected under section 52 or short collected or collected but not paid to the Government or input tax credit availed of or passed on or distributed irregularly, or the refund claimed fraudulently, whichever is higher.

(2) Any registered person who supplies any goods or services or both on which any tax has not been paid or short-paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilised,—

(a) for any reason, other than the reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty of ten thousand rupees or ten per cent of the tax due from such person, whichever is higher;

(b) for reason of fraud or any wilful misstatement or suppression of facts to evade tax, shall be liable to a penalty equal to ten thousand rupees or the tax due from such person, whichever is higher.

(3) Any person who—

(a) aids or abets any of the offences specified in clauses *(i)* to (xxi) of sub-section *(1)*;

(b) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;

(c) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;

(d) fails to appear before the officer of central tax, when issued with a summon for appearance to give evidence or produce a document in an inquiry;

(e) fails to issue invoice in accordance with the provisions of this Act or the rules made thereunder or fails to account for an invoice in his books of account,

shall be liable to a penalty which may extend to twenty-five thousand rupees.

Penalty for failure to furnish information return.

123. If a person who is required to furnish an information return under section 150 fails to do so within the period specified in the notice issued under sub-section *(3)* thereof, the proper officer may direct that such person shall be liable to pay a penalty of one hundred rupees for each day of the period during which the failure to furnish such return continues:

Provided that the penalty imposed under this section shall not exceed five thousand rupees.

Fine for failure to furnish statistics.

124. If any person required to furnish any information or return under section 151,—

(a) without reasonable cause fails to furnish such information or return as may be required under that section, or

(b) wilfully furnishes or causes to furnish any information or return which he knows to be false,

he shall be punishable with a fine which may extend to ten thousand rupees and in case of a continuing offence to a further fine which may extend to one hundred rupees for each day after the first day during which the offence continues subject to a maximum limit of twenty-five thousand rupees.

General penalty.

125. Any person, who contravenes any of the provisions of this Act or any rules made thereunder for which no penalty is separately

provided for in this Act, shall be liable to a penalty which may extend to twenty-five thousand rupees.

General discipline related to penalty.

126. *(1)* No officer under this Act shall impose any penalty for minor breaches of tax regulations or procedural requirements and in particular, any omission or mistake in documentation which is easily rectifiable and made without fraudulent intent or gross negligence.

Explanation.—For the purpose of this sub-section,—

(a) a breach shall be considered a 'minor breach' if the amount of tax involved is less than five thousand rupees;

(b) an omission or mistake in documentation shall be considered to be easily rectifiable if the same is an error apparent on the face of record.

(2) The penalty imposed under this Act shall depend on the facts and circumstances of each case and shall be commensurate with the degree and severity of the breach.

(3) No penalty shall be imposed on any person without giving him an opportunity of being heard.

(4) The officer under this Act shall while imposing penalty in an order for a breach of any law, regulation or procedural requirement, specify the nature of the breach and the applicable law, regulation or procedure under which the amount of penalty for the breach has been specified.

(5) When a person voluntarily discloses to an officer under this Act the circumstances of a breach of the tax law, regulation or procedural requirement prior to the discovery of the breach by the officer under this Act, the proper officer may consider this fact as a mitigating factor when quantifying a penalty for that person.

(6) The provisions of this section shall not apply in such cases where the penalty specified under this Act is either a fixed sum or expressed as a fixed percentage.

Power to impose penalty in certain cases.

127. Where the proper officer is of the view that a person is liable to a penalty and the same is not covered under any proceedings under section 62 or section 63 or section 64 or section 73 or section 74 or section 129 or section 130, he may issue an order levying such penalty after giving a reasonable opportunity of being heard to such person.

Power to waive penalty or fee or both.

128. The Government may, by notification, waive in part or full, any penalty referred to in section 122 or section 123 or section 125 or

any late fee referred to in section 47 for such class of taxpayers and under such mitigating circumstances as may be specified therein on the recommendations of the Council.

Detention, seizure and release of goods and conveyances in transit.

129. *(1)* Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released,—

(a) on payment of the applicable tax and penalty equal to one hundred per cent of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such tax and penalty;

(b) on payment of the applicable tax and penalty equal to the fifty per cent. of the value of the goods reduced by the tax amount paid thereon and, in case of exempted goods, on payment of an amount equal to five per cent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such tax and penalty;

(c) upon furnishing a security equivalent to the amount payable under clause *(a)* or clause *(b)* in such form and manner as may be prescribed:

Provided that no such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.

(2) The provisions of sub-section *(6)* of section 67 shall, *mutatis mutandis*, apply for detention and seizure of goods and conveyances.

(3) The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable and thereafter, pass an order for payment of tax and penalty under clause *(a)* or clause *(b)* or clause *(c)*.

(4) No tax, interest or penalty shall be determined under sub-section *(3)* without giving the person concerned an opportunity of being heard.

(5) On payment of amount referred in sub-section *(1)*, all proceedings in respect of the notice specified in sub-section *(3)* shall be deemed to be concluded.

(6) Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty as provided in sub-section *(1)* within seven days of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130:

Provided that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of seven days may be reduced by the proper officer.

Confication of goods or conveyances and levy of penalty.

130. *(1)* Notwithstanding anything contained in this Act, if any person—

(i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or

(ii) does not account for any goods on which he is liable to pay tax under this Act; or

(iii) supplies any goods liable to tax under this Act without having applied for registration; or

(iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or

(v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance,

then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.

(2) Whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation, such fine as the said officer thinks fit:

Provided that such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon:

Provided further that the aggregate of such fine and penalty leviable shall not be less than the amount of penalty leviable under sub-section *(1)* of section 129:

Provided also that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.

(3) Where any fine in lieu of confiscation of goods or conveyance is imposed under sub-section *(2)*, the owner of such goods or conveyance or the person referred to in sub-section *(1)*, shall, in addition, be liable to any tax, penalty and charges payable in respect of such goods or conveyance.

(4) No order for confiscation of goods or conveyance or for imposition of penalty shall be issued without giving the person an opportunity of being heard.

(5) Where any goods or conveyance are confiscated under this Act, the title of such goods or conveyance shall thereupon vest in the Government.

(6) The proper officer adjudging confiscation shall take and hold possession of the things confiscated and every officer of Police, on the requisition of such proper officer, shall assist him in taking and holding such possession.

(7) The proper officer may, after satisfying himself that the confiscated goods or conveyance are not required in any other proceedings under this Act and after giving reasonable time not exceeding three months to pay fine in lieu of confiscation, dispose of such goods or conveyance and deposit the sale proceeds thereof with the Government.

Confiscation or penalty not to interfere with other punishments.

131. Without prejudice to the provisions contained in the Code of Criminal Procedure, 1973, no confiscation made or penalty imposed under the provisions of this Act or the rules made thereunder shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law for the time being in force. 2 of 1974.

Punishment for certain offences.

132. *(1)* Whoever commits any of the following offences, namely:—

(a) supplies any goods or services or both without issue of any invoice, in violation of the provisions of this Act or the rules made thereunder, with the intention to evade tax;

(b) issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax;

(c) avails input tax credit using such invoice or bill referred to in clause *(b)*;

(d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due;

(e) evades tax, fraudulently avails input tax credit or fraudulently obtains refund and where such offence is not covered under clauses *(a)* to *(d)*;

(f) falsifies or substitutes financial records or produces fake accounts or documents or furnishes any false information with an intention to evade payment of tax due under this Act;

(g) obstructs or prevents any officer in the discharge of his duties under this Act;

(h) acquires possession of, or in any way concerns himself in transporting, removing, depositing, keeping, concealing, supplying, or purchasing or in any other manner deals with, any goods which he knows or has reasons to believe are liable to confiscation under this Act or the rules made thereunder;

(i) receives or is in any way concerned with the supply of, or in any other manner deals with any supply of services which he knows or has reasons to believe are in contravention of any provisions of this Act or the rules made thereunder;

(j) tampers with or destroys any material evidence or documents;

(k) fails to supply any information which he is required to supply under this Act or the rules made thereunder or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information; or

(l) attempts to commit, or abets the commission of any of the offences mentioned in clauses *(a)* to *(k)* of this section,

shall be punishable—

(i) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the

amount of refund wrongly taken exceeds five hundred lakh rupees, with imprisonment for a term which may extend to five years and with fine;

(ii) in cases where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds two hundred lakh rupees but does not exceed five hundred lakh rupees, with imprisonment for a term which may extend to three years and with fine;

(iii) in the case of any other offence where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one hundred lakh rupees but does not exceed two hundred lakh rupees, with imprisonment for a term which may extend to one year and with fine;

(iv) in cases where he commits or abets the commission of an offence specified in clause *(f)* or clause *(g)* or clause *(j)*, he shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(2) Where any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine.

(3) The imprisonment referred to in clauses *(i)*, *(ii)* and *(iii)* of sub-section *(1)* and sub-section *(2)* shall, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, be for a term not less than six months.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences under this Act, except the offences referred to in sub-section *(5)* shall be non-cognizable and bailable. 2 of 1974.

(5) The offences specified in clause *(a)* or clause *(b)* or clause *(c)* or clause *(d)* of sub-section *(1)* and punishable under clause *(i)* of that sub-section shall be cognizable and non-bailable.

(6) A person shall not be prosecuted for any offence under this section except with the previous sanction of the Commissioner.

Explanation.— For the purposes of this section, the term "tax" shall include the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or refund wrongly taken under the provisions

of this Act, the State Goods and Services Tax Act, the Integrated Goods and Services Tax Act or the Union Territory Goods and Services Tax Act and cess levied under the Goods and Services Tax (Compensation to States) Act.

Liability of officers and certain other persons.

133. *(1)* Where any person engaged in connection with the collection of statistics under section 151 or compilation or computerisation thereof or if any officer of central tax having access to information specified under sub-section *(1)* of section 150, or if any person engaged in connection with the provision of service on the common portal or the agent of common portal, wilfully discloses any information or the contents of any return furnished under this Act or rules made thereunder otherwise than in execution of his duties under the said sections or for the purposes of prosecution for an offence under this Act or under any other Act for the time being in force, he shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to twenty-five thousand rupees, or with both.

(2) Any person—

(a) who is a Government servant shall not be prosecuted for any offence under this section except with the previous sanction of the Government;

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

Cognizance of offences.

134. No court shall take cognizance of any offence punishable under this Act or the rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Magistrate of the First Class, shall try any such offence.

Presumption of culpable mental state.

135. In any prosecution for an offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation.—For the purposes of this section,—

(i) the expression "culpable mental state" includes intention, motive, knowledge of a fact, and belief in, or reason to believe, a fact;

(ii) a fact is said to be proved only when the court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

Relevancy of statements under certain circumstances.

136. A statement made and signed by a person on appearance in response to any summons issued under section 70 during the course of any inquiry or proceedings under this Act shall be relevant, for the purpose of proving, in any prosecution for an offence under this Act, the truth of the facts which it contains,—

(a) when the person who made the statement is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or whose presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the court considers unreasonable; or

(b) when the person who made the statement is examined as a witness in the case before the court and the court is of the opinion that, having regard to the circumstances of the case, the statement should be admitted in evidence in the interest of justice.

Offences by companies.

137. *(1)* Where an offence committed by a person under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in sub-section *(1)*, where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(3) Where an offence under this Act has been committed by a taxable person being a partnership firm or a Limited Liability Partnership or a Hindu Undivided Family or a trust, the partner or *karta* or managing trustee shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly and the provisions of sub-section *(2)* shall, *mutatis mutandis,* apply to such persons.

(4) Nothing contained in this section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

Explanation.—For the purposes of this section,—

(i) "company" means a body corporate and includes a firm or other association of individuals; and

(ii) "director", in relation to a firm, means a partner in the firm.

Compunding of offences.

138. *(1)* Any offence under this Act may, either before or after the institution of prosecution, be compounded by the Commissioner on payment, by the person accused of the offence, to the Central Government or the State Government, as the case be, of such compounding amount in such manner as may be prescribed:

Provided that nothing contained in this section shall apply to—

(a) a person who has been allowed to compound once in respect of any of the offences specified in clauses *(a)* to *(f)* of sub-section *(1)* of section 132 and the offences specified in clause *(l)* which are relatable to offences specified in clauses *(a)* to *(f)* of the said sub-section;

(b) a person who has been allowed to compound once in respect of any offence, other than those in clause *(a)*, under this Act or under the provisions of any State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act or the Integrated Goods and Services Tax Act in respect of supplies of value exceeding one crore rupees;

(c) a person who has been accused of committing an offence under this Act which is also an offence under any other law for the time being in force;

(d) a person who has been convicted for an offence under this Act by a court;

(e) a person who has been accused of committing an offence specified in clause *(g)* or clause *(j)* or clause *(k)* of sub-section *(1)* of section 132; and

(f) any other class of persons or offences as may be prescribed:

Provided further that any compounding allowed under the provisions of this section shall not affect the proceedings, if any, instituted under any other law:

Provided also that compounding shall be allowed only after making payment of tax, interest and penalty involved in such offences.

(2) The amount for compounding of offences under this section shall be such as may be prescribed, subject to the minimum amount not

being less than ten thousand rupees or fifty per cent. of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent. of the tax, whichever is higher.

(3) on payment of such compounding amount as may be determined by the Commissioner, no further proceedings shall be initiated under this Act against the accused person in respect of the same offence and any criminal proceedings, if already initiated in respect of the said offence, shall stand abated.

CHAPTER XX

TRANSITIONAL PROVISIONS

Migration of existing taxpayers.

139. *(1)* On and from the appointed day, every person registered under any of the existing laws and having a valid Permanent Account Number shall be issued a certificate of registration on provisional basis, subject to such conditions and in such form and manner as may be prescribed, which unless replaced by a final certificate of registration under sub-section *(2)*, shall be liable to be cancelled if the conditions so prescribed are not complied with.

(2) The final certificate of registration shall be granted in such form and manner and subject to such conditions as may be prescribed.

(3) The certificate of registration issued to a person under sub-section *(1)* shall be deemed to have not been issued if the said registration is cancelled in pursuance of an application filed by such person that he was not liable to registration under section 22 or section 24.

Transitional arrangements for input tax credit.

140. *(1)* A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed:

Provided that the registered person shall not be allowed to take credit in the following circumstances, namely:—

(i) where the said amount of credit is not admissible as input tax credit under this Act; or

(ii) where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date; or

(iii) where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government.

(2) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit in respect of capital goods, not carried forward in a return, furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that the registered person shall not be allowed to take credit unless the said credit was admissible as CENVAT credit under the existing law and is also admissible as input tax credit under this Act.

Explanation.—For the purposes of this sub-section, the expression "unavailed CENVAT credit" means the amount that remains after subtracting the amount of CENVAT credit already availed in respect of capital goods by the taxable person under the existing law from the aggregate amount of CENVAT credit to which the said person was entitled in respect of the said capital goods under the existing law.

(3) A registered person, who was not liable to be registered under the existing law, or who was engaged in the manufacture of exempted goods or provision of exempted services, or who was providing works contract service and was availing of the benefit of notification No. 26/2012–Service Tax, dated the 20th June, 2012 or a first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer, shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:—

(i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;

(ii) the said registered person is eligible for input tax credit on such inputs under this Act;

(iii) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs;

(iv) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day; and

(v) the supplier of services is not eligible for any abatement under this Act:

Provided that where a registered person, other than a manufacturer or a supplier of services, is not in possession of an invoice or any other documents evidencing payment of duty in respect of inputs, then, such registered person shall, subject to such conditions, limitations and safeguards as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient, be allowed to take credit at such rate and in such manner as may be prescribed.

(4) A registered person, who was engaged in the manufacture of taxable as well as exempted goods under the Central Excise Act, 1944 or provision of taxable as well as exempted services under Chapter V of the Finance Act, 1994, but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger, — 1 of 1944. 32 of 1994.

(a) the amount of CENVAT credit carried forward in a return furnished under the existing law by him in accordance with the provisions of sub-section *(1)*; and

(b) the amount of CENVAT credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day, relating to such exempted goods or services, in accordance with the provisions of sub-section *(3)*.

(5) A registered person shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs or input services received on or after the appointed day but the duty or tax in respect of which has been paid by the supplier under the existing law, subject to the condition that the invoice or any other duty or tax paying document of the same was recorded in the books of account of such person within a period of thirty days from the appointed day:

Provided that the period of thirty days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding thirty days:

Provided further that said registered person shall furnish a statement, in such manner as may be prescribed, in respect of credit that has been taken under this sub-section.

(6) A registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing

law shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:—

(i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;

(ii) the said registered person is not paying tax under section 10;

(iii) the said registered person is eligible for input tax credit on such inputs under this Act;

(iv) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of inputs; and

(v) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.

(7) Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as credit under this Act even if the invoices relating to such services are received on or after the appointed day.

(8) Where a registered person having centralised registration under the existing law has obtained a registration under this Act, such person shall be allowed to take, in his electronic credit ledger, credit of the amount of CENVAT credit carried forward in a return, furnished under the existing law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that if the registered person furnishes his return for the period ending with the day immediately preceding the appointed day within three months of the appointed day, such credit shall be allowed subject to the condition that the said return is either an original return or a revised return where the credit has been reduced from that claimed earlier:

Provided further that the registered person shall not be allowed to take credit unless the said amount is admissible as input tax credit under this Act:

Provided also that such credit may be transferred to any of the registered persons having the same Permanent Account Number for which the centralised registration was obtained under the existing law.

(9) Where any CENVAT credit availed for the input services provided under the existing law has been reversed due to non-payment of the consideration within a period of three months, such credit can be reclaimed subject to the condition that the registered person has made the payment of the consideration for that supply of services within a period of three months from the appointed day.

(10) The amount of credit under sub-sections *(3)*, *(4)* and *(6)* shall be calculated in such manner as may be prescribed.

Explanation 1.—For the purposes of sub-sections *(3)*, *(4)* and *(6)*, the expression "eligible duties" means—

(i) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957; 58 of 1957.

(ii) the additional duty leviable under sub-section *(1)* of section 3 of the Customs Tariff Act, 1975; 51 of 1975.

(iii) the additional duty leviable under sub-section *(5)* of section 3 of the Customs Tariff Act, 1975; 51 of 1975.

(iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978; 40 of 1978.

(v) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985; 5 of 1986.

(vi) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985; and 5 of 1986.

(vii) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001, 14 of 2001.

in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day.

Explanation 2.—For the purposes of sub-section *(5)*, the expression "eligible duties and taxes" means—

(i) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957; 58 of 1957.

(ii) the additional duty leviable under sub-section *(1)* of section 3 of the Customs Tariff Act, 1975; 51 of 1975.

(iii) the additional duty leviable under sub-section *(5)* of section 3 of the Customs Tariff Act, 1975; 51 of 1975.

(iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978; 40 of 1978.

(v) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985; 5 of 1986.

(vi) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985; 5 of 1986.

(vii) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001; and 14 of 2001.

(viii) the service tax leviable under section 66B of the Finance Act, 1994, 32 of 1994.

in respect of inputs and input services received on or after the appointed day.

Transitional provision relating to job work.

141. *(1)* Where any inputs received at a place of business had been removed as such or removed after being partially processed to a job worker for further processing, testing, repair, reconditioning or any other purpose in accordance with the provisions of existing law prior to the appointed day and such inputs are returned to the said place on or after the appointed day, no tax shall be payable if such inputs, after completion of the job work or otherwise, are returned to the said place within six months from the appointed day:

Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that if such inputs are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause *(a)* of sub-section *(8)* of section 142.

(2) Where any semi-finished goods had been removed from the place of business to any other premises for carrying out certain manufacturing processes in accordance with the provisions of existing law prior to the appointed day and such goods (hereafter in this section referred to as "the said goods") are returned to the said place on or after the appointed day, no tax shall be payable, if the said goods, after undergoing manufacturing processes or otherwise, are returned to the said place within six months from the appointed day:

Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that if the said goods are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause *(a)* of sub-section *(8)* of section 142:

Provided also that the manufacturer may, in accordance with the provisions of the existing law, transfer the said goods to the premises of any registered person for the purpose of supplying therefrom on payment of tax in India or without payment of tax for exports within the period specified in this sub-section.

(3) Where any excisable goods manufactured at a place of business had been removed without payment of duty for carrying out tests or any other process not amounting to manufacture, to any other premises, whether registered or not, in accordance with the provisions of existing law prior to the appointed day and such goods, are returned to the said place on or after the appointed day, no tax shall be payable if the said goods, after undergoing tests or any other process, are returned to the said place within six months from the appointed day:

Provided that the period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that if the said goods are not returned within the period specified in this sub-section, the input tax credit shall be liable to be recovered in accordance with the provisions of clause *(a)* of sub-section *(8)* of section 142:

Provided also that the manufacturer may, in accordance with the provisions of the existing law, transfer the said goods from the said other premises on payment of tax in India or without payment of tax for exports within the period specified in this sub-section.

(4) The tax under sub-sections *(1)*, *(2)* and *(3)* shall not be payable, only if the manufacturer and the job worker declare the details of the inputs or goods held in stock by the job worker on behalf of the manufacturer on the appointed day in such form and manner and within such time as may be prescribed.

Miscellaneous transitional provisions.

142. *(1)* Where any goods on which duty, if any, had been paid under the existing law at the time of removal thereof, not being earlier

than six months prior to the appointed day, are returned to any place of business on or after the appointed day, the registered person shall be eligible for refund of the duty paid under the existing law where such goods are returned by a person, other than a registered person, to the said place of business within a period of six months from the appointed day and such goods are identifiable to the satisfaction of the proper officer:

Provided that if the said goods are returned by a registered person, the return of such goods shall be deemed to be a supply.

(2) (a) where, in pursuance of a contract entered into prior to the appointed day, the price of any goods or services or both is revised upwards on or after the appointed day, the registered person who had removed or provided such goods or services or both shall issue to the recipient a supplementary invoice or debit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such supplementary invoice or debit note shall be deemed to have been issued in respect of an outward supply made under this Act;

(b) where, in pursuance of a contract entered into prior to the appointed day, the price of any goods or services or both is revised downwards on or after the appointed day, the registered person who had removed or provided such goods or services or both may issue to the recipient a credit note, containing such particulars as may be prescribed, within thirty days of such price revision and for the purposes of this Act such credit note shall be deemed to have been issued in respect of an outward supply made under this Act:

Provided that the registered person shall be allowed to reduce his tax liability on account of issue of the credit note only if the recipient of the credit note has reduced his input tax credit corresponding to such reduction of tax liability.

(3) Every claim for refund filed by any person before, on or after the appointed day, for refund of any amount of CENVAT credit, duty, tax, interest or any other amount paid under the existing law, shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section *(2)* of section 11B of the Central Excise Act, 1944:

1 of 1944.

Provided that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse:

Provided further that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

(4) Every claim for refund filed after the appointed day for refund of any duty or tax paid under existing law in respect of the goods or services exported before or after the appointed day, shall be disposed of in accordance with the provisions of the existing law:

Provided that where any claim for refund of CENVAT credit is fully or partially rejected, the amount so rejected shall lapse:

Provided further that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act.

(5) Every claim filed by a person after the appointed day for refund of tax paid under the existing law in respect of services not provided shall be disposed of in accordance with the provisions of existing law and any amount eventually accruing to him shall be paid in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section *(2)* of section 11B of the Central Excise Act, 1944. 1 of 1944.

(6) (a) every proceeding of appeal, review or reference relating to a claim for CENVAT credit initiated whether before, on or after the appointed day under the existing law shall be disposed of in accordance with the provisions of existing law, and any amount of credit found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section *(2)* of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act: 1 of 1944.

Provided that no refund shall be allowed of any amount of CENVAT credit where the balance of the said amount as on the appointed day has been carried forward under this Act;

(b) every proceeding of appeal, review or reference relating to recovery of CENVAT credit initiated whether before, on or after the appointed day under the existing law shall be disposed of in accordance with the provisions of existing law and if any amount of credit becomes recoverable as a result of such appeal, review or reference, the same

shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(7) (a) every proceeding of appeal, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and if any amount becomes recoverable as a result of such appeal, review or reference, the same shall, unless recovered under the existing law, be recovered as an arrear of duty or tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act.

(b) every proceeding of appeal, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day under the existing law, shall be disposed of in accordance with the provisions of the existing law, and any amount found to be admissible to the claimant shall be refunded to him in cash, notwithstanding anything to the contrary contained under the provisions of existing law other than the provisions of sub-section *(2)* of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act. 1 of 1944.

(8) (a) where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes recoverable from the person, the same shall, unless recovered under the existing law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act;

(b) where in pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes refundable to the taxable person, the same shall be refunded to him in cash under the said law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section *(2)* of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act. 1 of 1944.

(9) (a) where any return, furnished under the existing law, is revised after the appointed day and if, pursuant to such revision, any amount is found to be recoverable or any amount of CENVAT credit is found to be inadmissible, the same shall, unless recovered under the existing

law, be recovered as an arrear of tax under this Act and the amount so recovered shall not be admissible as input tax credit under this Act;

(b) where any return, furnished under the existing law, is revised after the appointed day but within the time limit specified for such revision under the existing law and if, pursuant to such revision, any amount is found to be refundable or CENVAT credit is found to be admissible to any taxable person, the same shall be refunded to him in cash under the existing law, notwithstanding anything to the contrary contained in the said law other than the provisions of sub-section *(2)* of section 11B of the Central Excise Act, 1944 and the amount rejected, if any, shall not be admissible as input tax credit under this Act.

1 of 1944.

(10) Save as otherwise provided in this Chapter, the goods or services or both supplied on or after the appointed day in pursuance of a contract entered into prior to the appointed day shall be liable to tax under the provisions of this Act.

(11) (a) notwithstanding anything contained in section 12, no tax shall be payable on goods under this Act to the extent the tax was leviable on the said goods under the Value Added Tax Act of the State;

(b) notwithstanding anything contained in section 13, no tax shall be payable on services under this Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994;

32 of 1994.

(c) where tax was paid on any supply both under the Value Added Tax Act and under Chapter V of the Finance Act, 1994, tax shall be leviable under this Act and the taxable person shall be entitled to take credit of value added tax or service tax paid under the existing law to the extent of supplies made after the appointed day and such credit shall be calculated in such manner as may be prescribed.

32 of 1994.

(12) Where any goods sent on approval basis, not earlier than six months before the appointed day, are rejected or not approved by the buyer and returned to the seller on or after the appointed day, no tax shall be payable thereon if such goods are returned within six months from the appointed day:

Provided that the said period of six months may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding two months:

Provided further that the tax shall be payable by the person returning the goods if such goods are liable to tax under this Act, and are returned after a period specified in this sub-section:

Provided also that tax shall be payable by the person who has sent the goods on approval basis if such goods are liable to tax under this Act, and are not returned within a period specified in this sub-section.

(13) Where a supplier has made any sale of goods in respect of which tax was required to be deducted at source under any law of a State or Union territory relating to Value Added Tax and has also issued an invoice for the same before the appointed day, no deduction of tax at source under section 51 shall be made by the deductor under the said section where payment to the said supplier is made on or after the appointed day.

Explanation.—For the purposes of this Chapter, the expressions "capital goods", "Central Value Added Tax (CENVAT) credit", "first stage dealer", "second stage dealer", or "manufacture" shall have the same meaning as respectively assigned to them in the Central Excise Act, 1944 or the rules made thereunder. 1 of 1944.

CHAPTER XXI

MISCELLANEOUS

Job work procedure.

143. *(1)* A registered person (hereafter in this section referred to as the "principal") may under intimation and subject to such conditions as may be prescribed, send any inputs or capital goods, without payment of tax, to a job worker for job work and from there subsequently send to another job worker and likewise, and shall,—

(a) bring back inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out, to any of his place of business, without payment of tax;

(b) supply such inputs, after completion of job work or otherwise, or capital goods, other than moulds and dies, jigs and fixtures, or tools, within one year and three years, respectively, of their being sent out from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export, as the case may be:

Provided that the principal shall not supply the goods from the place of business of a job worker in accordance with the provisions of this clause unless the said principal declares the place of business of the job worker as his additional place of business except in a case—

(i) where the job worker is registered under section 25; or

(ii) where the principal is engaged in the supply of such goods as may be notified by the Commissioner.

(2) The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal.

(3) Where the inputs sent for job work are not received back by the principal after completion of job work or otherwise in accordance with the provisions of clause *(a)* of sub-section *(1)* or are not supplied from the place of business of the job worker in accordance with the provisions of clause *(b)* of sub-section *(1)* within a period of one year of their being sent out, it shall be deemed that such inputs had been supplied by the principal to the job worker on the day when the said inputs were sent out.

(4) Where the capital goods, other than moulds and dies, jigs and fixtures, or tools, sent for job work are not received back by the principal in accordance with the provisions of clause *(a)* of sub-section *(1)* or are not supplied from the place of business of the job worker in accordance with the provisions of clause *(b)* of sub-section *(1)* within a period of three years of their being sent out, it shall be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out.

(5) Notwithstanding anything contained in sub-sections *(1)* and *(2)*, any waste and scrap generated during the job work may be supplied by the job worker directly from his place of business on payment of tax, if such job worker is registered, or by the principal, if the job worker is not registered.

Explanation.—For the purposes of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or the job worker.

Presumption as to documents in certain cases.

144. Where any document—

(i) is produced by any person under this Act or any other law for the time being in force; or

(ii) has been seized from the custody or control of any person under this Act or any other law for the time being in force; or

(iii) has been received from any place outside India in the course of any proceedings under this Act or any other law for the time being in force,

and such document is tendered by the prosecution in evidence

against him or any other person who is tried jointly with him, the court shall—

(a) unless the contrary is proved by such person, presume—

(i) the truth of the contents of such document;

(ii) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;

(b) admit the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence.

145. *(1)* Notwithstanding anything contained in any other law for the time being in force,—

(a) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or

(b) a facsimile copy of a document; or

(c) a statement contained in a document and included in a printed material produced by a computer, subject to such conditions as may be prescribed; or

(d) any information stored electronically in any device or media, including any hard copies made of such information,

shall be deemed to be a document for the purposes of this Act and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) In any proceedings under this Act or the rules made thereunder, where it is desired to give a statement in evidence by virtue of this section, a certificate,—

(a) identifying the document containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer,

shall be evidence of any matter stated in the certificate and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

Common Portal.

146. The Government may, on the recommendations of the Council, notify the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions and for such purposes as may be prescribed.

Deemed exports.

147. The Government may, on the recommendations of the Council, notify certain supplies of goods as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.

Special procedure for certain processe.

148. The Government may, on the recommendations of the Council, and subject to such conditions and safeguards as may be prescribed, notify certain classes of registered persons, and the special procedures to be followed by such persons including those with regard to registration, furnishing of return, payment of tax and administration of such persons.

Goods and services tax compliance rating.

149. *(1)* Every registered person may be assigned a goods and services tax compliance rating score by the Government based on his record of compliance with the provisions of this Act.

(2) The goods and services tax compliance rating score may be determined on the basis of such parameters as may be prescribed.

(3) The goods and services tax compliance rating score may be updated at periodic intervals and intimated to the registered person and also placed in the public domain in such manner as may be prescribed.

Obligation to furnish information return.

150. *(1)* Any person, being—

(a) a taxable person; or

(b) a local authority or other public body or association; or

(c) any authority of the State Government responsible for the collection of value added tax or sales tax or State excise duty or an authority of the Central Government responsible for the collection of excise duty or customs duty; or

(d) an income tax authority appointed under the provisions of the Income-tax Act, 1961; or 43 of 1961.

(e) a banking company within the meaning of clause *(a)* of section 45A of the Reserve Bank of India Act, 1934; or 2 of 1934.

(f) a State Electricity Board or an electricity distribution or transmission licensee under the Electricity Act, 2003, or any other entity entrusted with such functions by the Central Government or the State Government; or

36 of 2003.

(g) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908; or

16 of 1908.

(h) a Registrar within the meaning of the Companies Act, 2013; or

18 of 2013.

(i) the registering authority empowered to register motor vehicles under the Motor Vehicles Act, 1988; or

59 of 1988.

(j) the Collector referred to in clause *(c)* of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; or

30 of 2013.

(k) the recognised stock exchange referred to in clause *(f)* of section 2 of the Securities Contracts (Regulation) Act, 1956; or

42 of 1956.

(l) a depository referred to in clause *(e)* of sub-section *(1)* of section 2 of the Depositories Act, 1996; or

22 of 1996.

(m) an officer of the Reserve Bank of India as constituted under section 3 of the Reserve Bank of India Act, 1934; or

2 of 1934.

(n) the Goods and Services Tax Network, a company registered under the Companies Act, 2013; or

18 of 2013.

(o) a person to whom a Unique Identity Number has been granted under sub-section *(9)* of section 25; or

(p) any other person as may be specified, on the recommendations of the Council, by the Government,

who is responsible for maintaining record of registration or statement of accounts or any periodic return or document containing details of payment of tax and other details of transaction of goods or services or both or transactions related to a bank account or consumption of electricity or transaction of purchase, sale or exchange of goods or property or right or interest in a property under any law for the time being in force, shall furnish an information return of the same in respect of such periods, within such time, in such form and manner and to such authority or agency as may be prescribed.

(2) Where the Commissioner, or an officer authorised by him in this behalf, considers that the information furnished in the information return is defective, he may intimate the defect to the person who has

furnished such information return and give him an opportunity of rectifying the defect within a period of thirty days from the date of such intimation or within such further period which, on an application made in this behalf, the said authority may allow and if the defect is not rectified within the said period of thirty days or, the further period so allowed, then, notwithstanding anything contained in any other provisions of this Act, such information return shall be treated as not furnished and the provisions of this Act shall apply.

(3) Where a person who is required to furnish information return has not furnished the same within the time specified in sub-section *(1)* or sub-section *(2)*, the said authority may serve upon him a notice requiring furnishing of such information return within a period not exceeding ninety days from the date of service of the notice and such person shall furnish the information return.

Power to collect statistics

151. *(1)* The Commissioner may, if he considers that it is necessary so to do, by notification, direct that statistics may be collected relating to any matter dealt with by or in connection with this Act.

(2) Upon such notification being issued, the Commissioner, or any person authorised by him in this behalf, may call upon the concerned persons to furnish such information or returns, in such form and manner as may be prescribed, relating to any matter in respect of which statistics is to be collected.

Bar on disclosure of information.

152. *(1)* No information of any individual return or part thereof with respect to any matter given for the purposes of section 150 or section 151 shall, without the previous consent in writing of the concerned person or his authorised representative, be published in such manner so as to enable such particulars to be identified as referring to a particular person and no such information shall be used for the purpose of any proceedings under this Act.

(2) Except for the purposes of prosecution under this Act or any other Act for the time being in force, no person who is not engaged in the collection of statistics under this Act or compilation or computerisation thereof for the purposes of this Act, shall be permitted to see or have access to any information or any individual return referred to in section 151.

(3) Nothing in this section shall apply to the publication of any information relating to a class of taxable persons or class of transactions, if in the opinion of the Commissioner, it is desirable in the public interest to publish such information.

Taking assistance from an expert.

153. Any officer not below the rank of Assistant Commissioner may, having regard to the nature and complexity of the case and the interest of revenue, take assistance of any expert at any stage of scrutiny, inquiry, investigation or any other proceedings before him.

Power to take samples.

154. The Commissioner or an officer authorised by him may take samples of goods from the possession of any taxable person, where he considers it necessary, and provide a receipt for any samples so taken.

Burden of proof.

155. Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person.

Persons deemed to be public servants.

156. All persons discharging functions under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Protection of action taken under this Act.

157. *(1)* No suit, prosecution or other legal proceedings shall lie against the President, State President, Members, officers or other employees of the Appellate Tribunal or any other person authorised by the said Appellate Tribunal for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

(2) No suit, prosecution or other legal proceedings shall lie against any officer appointed or authorised under this Act for anything which is done or intended to be done in good faith under this Act or the rules made thereunder.

Disclosure of information by a public servant.

158. *(1)* All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act (other than proceedings before a criminal court), or in any record of any proceedings under this Act shall, save as provided in sub-section *(3)*, not be disclosed.

(2) Notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as otherwise provided in sub-section *(3)*, require any officer appointed or authorised under this Act to produce before it or to give evidence before it in respect of particulars referred to in sub-section *(1)*. 1 of 1872.

(3) Nothing contained in this section shall apply to the disclosure of,—

(a) any particulars in respect of any statement, return, accounts, documents, evidence, affidavit or deposition, for the purpose of any prosecution under the Indian Penal Code or the

Prevention of Corruption Act, 1988, or any other law for the time being in force; or 45 of 1860. 49 of 1988.

(b) any particulars to the Central Government or the State Government or to any person acting in the implementation of this Act, for the purposes of carrying out the objects of this Act; or

(c) any particulars when such disclosure is occasioned by the lawful exercise under this Act of any process for the service of any notice or recovery of any demand; or

(d) any particulars to a civil court in any suit or proceedings, to which the Government or any authority under this Act is a party, which relates to any matter arising out of any proceedings under this Act or under any other law for the time being in force authorising any such authority to exercise any powers thereunder; or

(e) any particulars to any officer appointed for the purpose of audit of tax receipts or refunds of the tax imposed by this Act; or

(f) any particulars where such particulars are relevant for the purposes of any inquiry into the conduct of any officer appointed or authorised under this Act, to any person or persons appointed as an inquiry officer under any law for the time being in force; or

(g) any such particulars to an officer of the Central Government or of any State Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty; or

(h) any particulars when such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority, of his or its powers under any law for the time being in force; or

(i) any particulars relevant to any inquiry into a charge of misconduct in connection with any proceedings under this Act against a practising advocate, a tax practitioner, a practising cost accountant, a practising chartered accountant, a practising company secretary to the authority empowered to take disciplinary action against the members practising the profession of a legal practitioner, a cost accountant, a chartered accountant or a company secretary, as the case may be; or

(j) any particulars to any agency appointed for the purposes of data entry on any automated system or for the purpose of

operating, upgrading or maintaining any automated system where such agency is contractually bound not to use or disclose such particulars except for the aforesaid purposes; or

(k) any particulars to an officer of the Government as may be necessary for the purposes of any other law for the time being in force; or

(l) any information relating to any class of taxable persons or class of transactions for publication, if, in the opinion of the Commissioner, it is desirable in the public interest, to publish such information.

Publication of information in respect of persons in certain cases.

159. *(1)* If the Commissioner, or any other officer authorised by him in this behalf, is of the opinion that it is necessary or expedient in the public interest to publish the name of any person and any other particulars relating to any proceedings or prosecution under this Act in respect of such person, it may cause to be published such name and particulars in such manner as it thinks fit.

(2) No publication under this section shall be made in relation to any penalty imposed under this Act until the time for presenting an appeal to the Appellate Authority under section 107 has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

Explanation.—In the case of firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Commissioner, or any other officer authorised by him in this behalf, circumstances of the case justify it.

Assessment proceedings, etc., not to be invalid on certain grounds.

160. *(1)* No assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings done, accepted, made, issued, initiated, or purported to have been done, accepted, made, issued, initiated in pursuance of any of the provisions of this Act shall be invalid or deemed to be invalid merely by reason of any mistake, defect or omission therein, if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any existing law.

(2) The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case

may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.

Rectification of errors apparent on the face of record.

161. Without prejudice to the provisions of section 160, and notwithstanding anything contained in any other provisions of this Act, any authority, who has passed or issued any decision or order or notice or certificate or any other document, may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document, either on its own motion or where such error is brought to its notice by any officer appointed under this Act or an officer appointed under the State Goods and Services Tax Act or an officer appointed under the Union Territory Goods and Services Tax Act or by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be:

Provided that no such rectification shall be done after a period of six months from the date of issue of such decision or order or notice or certificate or any other document:

Provided further that the said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission:

Provided also that where such rectification adversely affects any person, the principles of natural justice shall be followed by the authority carrying out such rectification.

Bar on jurisdiction of civil courts.

162. Save as provided in sections 117 and 118, no civil court shall have jurisdiction to deal with or decide any question arising from or relating to anything done or purported to be done under this Act.

Levy of fee.

163. Wherever a copy of any order or document is to be provided to any person on an application made by him for that purpose, there shall be paid such fee as may be prescribed.

Power of Government to make rules.

164. *(1)* The Government may, on the recommendations of the Council, by notification, make rules for carrying out the provisions of this Act.

(2) Without prejudice to the generality of the provisions of sub-section *(1)*, the Government may make rules for all or any of the matters which by this Act are required to be, or may be, prescribed or in respect of which provisions are to be or may be made by rules.

(3) The power to make rules conferred by this section shall include the power to give retrospective effect to the rules or any of them from a date not earlier than the date on which the provisions of this Act come into force.

(4) Any rules made under sub-section *(1)* or sub-section *(2)* may provide that a contravention thereof shall be liable to a penalty not exceeding ten thousand rupees.

Power to make regulations.

165. The Board may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

Laying of rules, regulations and notifications.

166. Every rule made by the Government, every regulation made by the Board and every notification issued by the Government under this Act, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or in the notification, as the case may be, or both Houses agree that the rule or regulation or the notification should not be made, the rule or regulation or notification, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification, as the case may be.

Delegation of powers.

167. The Commissioner may, by notification, direct that subject to such conditions, if any, as may be specified in the notification, any power exercisable by any authority or officer under this Act may be exercisable also by another authority or officer as may be specified in such notification.

Power to issue instructions or directions.

168. *(1)* The Board may, if it considers it necessary or expedient so to do for the purpose of uniformity in the implementation of this Act, issue such orders, instructions or directions to the central tax officers as it may deem fit, and thereupon all such officers and all other persons employed in the implementation of this Act shall observe and follow such orders, instructions or directions.

(2) The Commissioner specified in clause *(91)* of section 2, sub-section *(3)* of section 5, clause *(b)* of sub-section *(9)* of section 25, sub-sections *(3)* and *(4)* of section 35, sub-section *(1)* of section 37,

sub-section *(2)* of section 38, sub-section *(6)* of section 39, sub-section *(5)* of section 66, sub-section *(1)* of section 143, sub-section *(1)* of section 151, clause *(l)* of sub-section *(3)* of section 158 and section 167 shall mean a Commissioner or Joint Secretary posted in the Board and such Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.

Service of notice in certain circumstances.

169. *(1)* Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely:—

(a) by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or to his manager or authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or to a person regularly employed by him in connection with the business, or to any adult member of family residing with the taxable person; or

(b) by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or

(c) by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or

(d) by making it available on the common portal; or

(e) by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or

(f) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.

(2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section *(1)*.

(3) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.

Rounding off of tax, etc.

170. The amount of tax, interest, penalty, fine or any other sum payable, and the amount of refund or any other sum due, under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.

Anti-profiteering measure.

171. *(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.

Removal of difficulties.

172. *(1)* If any difficulty arises in giving effect to any provisions of this Act, the Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

Amendment of Act 32 of 1994.

173. Save as otherwise provided in this Act, Chapter V of the Finance Act, 1994 shall be omitted.

Repeal and saving.

174. *(1)* Save as otherwise provided in this Act, on and from the date of commencement of this Act, the Central Excise Act, 1944 (except as respects goods included in entry 84 of the Union List of the Seventh Schedule to the Constitution), the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, the Additional Duties of Excise (Goods of

1 of 1994

16 of 1955

58 of 1957 Special Importance) Act, 1957, the Additional Duties of Excise (Textiles
40 of 1978 and Textile Articles) Act, 1978, and the Central Excise Tariff Act, 1985
5 of 1986 (hereafter referred to as the repealed Acts) are hereby repealed.

(2) The repeal of the said Acts and the amendment of the Finance
32 of 1994 Act, 1994 (hereafter referred to as "such amendment" or "amended Act", as the case may be) to the extent mentioned in the sub-section *(1)* or section 173 shall not—

(a) revive anything not in force or existing at the time of such amendment or repeal; or

(b) affect the previous operation of the amended Act or repealed Acts and orders or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation, or liability acquired, accrued or incurred under the amended Act or repealed Acts or orders under such repealed or amended Acts:

Provided that any tax exemption granted as an incentive against investment through a notification shall not continue as privilege if the said notification is rescinded on or after the appointed day; or

(d) affect any duty, tax, surcharge, fine, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed against the provisions of the amended Act or repealed Acts; or

(e) affect any investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and any other legal proceedings or recovery of arrears or remedy in respect of any such duty, tax, surcharge, penalty, fine, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and other legal proceedings or recovery of arrears or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, fine, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been so amended or repealed;

(f) affect any proceedings including that relating to an appeal, review or reference, instituted before on, or after the appointed day under the said amended Act or repealed Acts and such proceedings shall be continued under the said amended Act or repealed Acts as if this Act had not come into force and the said Acts had not been amended or repealed.

(3) The mention of the particular matters referred to in sub-sections *(1)* and *(2)* shall not be held to prejudice or affect the general application
10 of 1897 of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

SCHEDULE I

[*See* section 7]

ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.

2. Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business:

Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

3. Supply of goods—

(a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or

(b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

4. Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

SCHEDULE II

[*See* section 7]

ACTIVITIES TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

1. Transfer

(a) any transfer of the title in goods is a supply of goods;

(b) any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services;

(c) any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods.

2. Land and Building

(a) any lease, tenancy, easement, licence to occupy land is a supply of services;

(b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.

3. Treatment or process

Any treatment or process which is applied to another person's goods is a supply of services.

4. Transfer of business assets

(a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person;

(b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods is a supply of services;

(c) where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance

of his business immediately before he ceases to be a taxable person, unless—

(i) the business is transferred as a going concern to another person; or

(ii) the business is carried on by a personal representative who is deemed to be a taxable person.

5. Supply of services

The following shall be treated as supply of services, namely:—

(a) renting of immovable property;

(b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.

Explanation.—For the purposes of this clause—

(1) the expression "competent authority" means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:—

(i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972; or 20 of 1972

(ii) a chartered engineer registered with the Institution of Engineers (India); or

(iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority;

(2) the expression "construction" includes additions, alterations, replacements or remodelling of any existing civil structure;

(c) temporary transfer or permitting the use or enjoyment of any intellectual property right;

(d) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;

(e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and

(f) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

6. Composite supply

The following composite supplies shall be treated as a supply of services, namely:—

(a) works contract as defined in clause *(119)* of section 2; and

(b) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

7. Supply of Goods

The following shall be treated as supply of goods, namely:—

Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

SCHEDULE III

[*See* section 7]

ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

1. Services by an employee to the employer in the course of or in relation to his employment.

2. Services by any court or Tribunal established under any law for the time being in force.

3. *(a)* the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;

(b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or

(c) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.

4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.

5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

6. Actionable claims, other than lottery, betting and gambling.

Explanation.—For the purposes of paragraph 2, the term "court" includes District Court, High Court and Supreme Court.

DR. G. NARAYANA RAJU
Secretary to the Govt. of India.