

UTTARAKHAND REVENUE AUDIT MANUAL 2022 PART -III REFERENCE MATERIAL



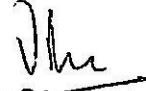
**FINANCE DEPARTMENT
GOVERNMENT OF
UTTARAKHAND**



उत्तराखण्ड शासन
वित्त अनुभाग-6
संख्या- 197(A)/XXVII(6)-तीन-1466/2021
देहरादून: दिनांक: 28 अक्टूबर, 2022

वित्त विभाग की अधिसूचना संख्या-197/XXVII(6)/1466/तीन/2021, दिनांक 28.10.2022 द्वारा प्रख्यापित उत्तराखण्ड राजस्व लेखापरीक्षा नियम संग्रह, 2022 की प्रति निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-

1. सचिव, श्री राज्यपाल, उत्तराखण्ड।
2. सचिव, मा0 मुख्यमंत्री जी, उत्तराखण्ड शासन।
3. स्टाफ आफिसर, मुख्य सचिव, उत्तराखण्ड शासन।
4. उप निदेशक, वित्त सेवार्ये विभाग, वित्त मंत्रालय, भारत सरकार नई दिल्ली।
5. समस्त अपर मुख्य सचिव/प्रमुख सचिव/सचिव/सचिव (प्रभारी), उत्तराखण्ड शासन।
6. मण्डलायुक्त गढ़वाल मण्डल, पौड़ी/कुमायूँ मण्डल, नैनीताल।
7. समस्त जिलाधिकारी, उत्तराखण्ड।
8. महानिदेशक, सूचना एवं लोक सम्पर्क निदेशालय, उत्तराखण्ड, देहरादून।
9. निदेशक, यू0के0पी0एफ0एम0एस0, उत्तराखण्ड देहरादून।
10. निदेशक, लेखा परीक्षा ऑडिट, निदेशालय, उत्तराखण्ड देहरादून।
11. निदेशक, एन0आई0सी0, सचिवालय परिसर, देहरादून।
12. संयुक्त सचिव, वित्त ऑडिट प्रकोष्ठ, सचिवालय परिसर, देहरादून।
13. अपर निदेशक, राजकीय मुद्रणालय, रुड़की, उत्तराखण्ड को इस अनुरोध के साथ प्रेषित कि कृपया अधिसूचना को असाधारण गजट, विधायी परिशिष्ट भाग-4 में मुद्रित कराकर, इसकी 200 प्रतियां वित्त अनुभाग-6, उत्तराखण्ड शासन को यथाशीघ्र उपलब्ध कराने का कष्ट करें।
14. प्रभारी मीडिया सेंटर, उत्तराखण्ड सचिवालय।
15. गार्ड फाईल।

आज्ञा से,

(विक्रम सिंह राणा)
संयुक्त सचिव।

उत्तराखण्ड शासन
वित्त अनुभाग-6
संख्या- 197 /XXVII(6)/1466/तीन/2022
देहरादून, दिनांक: 28 अक्टूबर, 2022
अधिसूचना

राज्यपाल, उत्तराखण्ड लेखापरीक्षा अधिनियम, 2012 (उत्तराखण्ड अधिनियम संख्या 2 वर्ष 2012) की धारा 20 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये उत्तराखण्ड आंतरिक लेखापरीक्षा नियम संग्रह, 2021 के नियम 6 एवं नियम 7 के खण्ड (ख) तथा इंस्टीट्यूट ऑफ इंटरनल ऑडिटर एवं सुप्रीम ऑडिट इंस्टीट्यूट (INTOSAI) के संगठन द्वारा समय-समय पर निर्धारित सिद्धांतों एवं अंतर्राष्ट्रीय मानकों, जोखिम आधारित आंतरिक लेखापरीक्षा सिद्धांतों एवं मानकों को राजस्व लेखा परीक्षा हेतु लागू किए जाने के लिए निम्नलिखित नियम संग्रह बनाये जाने की सहर्ष स्वीकृति प्रदान करते हैं, अर्थात:-

उत्तराखण्ड राजस्व लेखापरीक्षा नियम संग्रह, 2022

- संक्षिप्त नाम, विस्तार और प्रारंभ
- (1) इस लेखापरीक्षा नियम संग्रह का संक्षिप्त नाम उत्तराखण्ड राजस्व लेखापरीक्षा नियम संग्रह, 2022 है।
 - (i) यह उन समस्त ऑडिटी पर लागू होंगे जो कि अधिसूचना संख्या 495/XXVII(11)/2012, दिनांकित 26 नवंबर, 2012 के माध्यम से लागू उत्तराखण्ड लेखा परीक्षा अधिनियम, 2012 की धारा 4 की उपधारा (1) के क्रम में अधिसूचित किए गए हैं।
 - (ii) राजस्व लेखापरीक्षा के अंतर्गत उत्तराखण्ड राज्य सरकार द्वारा समस्त कर एवं करेत्तर राजस्व प्राप्तियाँ की लेखापरीक्षा सम्मिलित है।
 - (iii) निदेशालय लेखापरीक्षा द्वारा लेखापरीक्षा हेतु कार्यरत कार्मिकों एवं अधिकारियों द्वारा या संनदी लेखाकार/फर्म या संस्था (एजेंसी) जिसे वित्त विभाग द्वारा समय-समय पर निदेशालय लेखापरीक्षा के लिए सूचीबद्ध किया गया हो, राजस्व अर्जन विभागों की लेखापरीक्षा किये जाने के समय संबंधित लेखापरीक्षा नियम संग्रह का प्रयोग किया जायेगा।
 - (iv) यह उत्तराखण्ड आंतरिक लेखापरीक्षा नियम संग्रह, 2021 एवं विशिष्ट कार्य क्षेत्रों के लेखापरीक्षा नियम संग्रह यथा निष्पादन लेखापरीक्षा नियम संग्रह, धोखाधड़ी और न्याय सम्बन्धी लेखापरीक्षा नियम संग्रह, सूचना प्रौद्योगिकी लेखापरीक्षा नियम संग्रह के साथ पढ़ा जाएगा।





(v) यह मुख्यतः उदग्रहण, संग्रहण, अपवंचन, विभिन्न मांगों का लक्ष्य, कर निर्धारण, आन्तरिक नियंत्रण का आंकलन प्रतिदाय, छूट जैसे संबंधित क्षेत्रों पर केंद्रित है।

(3) यह अधिसूचना के राजपत्र में प्रकाशन की तिथि से प्रवृत्त होगा।

राजस्व लेखापरीक्षा के मुख्य उद्देश्य

2. राजस्व लेखापरीक्षा के मुख्य उद्देश्य निम्नलिखित हैं -

(i) राजस्व निर्धारण, राजस्व संग्रहण पर प्रभावी नियंत्रण सुनिश्चित करने के लिए पर्याप्त विनियम और आंतरिक प्रक्रियाएँ मौजूद हैं।

(ii) लागू विनियमों और प्रक्रियाओं को विभागों द्वारा कार्यान्वित और अपनाया गया है।

(iii) विभाग द्वारा अधिनियम और नियमों/नियम संग्रह के प्रावधानों में उल्लिखित समय सारणी के अनुसार राजस्व आंकलन, संग्रहण और लेखांकन किया गया है।

(iv) अधिनियम और नियमों/नियम संग्रह के प्रावधानों के अनुरूप प्रतिदाय एवं छूट प्रदान की गई है।

(v) राजस्व विभागों में आंतरिक नियंत्रण का परीक्षण।

(vi) राजस्व विभाग द्वारा नवीन तकनीकी के अनुप्रयोग एवं नवीन तकनीकी प्रयोग में सामान्य एवं तकनीकी नियंत्रण की प्रस्थिति।

उत्तराखंड राजस्व लेखापरीक्षा नियम संग्रह के खंड एवं संबंधित खंडों में संक्षिप्त विवरण

3. उत्तराखंड राजस्व लेखापरीक्षा नियम संग्रह के दो भाग हैं, नियम संग्रह के विभिन्न भागों का विवरण निम्नलिखित है :-

लेखापरीक्षा नियम संग्रह

उत्तराखंड राजस्व लेखापरीक्षा के समस्त चरणों का विस्तृत यथा लेखापरीक्षा कार्य योजना, लेखापरीक्षा सम्पादन, लेखापरीक्षा रिपोर्टिंग और प्रलेखन, लेखापरीक्षा अनुवर्ती, अनुपालन और लेखापरीक्षा किए जाने हेतु जांच

भाग-II

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सूची जिसके द्वारा माल सेवा कर, मूल्य वर्धित कर, स्टाम्प एवं निबंधन, आबकारी, भूविज्ञान और खनन और वन विभागों की राजस्व लेखापरीक्षा संपादित किए जाने के लिए प्रयोग किया जायेगा।

राज्य में राजस्व अर्जन विभागों जिनके द्वारा राज्य के कुल राजस्व में मुख्य योगदान है, संबंधित विभागों को पृथक-पृथक भागों में विभक्त किया गया है। इन खण्डों के अन्तर्गत यथा विभाग का परिचय, विनियामक ढांचा, राजस्व के स्रोत एवं प्रचलित अधिनियम एवं नियम के लागू प्रावधानों एवं राजस्व लेखापरीक्षा के लिए चेकलिस्ट सम्मिलित है।

उत्तराखण्ड
राजस्व
लेखापरीक्षा
नियम संग्रह
भाग -II

इस भाग में केवल महत्वपूर्ण परिभाषाएँ और अधिनियम, नियमों के प्रासंगिक प्रावधान हैं, जिसके द्वारा उपर्युक्त संबंधित विभाग के राजस्व लेखा परीक्षा को संचालित किए जाने के लिए प्रयुक्त किया जाएगा।

उत्तराखण्ड राजस्व
लेखा परीक्षा नियम
संग्रह के मुख्य
कार्य क्षेत्र

4. i राजस्व निर्धारण, राजस्व संग्रहण और प्रतिदायों के लिए विनियमों और क्रियाविधियों की राजस्व लेखा परीक्षा लेखापरीक्षा के सबसे अधिक महत्वपूर्ण कार्यों में –
- (क) करों, शुल्कों, प्रयोक्ता प्रभार एवं राजस्व संग्रहण के लिये निर्धारण, संग्रहण और उचित आबंटन पर प्रभावी नियंत्रण रखने के लिए राजस्व विभाग द्वारा उपयुक्त विनियम और क्रियाविधि बनाए जाने के लिए परीक्षण करना;
- (ख) उपयुक्त नमूना जाँच द्वारा विनियमों और क्रियाविधियों का वस्तुतः पालन किया जा रहा है। लेखापरीक्षा में प्रविष्टि की गई राशियों की शुद्धता के बारे में भी परीक्षण किया जायेगा।

ii वसूलियों की आवधिकता की लेखा परीक्षा

ऐसे वित्तीय नियम या आदेश के प्रकरण जिसके द्वारा वसूलियों के लिए स्तर या आवधिकता निर्धारित की गई हो, ऐसे प्रकरणों में लेखापरीक्षा को यथासंभव यह परीक्षण करना चाहिए कि उचित प्राधिकार के बिना किसी भी प्रकार का विचलन नहीं किया गया है।

iii बकाया अतिदेयों का अवलोकन

लेखापरीक्षा को किसी भी प्रकार के बकाया देय की सावधानीपूर्वक समीक्षा करनी चाहिए तथा विभागीय प्राधिकारियों को उनकी वसूली के लिये संभव उपाय के बारे में सुझाव देना चाहिए। जब कोई देय अवसूलनीय हैं तो उनके अधित्यजन करने और समायोजन के लिए आदेश प्राप्त करने चाहिए।

उत्तराखण्ड राजस्व
लेखापरीक्षा द्वारा
आन्तरिक नियंत्रणों
की लेखा परीक्षा

5. आन्तरिक नियंत्रणों की लेखापरीक्षा

राजस्व लेखापरीक्षा को संपादित किए जाने के समय आन्तरिक नियंत्रण के परीक्षण करते समय लेखापरीक्षा दलों द्वारा निम्नलिखित बिंदुओं को ध्यान में रखा जाएगा।

- i. विधि के अधीन माँग या प्रतिदाय की संगणना के लिए आवश्यक आँकड़ों का संग्रहण और उनका उपयोग
- ii. वर्तमान में लागू कर कानूनों के अनुसार विभिन्न करों, फीस, किराया, रायल्टी आदि की संगणना और वसूली
- iii. माँगों, संग्रहण और प्रतिदायों का नियमित लेखाकरण
- iv. अपेक्षित एवं अनुरूप अभिलेखों को यथोचित रूप से तैयार किया जाना।
- v. करों के उद्ग्रहण या संग्रहण या प्रतिदायों को प्राधिकृत करने की लापरवाही या चूक करने के प्रति सुरक्षा के उचित प्रबंध किये गये हैं।
- vi. अपवंचन के मामलों का पता लगाने के लिए मशीनरी पर्याप्त है,

vii. दोहरे प्रतिदायों, प्रतिदाय के जाली या झूठे आदेश या जालसाजी, चूक या गलती से होने वाले राजस्व की अन्य प्रकार की हानि शीघ्र ध्यान में लाये जाने और उनकी जाँच पड़ताल किया जाए।


viii. कर दाताओं के दावों का तत्परता से परिशीलन किया जाता है और पर्याप्त औचित्य और उचित प्राधिकार के बिना उनका परित्याग या उन्हें कम नहीं किया जाता है।

ix. न्यायालय में या अपीलीय प्राधिकारियों के समक्ष अनिर्णीत मामले पर पर्याप्त रूप से कार्यवाही की जा रही है और अपीलें जहाँ औचित्य है या आवश्यक मानी गयी है, को सीमा अवधि के अन्दर दायर किया गया है।

x. राजस्व के प्राक्कलनों की वित्तीय वर्ष की समाप्ति पर वसूली प्राक्कलन के अनुरूप की गयी है।

साधारणतया लेखापरीक्षा विभाग यह देखेगा कि आन्तरिक क्रियाविधि माँगों, संग्रहण और प्रतिदायों को सही और नियमित रूप से लेखाबद्ध करने को पर्याप्त रूप से सुनिश्चित करती हैं और कि पर्याप्त कारण के बिना सरकार को देय कोई भी राशि उसकी पुस्तकों में बकाया न रहे और दावों का तत्परता से परिशीलन किया जाता है उचित प्राधिकार के बिना उसका परित्याग या उन्हें कम न किया जाना है।

आज्ञा से,


(एस. एन. पाण्डे)
सचिव।



In pursuance of the provision of clause (3) of article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of notification no. 197 /XXVII (6)/1466/Three/2022, Dehradun, dated -----for general information

**Government of Uttarakhand,
Finance Section- 06
No. 197/XXVII (6)/ 1466 /Three/2022
Dehradun, Date: 28 October 2022
Notification**

In exercise of the powers conferred by section 20 of the Uttarakhand Audit Act, 2012 (Uttarakhand Act No. 2 of 2012) and rule 6 and clause (b) of rule 7 of Uttarakhand Internal Audit Manual 2021 read along with the Standards to be applicable for Institute of Internal Auditors and International Supreme Audit Institution (INTOSAI) to implement standards for Revenue Audit, Guidelines with complete steps for conducting Risk-Based internal audit for Revenue Audit as per with respective principles and Standards to be adopted, the Governor is pleased to allow to following manual, namely: -

The Uttarakhand Revenue Audit Manual, 2022

- | | |
|---|--|
| Short
title,
extent
and
Commencement | <p>1. (1) This audit manual may be called the Uttarakhand Revenue Audit Manual, 2022.</p> <p>(2) (i) These audit manuals shall apply to all the auditees notified under the Gazette Notification No. 495/XXVII(11)/2012 dated 26 November 2012 as per the provision of sub- section (1) of section 4 of the Uttarakhand Audit Act 2012.</p> <p>(ii) Audit of receipts includes the audit of all taxes and non-tax receipts of Uttarakhand State Government.</p> <p>(iii) The Directorate of Audit by the personnel and officers or Chartered Accountant firms or insitute /agencies empaneled by the Finance Department from time to time for the Directorate of Audit shall carry out audit through this audit manual while auditing such revenue departments.</p> <p>(iv) This shall be read with the Uttarakhand Internal</p> |
|---|--|





Audit Manual 2021 and other audit manuals prepared for specific areas such as Performance Audit Manual, Fraud, and Forensic Audit Manual, Information Technology Audit Manual.

(v) This mainly focuses on the audit of receipts with reference to levy, collection, evasion, the pursuit of claims, assessment, examine internal controls, refund, rebates, and other relevant areas for a revenue generating departments.

(3) This shall come in force from the date of publication of notification in the Official Gazette.

**Main
Objectives of
Revenue Audit**

2. The main objectives of the Revenue Audit are as follows –
- (i) adequate regulations and internal procedures are in place to ensure an effective check on the assessment, collection of the revenues.
 - (ii) the applicable regulations and procedures have been implemented and adopted by the departments.
 - (iii) the department has assessed, collected, and accounted for the revenues on time in line with the provisions of the Act and rules.
 - (iv) the refunds and exemptions provided in line with the provisions of the Acts and rules/manuals.
 - (v) assessment of Internal Control of Revenue Generating Department
 - (vi) use of modern technologies by the revenue department and use of General and IT Controls for such modern technologies

**Uttarakhand
Revenue Audit
Manual Parts
and brief
description of
its parts**

3. Uttarakhand Revenue Audit Manual has two parts, the detail of two parts of audit manual are mentioned below

Uttarakhand Revenue Audit Manual-Part-I	Detailed audit process covering the entire audit phases viz. audit planning, audit execution, audit reporting & documentation, audit follow up,
--	---

	<p>compliance and audit checklists to be used in conducting revenue audit of the Goods and Service Tax(GST), Value Added Tax (VAT), Excise, Stamp & Registration, Geology & Mining and Forest Departments.</p> <p>The revenue departments that are contributing to the major share in total revenue of the state have been segregated in different sections. These departments have divided into various sections. These Sections includes viz. introduction to the department, regulatory framework, and applicable provisions of the Act and rules and checklist for revenue audit</p>
<p>Uttarakhand Revenue Audit Manual-Part-II</p>	<p>This volume merely covers important definitions and relevant provisions of the Act and rules that need to be applied in conducting revenue audit of the respective department mentioned above.</p>

**Area of
operating
Uttarakhand
Revenue Audit
Manual**

4. Audit of regulations and procedures for assessment, collection, and refunds

The most important function of audit is

- (a) Examination of adequate regulations and that have been framed by the Revenue Departments to secure an effective check on assessment, collection and proper allocation of taxes, fees, user charges or any other mechanism for revenue collection;
- (b) adequate test check that such regulations and procedures are being adhered to. Audit should also make such examination as in respect to the correctness of the sums brought to account.

ii. Audit of periodicity of recoveries

Where any financial rule or order applicable to the case

prescribes the scale or periodicity of recoveries, the Audit will as far as possible examine that there is no deviation therefrom without proper authority.

iii. Examination of outstanding dues

Audit should carefully review any outstanding dues and suggest to the departmental authorities any feasible means for their recovery. Whenever any dues are irrecoverable, orders for their waiver and adjustment should be sought.

**Uttarakhand
Revenue
Audit
Manual for
audit of
Internal
Control**

5. Audit of Internal Control

During examination of the internal controls the following points shall be taken into consideration by the audit parties while conducting Revenue Audit


- i. collection and utilization of data necessary for the computation of the demand or refund under laws.
- ii. computation and realization of various taxes, fees, rents, royalty, etc. are in accordance with the existing applicable tax laws;
- iii. the regular accounting of demands, collections, and refunds;
- iv. that the relevant and requisite records are being maintained properly;
- v. that adequate control and monitoring mechanisms have been devised to prevent loss or leakage of revenue;
- vi. that the machinery for detection of cases of evasion is adequate;
- vii. double refunds, fraudulent or forged refund orders or other losses of revenue through fraud, default or errors are promptly brought to light and their investigation;
- viii. that claims of taxpayers are pursued with due diligence and are not abandoned or reduced except with adequate justification and proper authority;
- ix. that cases pending in courts or before appellate authorities have been pursued adequately and

appeals, wherever justified or considered necessary, have been filed within the period of limitation; an

- x. that the estimates of revenue have been realized at the end of the financial. Fees, user charges or to authorize refunds;

Generally Audit department shall see that the internal procedures ensure correct and regular accounting of demands, collections, and refunds and that no amounts due to Government remain outstanding in its books without sufficient reason and that the claims are pursued with due diligence and are not abandoned or reduced except with adequate justification and with proper authority.

order by,


(S.N. Pandey)
Secretary





Revenue Audit Manual

Part-II

Reference Material

Finance Department
Government of Uttarakhand



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Structure

This volume covers important definitions and relevant provisions of the act and rules that need to be applied in conducting revenue audit of the following departments

Section	Heading	Chapter
1.	State Tax Department – Goods & Service Tax (GST)	Chapter I to V
2.	State Tax Department – Value Added Tax (VAT)	Chapter I to IV
3.	Excise Department	Chapter I to III
4.	Stamp and Registration Department	Chapter I to III
5.	Geology and Mining Unit	Chapter I to III
6.	Forest Department	Chapter I to IV

Section 1: Goods and Service Tax (GST)

1.1 Important Definitions

Section 2: In this Act, unless the context otherwise requires, —

- (1) “actionable claim” shall have the same meaning as assigned to it in section 3 of the Transfer of Property Act, 1882 (4 of 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 ¹ [Central Board of Indirect Taxes and Customs], the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, ² [the National Appellate Authority for Advance Ruling,] ³ [the Appellate Authority, the Appellate Tribunal and the Authority referred to in sub-section (2) of section 171]
- (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.

¹ Substituted vide [Central Goods and Services Tax \(Amendment\) Act, 2018 w.e.f 01-02-2019](#) before it was read as "Central Board of Excise and Customs"

² Inserted vide [FINANCE \(NO. 2\) ACT, 2019](#)

³ Substituted vide [Central Goods and Services Tax \(Amendment\) Act, 2018 w.e.f 01-02-2019](#) before it was read as "the Appellate Authority and the Appellate Tribunal"

- (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 (43 of 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 ⁴[Central Board of Indirect Taxes and Customs] constituted under the Central Boards of Revenue Act, 1963 (54 of 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.

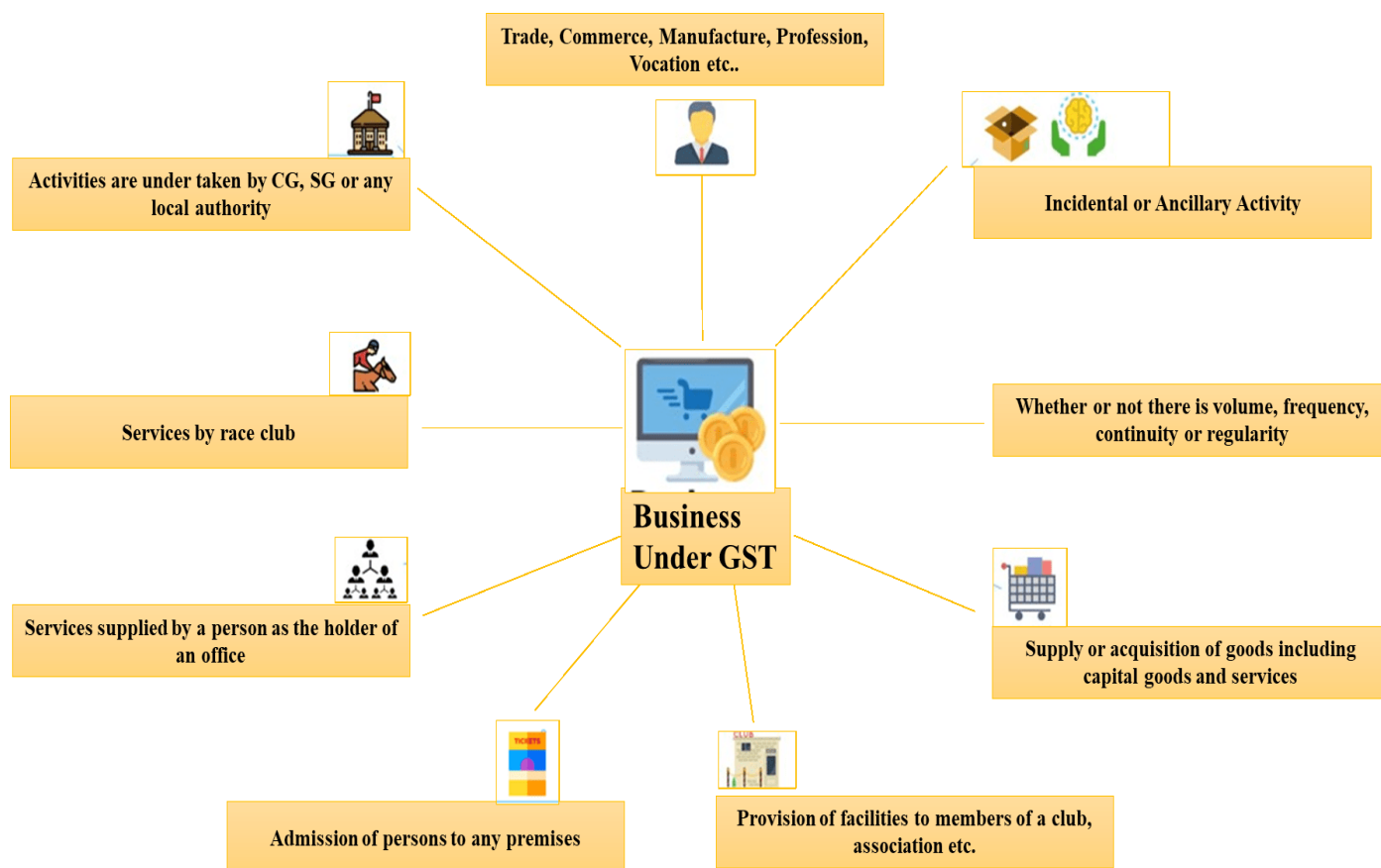
⁴ Substituted vide [The Finance Act, 2018](#), before it was read as, "Central Board of Excise and Customs"

(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.

⁵ [(h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and]

(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.

The definition of business under the GST can be understood with the below diagram.



⁶ [(18) *****]

⁵ Substituted vide [Central Goods and Services Tax \(Amendment\) Act, 2018 w.e.f 01-02-2019](#) before it was read as (h) services provided by a race club by way of totalisator or a licence to book maker in such club ;

⁶ Omitted vide Central Goods and Services Tax (Amendment) Act, 2018 w.e.f 01-02-2019 before it was read as "(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

(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.

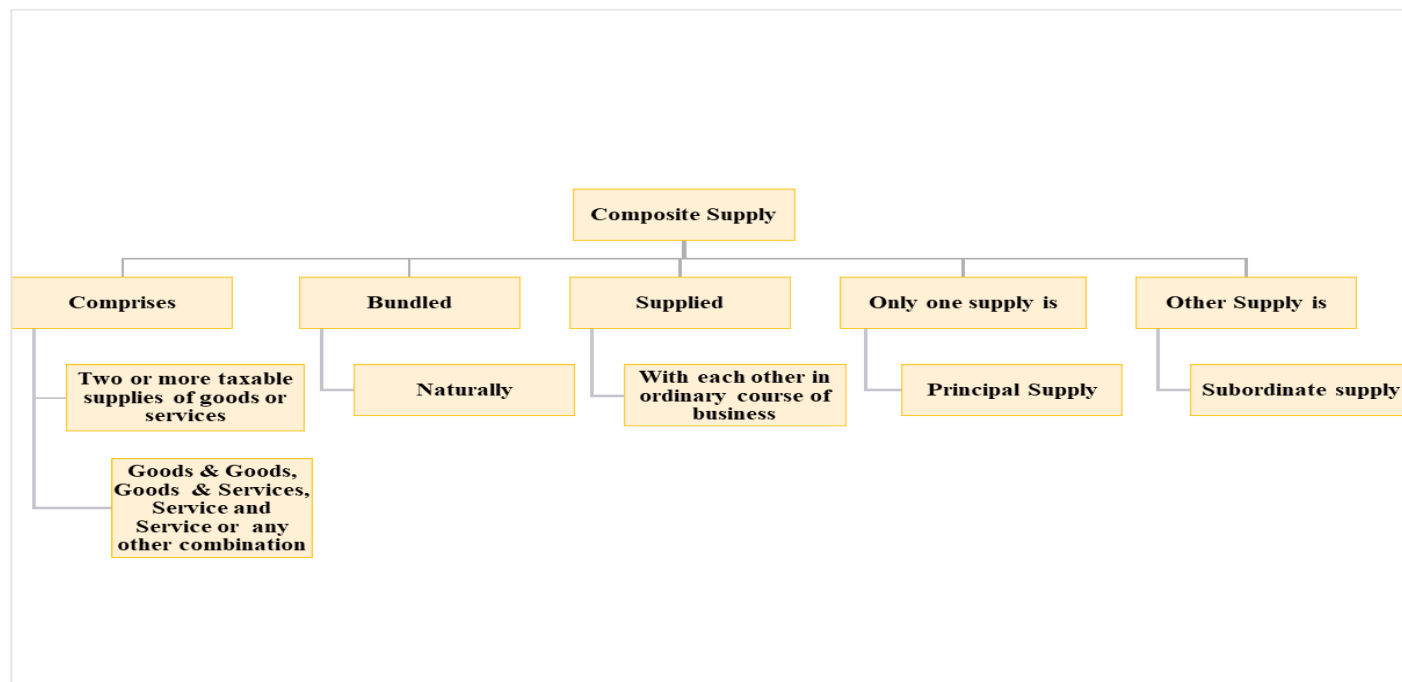
(27) “common working days” in respect of a State or Union territory shall mean such days in succession which are not declared as gazetted holidays by the Central Government or the concerned State or Union territory Government.

(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.

Illustration: 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. An example to the composite supply is provided below:



(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 ⁷[clause (b)] 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 subsection (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.

⁷ Substituted vide [Central Goods and Services Tax \(Amendment\) Act, 2018](#) w.e.f 01-02-2019 before it was read as "clause (c)"

(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.

Thus, goods **includes** every kind of movable property, actionable claims, 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 but **does not includes** money and securities.

(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” mean 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 (80 of 1976), and the air space above its territory and territorial waters;

(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.

(63) “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.

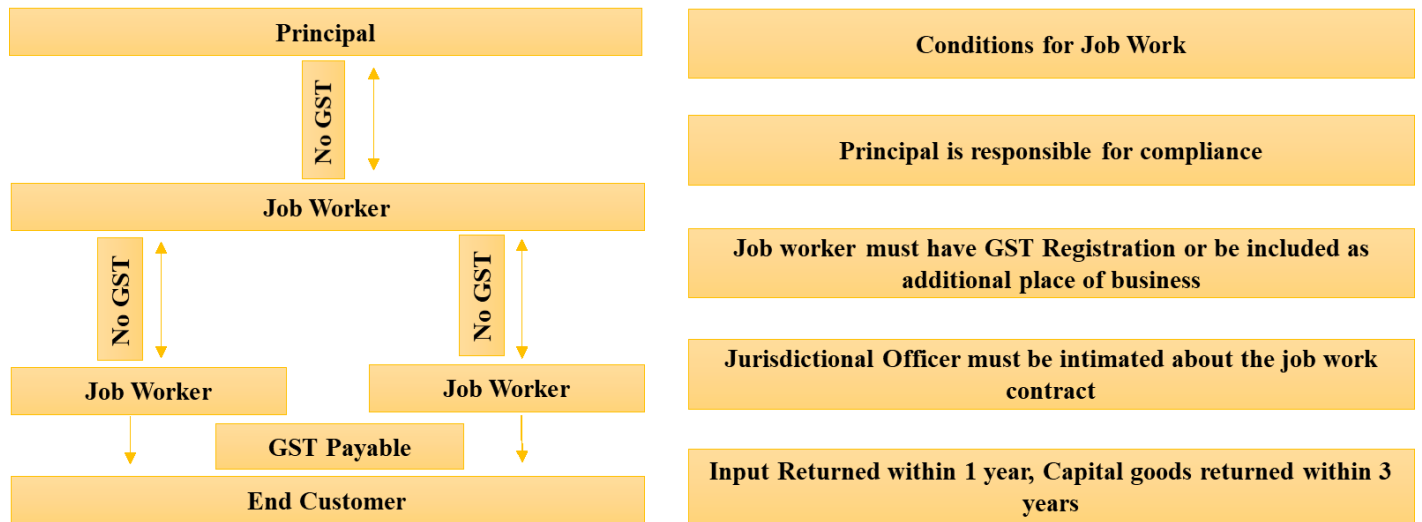
(65) “intra-State supply of services” shall have the same meaning as assigned to it in section 8 of the Integrated Goods and Services Tax Act.

(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.

Concept of Job work under GST



(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 371⁸ [and article 371J] 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.

⁸ Inserted vide [Central Goods and Services Tax \(Amendment\) Act, 2018](#) w.e.f 01-02-2019

(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

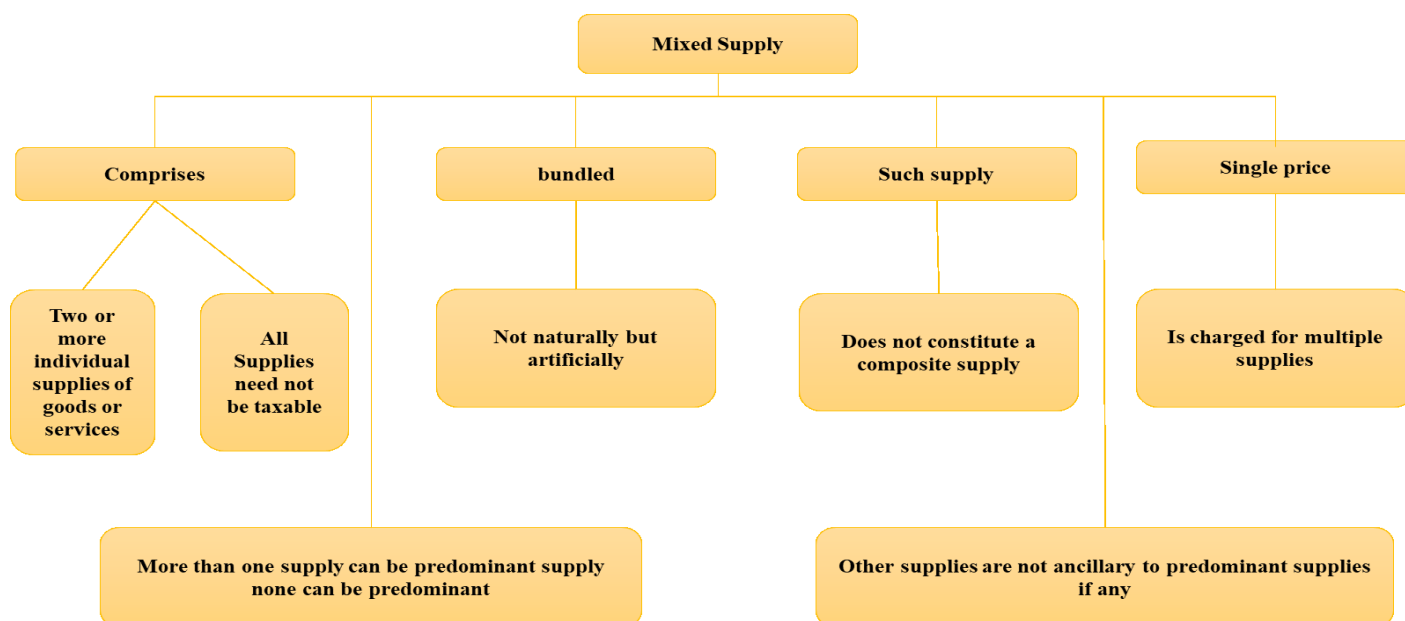
(d) in absence of such places, the location of the usual place of residence of the supplier.

(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. The non-taxable supply and availability of ITC on the same has been provided below:

	Nil rated Supplies	Non-Taxable Supplies	Exempt Supplies	Zero rated Supplies
Meaning	Such supply of goods and services which will attract nil rate of tax	Such supply of goods and services which is chargeable to tax under this Act	Such supply of goods and services which will attract nil rate of tax (Nil rated) or Not chargeable to tax under this Act (Not Taxable) or Which may be notified to be exempt u/s 11.	Supply of such goods and services namely: a) Export b) Supplies to SEZ developer or SEZ unit Two options of such taxpayers: 1. Supply of goods or services under Bond or Letter of undertaking, without payment of tax and claim refunded of unutilised input tax credit or 2. Supply of goods or services on payment of IGST and claim to refund IGST paid on goods and services exported
Availability of ITC	No Input Tax Credit	No Input Tax Credit	No Input Tax Credit	Input Tax Credit can be claimed
Examples	Cereals, Fresh Fruits & Vegetables, Salt, Jaggery, Puja samagri, Human Blood etc.	Alcohol for Human consumption, Petroleum products and Electricity	Services provided to Government, Renting of rooms with charges less than Rs. 1,000 per day etc.	Consultancy services by Indian consultancy firm to overseas entity, payment for which is received on foreign currency

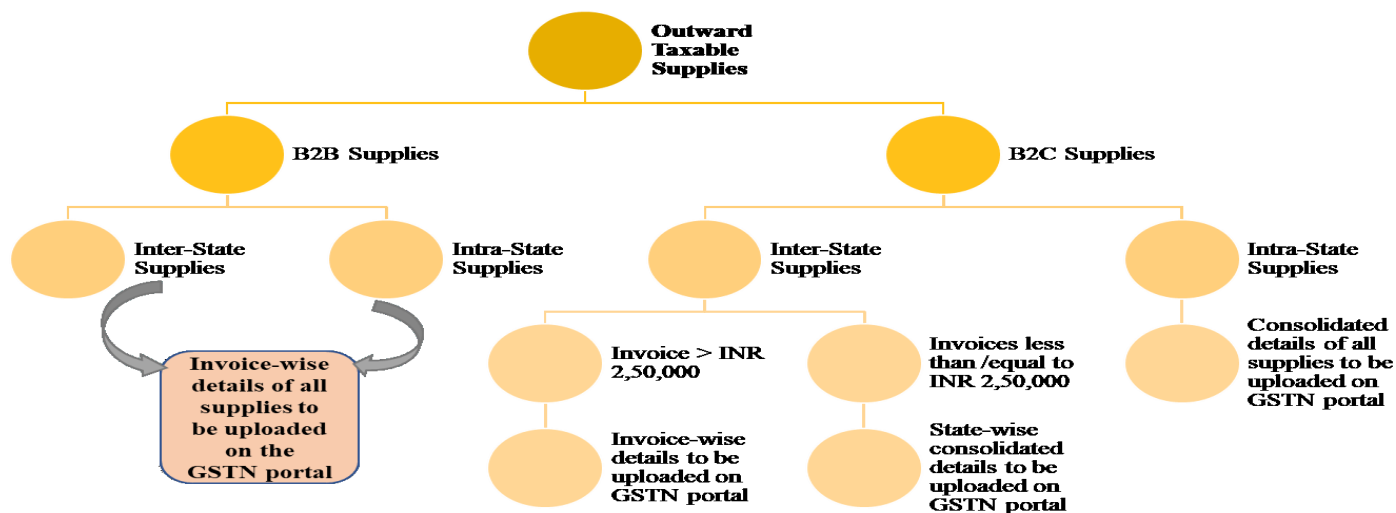
(79) “non-taxable territory” means the territory which is outside the taxable territory.

(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) anybody 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.

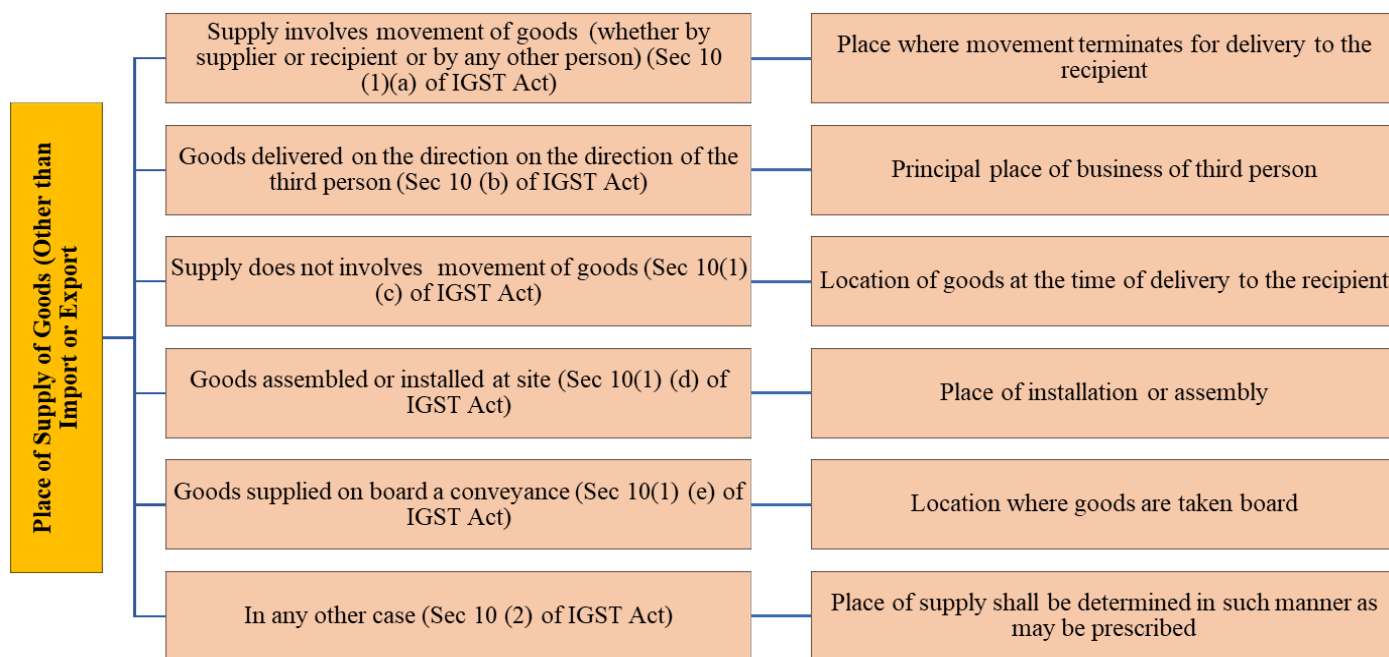
(l) society as defined under the Societies Registration Act, 1860 (21 of 1860).

(m) trust; and

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

(85) “place of business” includes—

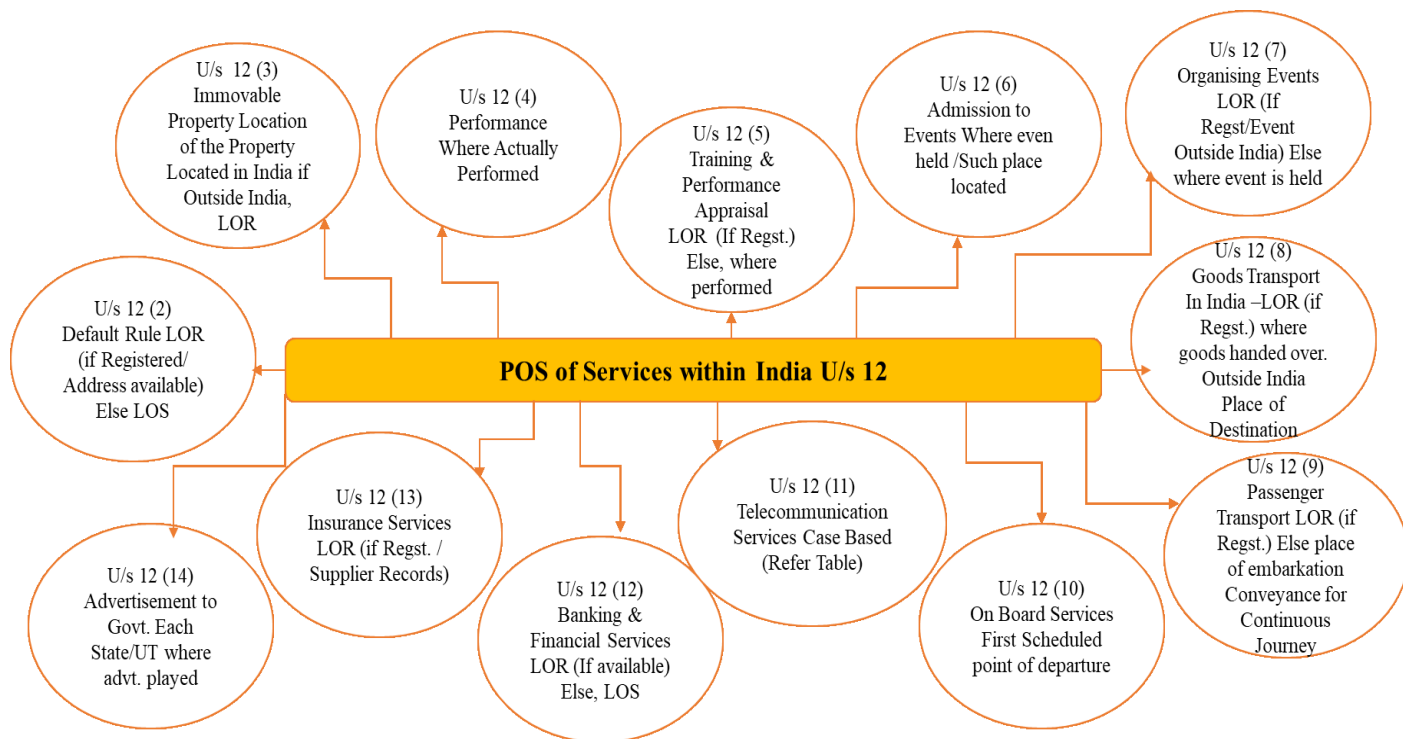
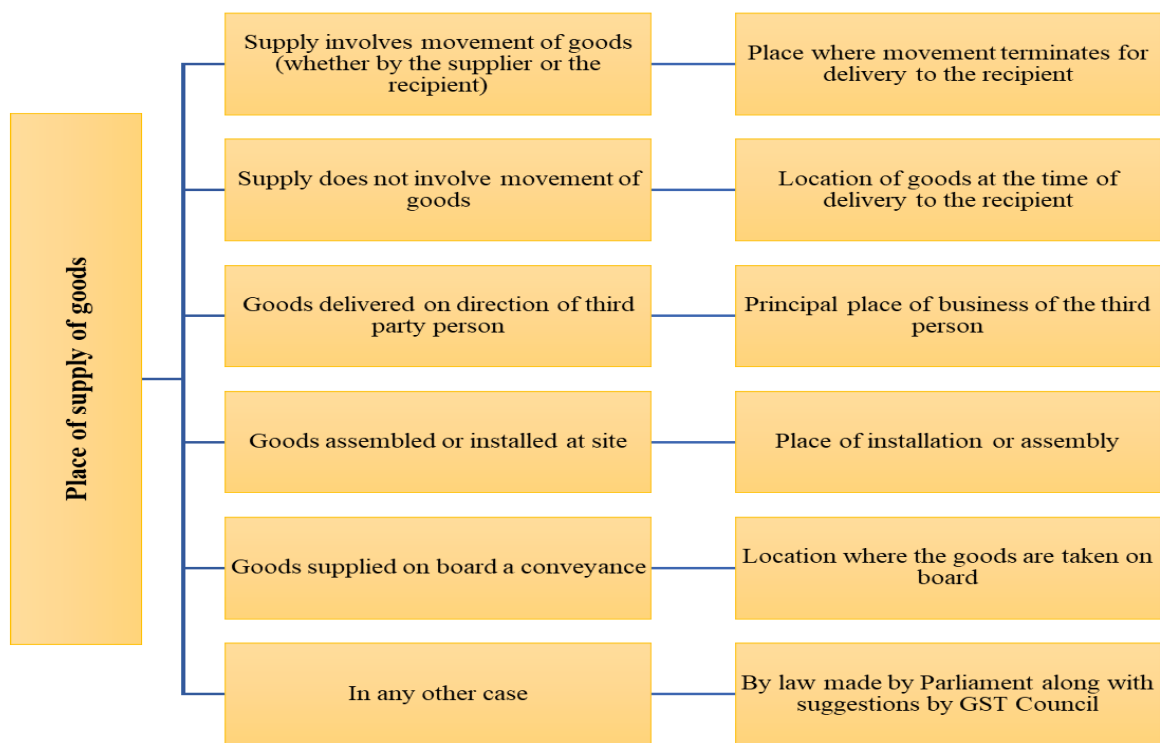
- (a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; and
- (b) a place where a taxable person maintains his books of account; or
- (c) a place where a taxable person is engaged in business through an agent, by whatever name called;



Supply involves movement of goods (Sec (10) (a) of IGST Act, 2017

Nature of Supply	Place of supply of goods
Supply involves movement of goods whether by supplier or recipient or by any other person.	Location of goods at the time at which the movement of goods terminates for delivery to the recipient.

(86) “place of supply” means the place of supply as referred to in Chapter V of the Integrated Goods and Services Tax Act which is as under. Similarly point of sale has also been provided below.



(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 subsection (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.

⁹[Explanation.—For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities;]

Thus, services **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 but **does not include** Goods, Money and Securities.

(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

⁹ Inserted vide Central Goods and Services Tax (Amendment) Act, 2018 w.e.f 01-02-2019

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.

¹⁰[(c) Dadra and Nagar Haveli and ¹¹[Daman and Diu].

(d) Ladakh;]

(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.

¹⁰ Substituted vide [Finance Act, 2020 dated 27-03-2020](#) before it was read as

"(c) Dadra and Nagar Haveli [and Daman and Diu]; [Ladakh was added in (d). (d) was earlier omitted vide UNION TERRITORY OF DADRA AND NAGAR HAVELI AND DAMAN AND DIU CENTRAL GOODS AND SERVICES TAX (AMENDMENT) REGULATION, 2020 dated 24-01-2020 w.e.f. 26-01-2020 before it was read as "(d) Daman and Diu"

¹¹ Inserted vide UNION TERRITORY OF DADRA AND NAGAR HAVELI AND DAMAN AND DIU CENTRAL GOODS AND SERVICES TAX (AMENDMENT) REGULATION, 2020 dated 24-01-2020 w.e.f. 26-01-2020

(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.

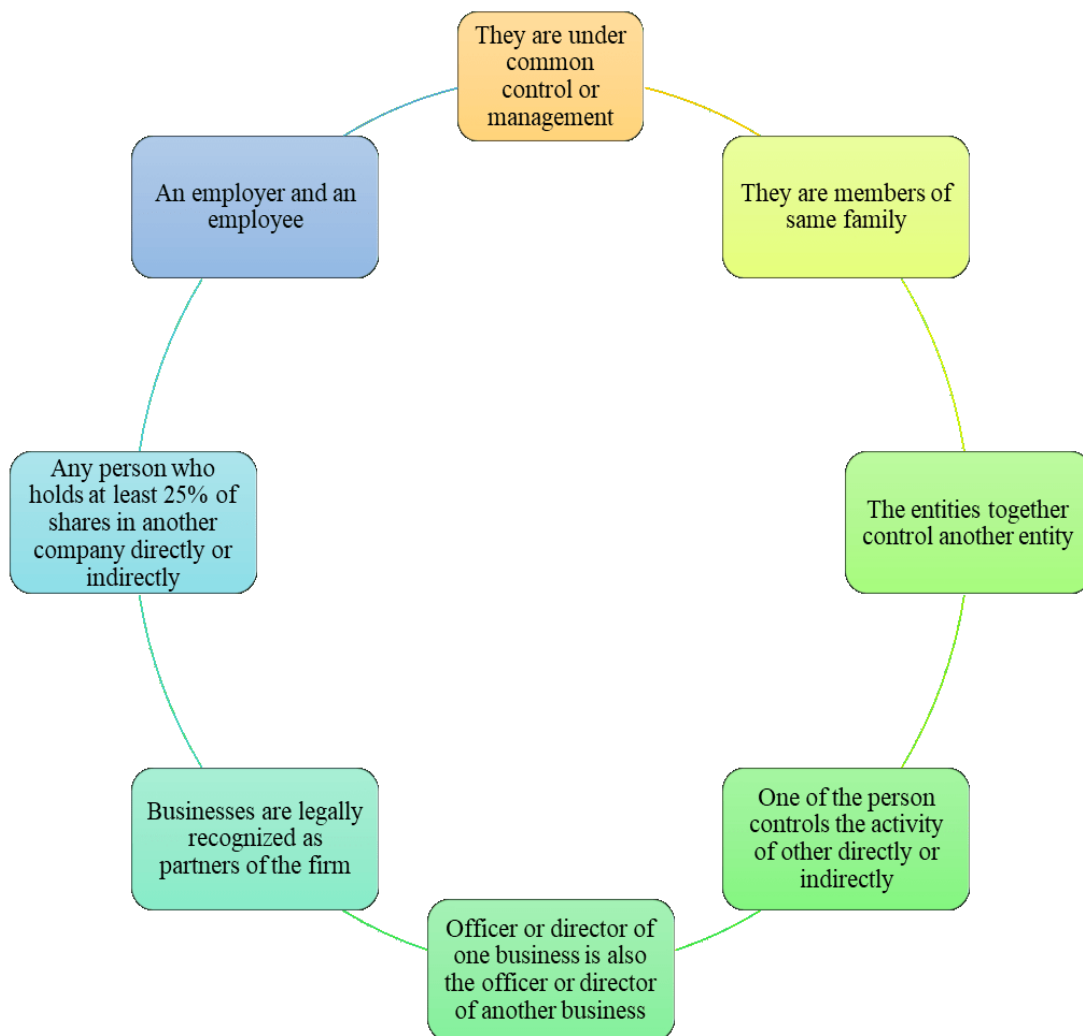
Section 15: Definition of ‘Related Person’ is under

(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 and 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. The above definition can be understood with the help of the following diagram.



1.2 Important Points to be Considered Under GST Audit

The relevant provisions in the Goods and Service Tax Act, 2017 and Goods and Service Rules, 2017 have been briefly provided here for quick reference. However, the audit staff is expected to be well equipped with the provisions of GST Act, Rules, latest notifications and circulars and pronouncement of the GST Council before start of the GST revenue audit. An overview of the GST has been provided in the below diagram.

1.2.1 Who is Required to Get Registered under GST?

Where a person makes a taxable supply of goods and/or services from a state/UT and his aggregate turnover in a financial year exceeds, then the person is required to obtain registration in the state/ UT:

- ▶ INR 10¹² lakhs in special category states i.e., North Eastern States and hill states
- ▶ INR 20¹³ lakhs for supply of services and INR 40¹⁴ Lakhs for supply of goods in other state or UT.

The following types of person liable to be registered under this act.

Taxable Supply >20 Lakh (10 lakhs in NE States)
Assessee making inter-state supply of goods or services
Casual Taxable Person
Non resident taxpayer who supplies and has no fixed place of business in India
Assessee who pays tax under reverse charge mechanism
Agents of person who acts on behalf of supplier
Input Service Distributors
E-Commerce operator or aggregator supplying services
Person who supplies via e-commerce operator
Person deducting TDS under the act

Under the GST there are two types of Registration which is as under:

1.2.1.1 Mandatory Registration

The migrant taxpayers¹⁵ On and from with effect 1st July 2017, every person who was registered or held a license under any of the existing laws and have a valid PAN were compulsory migrated to GST and issued a certificate of registration. An option has been provided to such migrated taxpayers to opt out of GST if they are otherwise not liable to be registered under GST, say for example- being below threshold limit of INR 10 lacs required for GST registration in the state of Uttarakhand. From 1.2.2019 onwards, the limit has been raised to INR 20 lacs. However, following categories of person shall not be required to be registered¹⁶

¹² This threshold limit is subject to change. Therefore, audit staff need refer latest limit.

¹³ This threshold limit is subject to change. Therefore, audit staff need refer latest limit.

¹⁴ This threshold limit is subject to change. Therefore, audit staff need refer latest limit.

¹⁵ Section 22(2), Rule 139

¹⁶ Section 23

- ▶ any person engaged exclusively in the business of supplying goods and/or services not liable to tax or wholly exempt from tax.
- ▶ an agriculturist, to the extent of supply of produce out of cultivation of land.
- ▶ Such categories of persons as may notified by the Government on the recommendations of the GST Council.

Person not liable to be Register U/S 23 of the GST Act

Person exclusively engaged in supply of exempt goods, services or both

An Agriculturist (Only for produce out of cultivation of land)

Category of persons to be notified on recommendation of GST Council

1.2.1.2 Compulsory Registration¹⁷

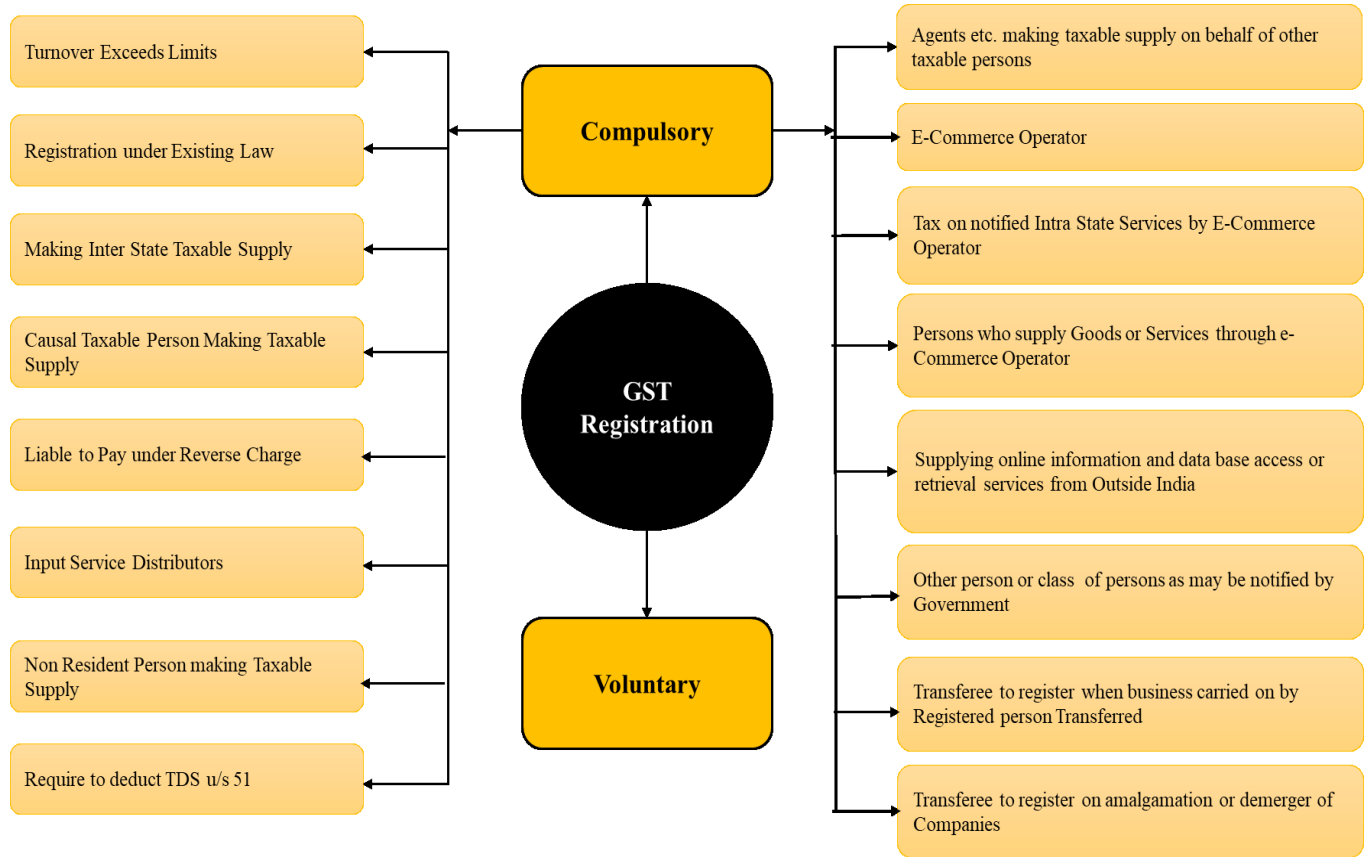
Section 24 overrides section 22(1) in other wards the following categories of person is required to get compulsory registration irrespective of quantum of turnover do not exceed the threshold limit of INR 10 lakhs or 20 lakhs:

- ▶ Persons making any inter-State taxable supply.
- ▶ Casual taxable persons making taxable supply.
- ▶ Persons who are required to pay tax under reverse charge.
- ▶ Person who are required to pay tax under sub-section (5) of section 9.
- ▶ Non-resident taxable persons making taxable supply.
- ▶ Persons who are required to deduct tax under section 51, whether or not separately registered under this Act.
- ▶ Persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or **otherwise**.
- ▶ Input Service Distributor, whether or not separately registered under this Act.
- ▶ 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.
- ▶ Every electronic commerce operator ¹⁸[who is required to collect tax at source under section 52].
- ▶ 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
- ▶ Such other person or class of persons as may be notified by the Government on the recommendations of the Council.

¹⁷ Section 24

¹⁸ Inserted vide Central Goods and Services Tax (Amendment) Act, 2018 w.e.f 01-02-2019

The compulsory registration and voluntary registration can be understood with the following diagram.

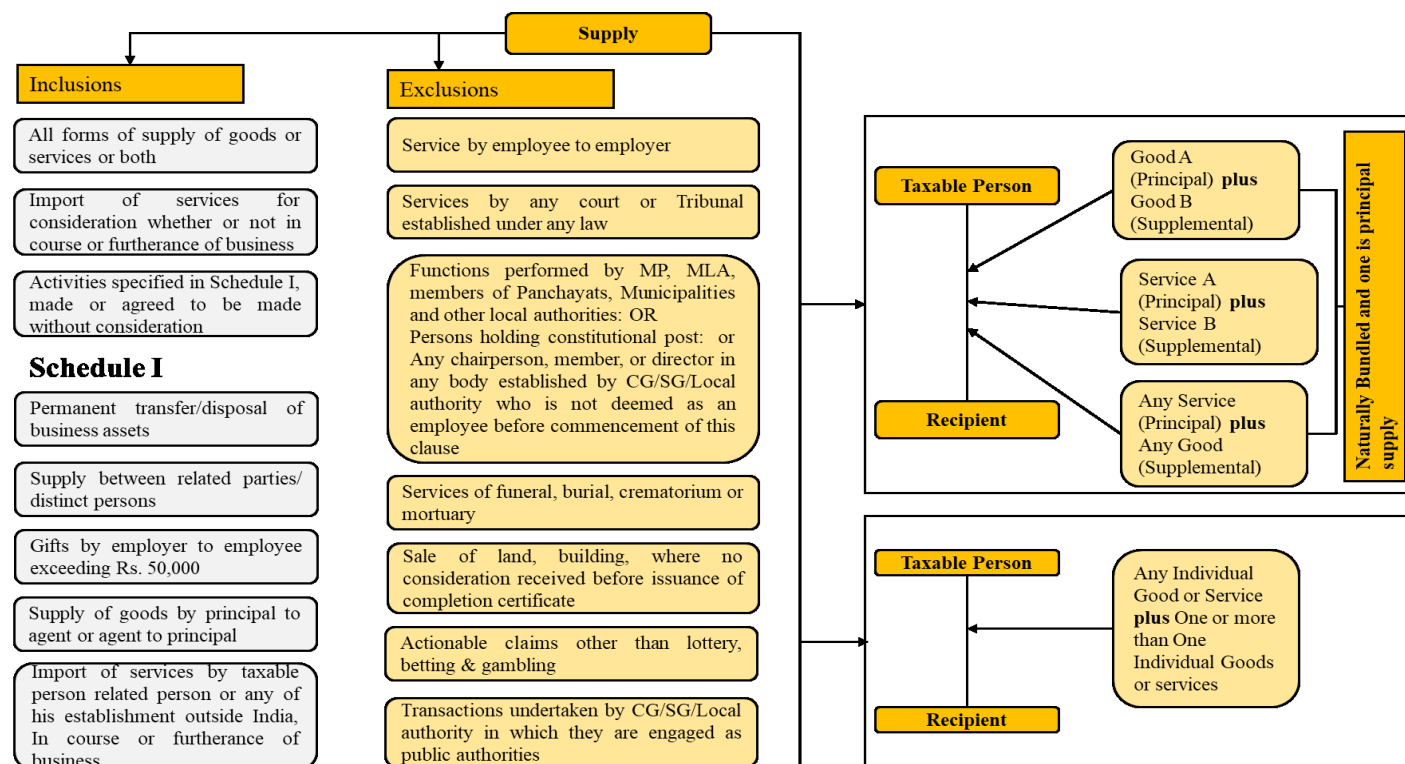


1.2.2 Taxable Events

Under GST regime supply of goods and/or services is the taxable event whereas under the previous indirect tax regime. The taxable event under excise duty was the manufacturing, sales of goods was under VAT and provision of service under Service Tax.

Meaning of ‘Supply’:¹⁹ Supply includes all forms of supply of goods and/or services such as sale, transfer, barter, exchange, license, rental, lease, or disposal made or agreed to be made for a consideration. However, in certain specified situations as mentioned in Schedule-I supplies made without consideration are also supplies. The supply is to be made by a person in the course or furtherance of his business.

Further, import of services are also treated as supply if made for a consideration. Such import of services may or may not be in the course or furtherance of business. If a particular activity or transaction is neither a supply of goods nor supply of services, then such activity or transaction would be non-GST supply and shall be outside the ambit of GST. Similarly, if any activity does not fall within the definition of goods or services, then such activity would also outside the ambit of the GST. For example, money and securities would be outside the ambit of GST. The above can be understood with the following diagram.



¹⁹ Section 7 read with Schedule –I, II and III.

1.2.3 Determination of Nature of Supply

Under GST law, if the supply is within the state (i.e., intra-state), then Central Goods and Services Tax (CGST) plus State Goods and Services Tax (SGST) shall be levied. If the supply is outside the state (i.e., Inter-state), then Integrated Goods & Services Tax (IGST) shall be levied.

To determine whether a supply is intra-state or inter-state, place of supply provisions need to be looked into before arriving at a conclusion as to which tax is to be levied. Place of Supply (POS) provisions have the twin objective of determining whether a transaction is deemed to be in India or Outside India as well as to determine the State/Union Territory in which the levy will accrue.

Basically, if the location of the supplier²⁰ and place of supply are in two different states/Union Territories (UT), then the supply will be inter-state and if these are within the same state/UT, then the supply will be intra-state. Import and export are treated inter-state supplies and hence IGST is leviable on that except when export is made without payment of tax against bond/Letter of Undertaking (LUT). Supply to a Special Economic Zone (SEZ) developer/unit or supply by a SEZ developer/unit shall also be treated inter-state supplies except when supply to SEZ is made without payment of tax against bond/Letter of Undertaking (LUT).

The POS under GST generally follows the destination principle. However, to take care of international best practices as well as to ensure that the States get their dues, some exceptions are there in goods and bit more in services.

1.2.4 Time & Value of Supply

1.2.4.1 Time of Supply of Goods and Services

The liability to pay tax under GST arise at the time of supply of goods and services determined in accordance with the provisions of the GST law which has been summarised as under:

Supply of	Time of Supply
Goods ²¹	<p>Earlier of the following dates:</p> <p>(a) the date of issue of invoice or the last due date as per section 31; or</p> <p>(b) the date of receipt of payment*</p> <p>However, GST is not payable on advance received against supply of goods*:</p> <ul style="list-style-type: none"> ²² w.e.f 13.10.17, by a registered person whose aggregate turnover in the preceding or current FY is up to 1.50 crores and who is not a composite taxpayer.

²⁰ Location of supplier of goods is not defined under GST law. Location of Supplier of services is defined in Section 2(71)

²¹ Section 12(2)

²² N. No. 40/2017-CT dated 13.10.2017

Supply of	Time of Supply	
	<ul style="list-style-type: none"> ²³ w..e..f 15.11.17, by all taxpayers. 	
Services²⁴	Circumstances	Time of Supply
	If invoice is issued within the period prescribed u/s 31	Date of issue of invoice or the date of receipt of payment, whichever is earlier
	If invoice is NOT issued within the period prescribed u/s 31	Date of provision of service or the date of receipt of payment, whichever is earlier
	If both the above provisions do not apply	Date on which the recipient shows the receipt of services in his books of account.

Table 1: Defining time of Supply

Example: The service has been provided on 15.01.2020, as per section 31 the invoice has to be issued within 30 days from the date of the services i.e., 14.02.2020.

If the invoice is issued on 14.02.2020 (i.e., within the prescribed period), the time of supply shall be 14.02.2020 and this date will trigger the liability to pay the tax. The tax has to be paid on or before the due date of filing of return for the month of February 2020 i.e., 20th or 24th of March 2020 as the case may be.

However, if invoice is issued 18th February 2020 (i.e., after the prescribed period), the time of supply shall be the date of provision of service i.e., 15th January 2020 and this date will trigger as the liability to pay the tax. Accordingly, the tax has to be paid on or before the due date of filing of return for the month of January 2020 i.e., 20th or 24th of February 2020 as the case may be.

1.2.4.2 Time of Supply (TOS) in case of Reverse Charge

In case of reverse charge, the time of supply shall be the **earliest of the following dates:**

In case of Goods ²⁵	In case of Services ²⁶
(a) the date of the receipt of goods; or	(a) the date of entry of payment by recipient or the date of debit in his bank account, whichever is earlier; or
(b) the date of entry of payment by recipient or the date of debit in his bank account, whichever is earlier; or	(b) the date immediately following <u>60 days</u> from the date of issue of invoice/ any other document by the supplier If TOS not determinable as above, then date of entry in the books of account of the recipient.
(c) the date immediately following <u>30 days</u> from the date of issue of	

²³ N. No. 66/2017-CT dated 15.11.2017

²⁴ Section 13(2)

²⁵ Section 12(3)

²⁶ Section 13(3)

In case of Goods ²⁵	In case of Services ²⁶
invoice/ any other document by the supplier	
If TOS not determinable as above, then date of entry in the books of account of the recipient.	

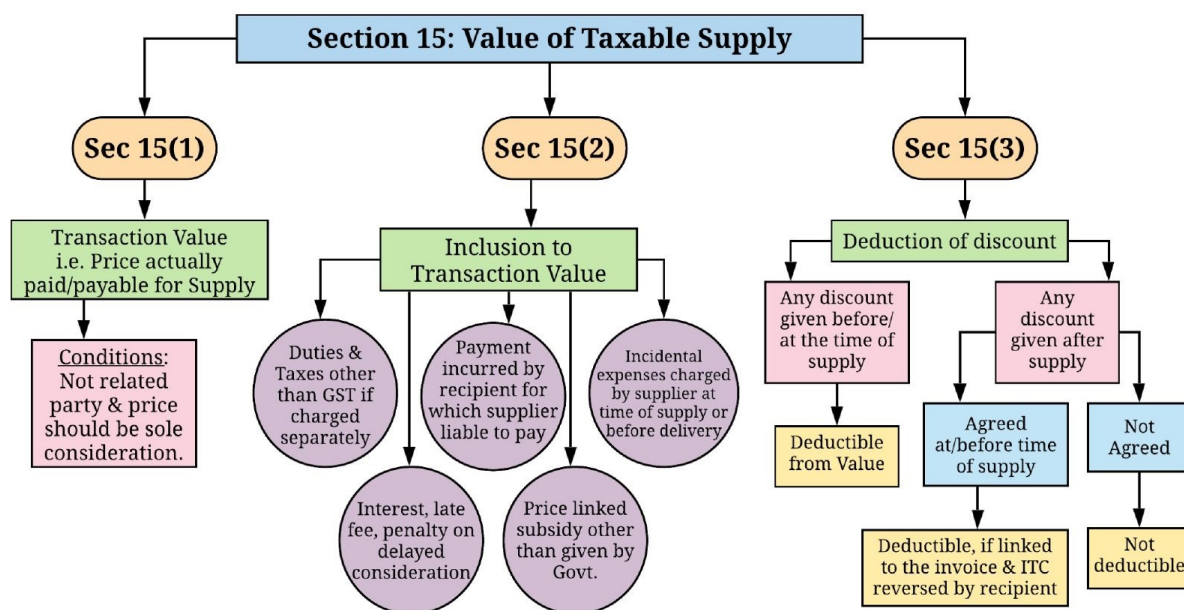
1.2.4.3 Interest, Late Fee or Penalty²⁷

If supplier receives **interest, late fee, or penalty** for delayed payment of any consideration against goods or services, the time of supply in this case shall be the date when supplier receives such payment.

1.2.4.4 Value of Supply for Goods and Services

Value of a supply under GST shall be the transaction value. ‘**Transaction Value**’ means the price actually paid or payable for the supply of goods and/or services. However, adoption of transaction value for the purpose of GST levy is subject to two conditions:

- ▶ Supplier and the recipient of the supply should not be related²⁸; and
- ▶ Price is the sole consideration for the supply.



²⁷ Interest and late fee

²⁸ For meaning of ‘Related Person’ under GST law, please refer definition chapter [Explanation to Section 15].

However, where both the above conditions are not satisfied then the transaction value shall be determined in the manner prescribed in Rule 27 to 35 (as explained in the following paragraph). The Government has also reserved the right to specify valuation methods in respect of supplies as may be notified by the Government on the recommendation of the GST Council.

The transaction value shall include²⁹ the following:

S. No.	Inclusion	Remarks
(a)	Any taxes, duties, cesses, fees, and charges levied under any law other than GST	If charged separately by the supplier
(b)	Any amount incurred by the recipient	Which supplier was liable to pay and not included in the price
(c)	Any amount charged by the supplier	(i) For incidental expenses including commission, packing etc.; and (ii) for anything done in respect of the supply at the time of or before delivery of goods or supply of services
(d)	Interest or late fee or penalty	For delayed payment of consideration
(e)	Subsidies linked to the price	Other than Central/ State Government subsidies. [The amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy]

The transaction value shall not include³⁰ the following:

S. No.	Exclusion (any discount)	Remarks
(a)	Given before or at the time of the supply	If such discount is duly recorded in the invoice issued in respect of such supply
(b)	Given after the supply has been affected	(i) if such discount is: <ul style="list-style-type: none"> ❖ in terms of an agreement entered into before or at the time of such supply; and ❖ specifically linked to relevant invoices; and (ii) the recipient has reversed the input tax credit (ITC) attributable to such discount

²⁹ Section 15(2)

³⁰ Section 15(3)

S. No.	Exclusion (any discount)	Remarks
		on the basis of document issued by the supplier.

1.2.4.5 Valuation Rules³¹ (Rule 27- 35 of GST Rules)

Where the supplier and the recipient of the supply are related person³² and/or price is not the sole consideration for the supply in such case value of supply would be determined in the manner provided below by following the provisions of Rule 27 to 35:

S. No.	Determination of value of supply in case of
Rule 27	Goods or services where the consideration is not wholly in money
Rule 28	Goods and/or services between distinct or related persons, other than through an agent
Rule 29	Goods made or received through an agent
Rule 30	Goods and/or services based on cost
Rule 31	Goods and/or services (Residual method)
Rule 31A	Lottery, betting, gambling, and horse racing
Rule 32	Certain supplies, at the option of supplier, such as: (1) purchase or sale of foreign currency, including money changing (2) booking of tickets for travel by air provided by an air travel agent (3) Life Insurance business (4) Buying and selling of second-hand goods (5) value of a token/voucher/coupon/stamp(other than postage stamp) which is redeemable against a supply of goods and/or services
Rule 32A	Value of supply in cases where Kerala Flood Cess is applicable
Rule 33	Value of supply of services in case of pure agent
Rule 34	Rate of exchange of currency, other than Indian rupees, for determination of value
Rule 35	Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax

Note: Please refer above valuation Rules for a detailed understanding about how to arrive at the valuation in above cases.

³¹ Section 15(4)

³² For meaning of 'Related Person' under GST law, please refer Explanation to Section 15.

Value of goods and/or services u/s 15 = Transaction Value when supply is made to unrelated person and price is the sole consideration. When value cannot be determined u/s 15, the same will be determined using Valuation Rules.

Valuation Rules

<p>RULE 1 : Where the consideration is not wholly in money Value shall be either of the following in the given order</p> <ul style="list-style-type: none"> • open market value • total of consideration in money + amount equal to the consideration not in money • value of supplies of like kind and quality • Consideration in money + money value of consideration as per rule 4 or 5 in that order. 	<p>RULE 3 : When supply made or received through an agent Value shall be either of the following in the given order:</p> <ul style="list-style-type: none"> • open market value or 90% of price charge by recipient to his unrelated customer for supplies of like kind and quality; • value as per rule 4 or 5 in that order. 	<p>RULE 6 : Value of supply in respect of certain supplies</p> <ul style="list-style-type: none"> • Purchase/sale of foreign currency: When exchanged from, or to, (INR), value = [Buying rate/Selling rate – RBI reference rate at that time] x total units of currency. If no RBI reference rate, value = 1% of INR received/provided. If the currencies exchanged are not in INR, value = 1% of lesser of two amounts that would have been received by converting any of two currencies into INR at RBI reference rate. OR specified % for different slabs of the gross currency exchanged. • Booking of tickets by air travel agent: Value = 5% of basic fare for domestic bookings, and 10% of the basic fare for international bookings. • Life insurance business: Value = gross premium charged from a policy holder reduced by amount allocated for investment OR specified % of premium in 1st and subsequent years. • Buying & selling of second hand goods: Value = Selling price – Buying price (ignore if value is -ve). • Coupon/voucher: Value = money value of supplies redeemable against such voucher/coupon. • Notified supplies under Entry 2 of Schedule 1: Value = Nil
<p>RULE 2 : Where supply is between distinct or related persons, other than agent Value shall be either of the following in the given order:</p> <ul style="list-style-type: none"> • open market value • value of supplies of like kind and quality • value as per rule 4 or 5 in that order. 	<p>RULE 4 :Value of supply based on cost Value shall be 110% of cost</p>	
<p>RULE 8 : Rate of exchange of currency, other than Indian rupees, for determination of value It shall be applicable reference rate for that currency as determined by the RBI on the date when point of taxation arises in respect of such supply.</p>	<p>RULE 5 : Residual method for determination of value of supply Value shall be determined using reasonable means consistent with the principles and general provisions of section 15 & valuation rules. For services, rule 5 can be adopted before rule 4.</p> <p>RULE 7: Value of supply in case of pure agent Costs incurred by the supplier as a pure agent of recipient shall be excluded from value of supply.</p>	

1.2.5 GST Rates

Owing to unique Indian socio-economic situation, the Government has adopted four rates namely, 5%, 12%, 18% and 28%. Besides, some goods and services were exempted³³ either absolutely or subject to certain conditions. Rate for precious metals and affordable housing are an exception to four-tax slab-rule and the same has been fixed at 3% and 1% respectively. In addition, unworked diamonds, precious stones, etc. attracts a low levy of 0.25%. A cess over the peak rate of 28% on certain specified luxury and demerit goods, like tobacco and tobacco products, pan masala, aerated water, motor vehicles has also been imposed to compensate states for any revenue loss on account of implementation of GST.

The GST rate has been provided in the below:

Items	GST Rate ³⁴
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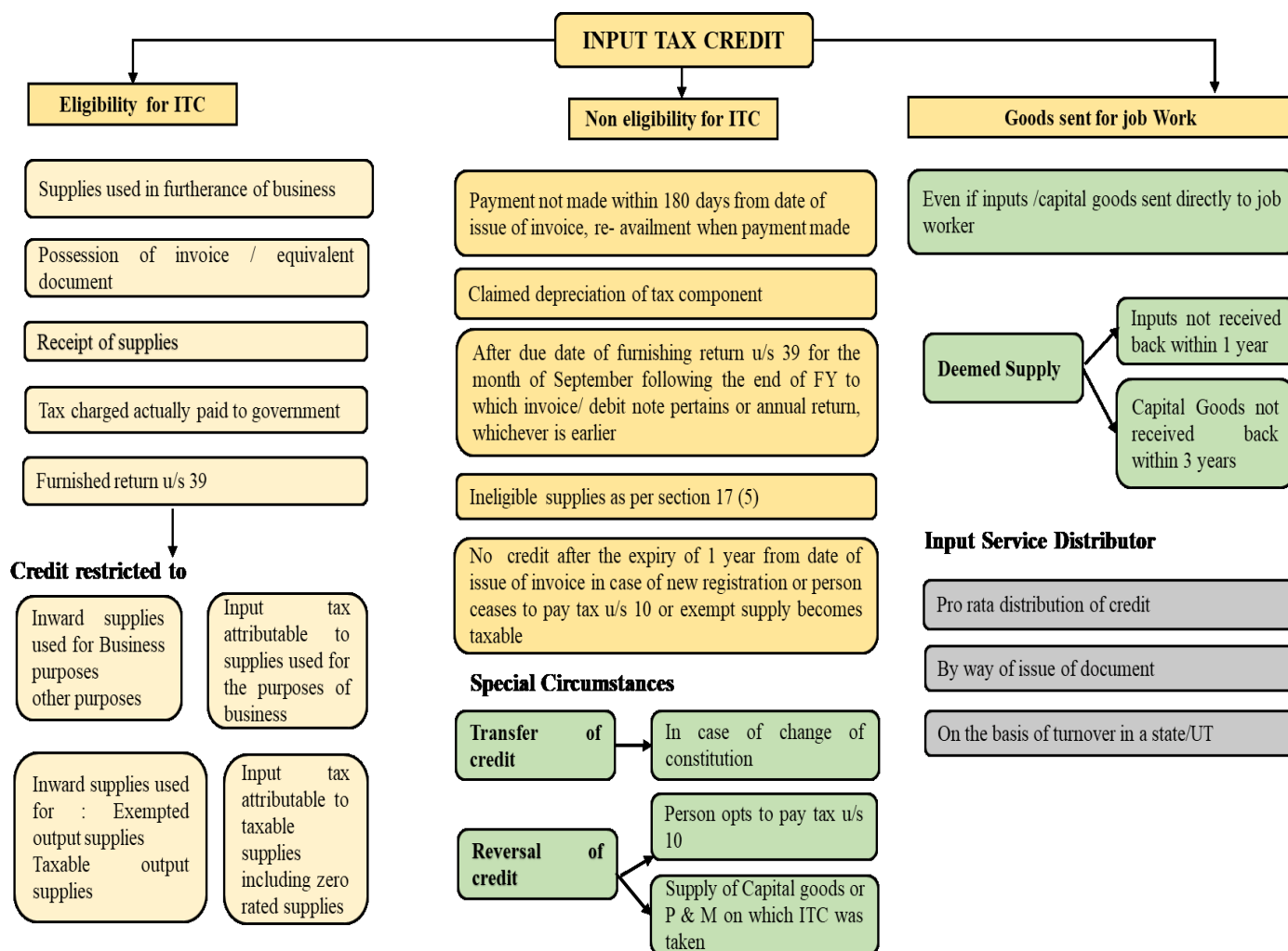
³³ Section 11 and N. No. 02/2017-CT (Rate) (Schedule I to VI) for goods and 12/2017-CT (Rate) for services

³⁴ These rates are subject to change as decided by the GST council

Agri related goods	0%
Rough diamonds	0.25%
Agri Priority goods & Common use items	5%
Agri Aerated drinks, luxury cars, cigarettes etc. + Compensation Cess	28%
Gold, precious stones, imitation jewellery	3%
Residual Standard Rates	12% to 18%

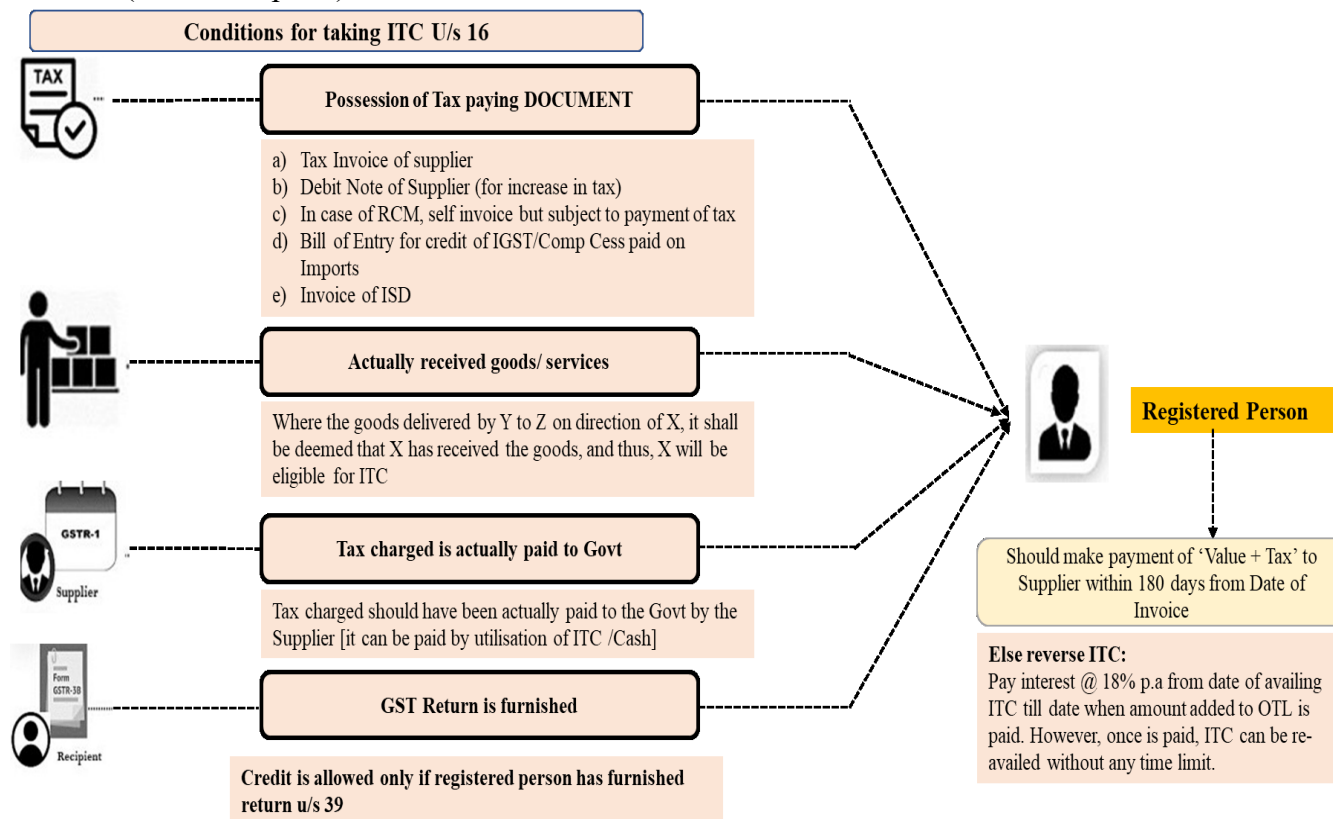
1.2.6 Input Tax Credit (ITC)

One of the fundamental features of GST are seamless flow of input credit across the chain i.e., from the manufacture of goods till it is consumed and across the country. Which means if you are a manufacturer, supplier, agent, e-commerce operator, aggregator or any of the persons registered under the GST Act, you are eligible to claim input tax credit for tax paid by you on your purchases while make the payment of GST. The overview for GST input credit have been summarised below:



And the condition for availing of input tax credit by the taxpayer is as under:

- ▶ such goods and/or services are used or intended to be used in the course or furtherance of his business.
- ▶ he is in possession of a tax invoice/debit note issued by a registered supplier or other prescribed tax paying documents, such as Bill of entry, ISD invoice, self-invoice etc.
- ▶ he has received the goods or services or both.
- ▶ the tax charged in respect of such supply has been actually paid to the Government; and
- ▶ he (means recipient) has furnished GSTR-3B.

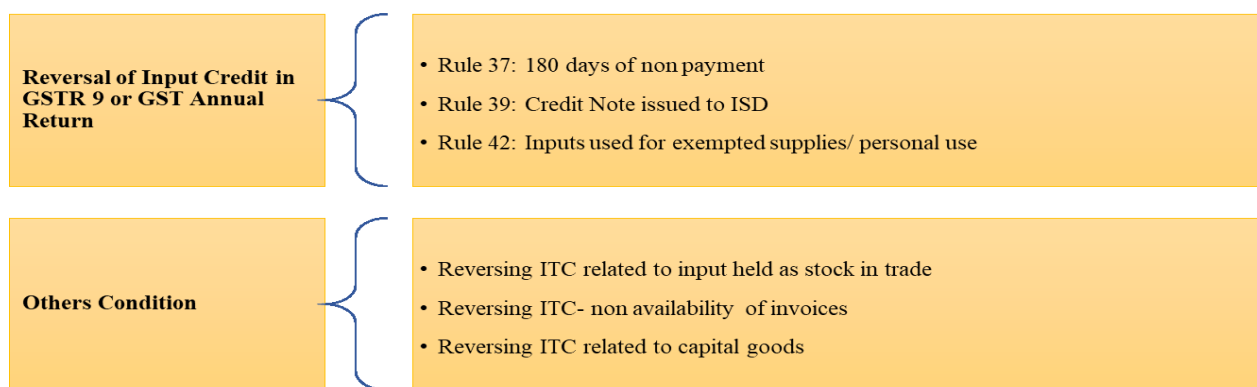


1.2.6.1 Reversal of Tax Credit

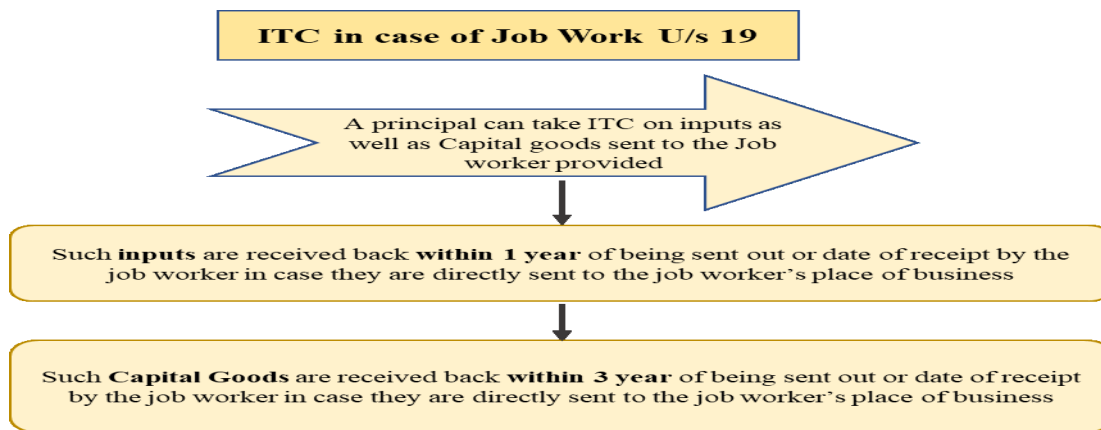
As mentioned above, the input tax credit can be availed only on goods and services used for business purposes. In other words where goods or services are used for non-business (personal) purposes, or for making exempt supplies, the input tax credit cannot be claimed. However, in the following situations input tax credit will be reversed will be reversed.

- ▶ **Non-payment of invoice within 180 days:** Where a recipient fails to pay to the supplier the value of supply and tax thereon within 180 days from the invoice date, the amount of ITC availed by dealer shall be added to output tax liability along with interest thereon (Not applicable on supplies on which reverse charge is applicable). However, the dealer shall be entitled to avail ITC when recipient subsequently makes the payment along with tax.

- ▶ **Inputs partly for business purpose and partly for exempted supplies or for personal use:** Where the inputs for both business and non-business (personal) purpose, then the portion of ITC, used for the personal purpose must be reversed appropriately.
- ▶ **Goods partly for business and partly for exempted supplies or for personal use: In this** This is similar to above. *Further, no ITC will be allowed if depreciation has been claimed on tax component of capital goods.*
- ▶ **ITC reversed is less than required:** This is calculated after the annual return is furnished. If total ITC on inputs of exempted/non-business purpose is more than the ITC actually reversed during the year, then the difference amount will be added to output liability and interest shall be charged.



- ▶ **ITC on Job Work:** A principal manufacturer may send goods for further processing to a job worker provided that goods sent must be received back by the principal within one year (3 year for capital goods). If the principal fails to receive back the goods within the stipulated time, then ITC availed by the principal has to be reversed. For example, a shoe manufacturing company sends half-made shoes (upper part) to job workers who will fit the soles. In such a situation the principal manufacturer will be allowed to take credit of tax paid on the purchase of such goods sent on job work.



1.2.6.2 Time Limit for Availing Input Tax Credit (ITC)

A registered person shall not be entitled to take ITC after the due date of furnishing of the return under section 39 (i.e., GSTR 3B) for the month of September following the end of financial year to which such invoice or debit note pertains **or** furnishing of the relevant annual return, whichever is earlier.

For example: ITC in respect of an invoice dated 15.03.2020 (FY 2019-20) can be claimed up to the due date of filing of GSTR 3B for the month of September 2020 i.e., up to 20th or 24th October 2020 as the case may be assuming that annual return for FY 2019-20 has been filled after the due date.

The **value of exempt supply³⁵ for the purpose of ITC reversal shall include:**

- ▶ Outward supplies by the supplier on which recipient is liable to pay tax under RCM.
- ▶ Transactions in securities.
- ▶ Sale of land; and
- ▶ Sale of completed buildings

The value of exempt supply for the purpose of ITC reversal shall NOT include:

- ▶ Value of activities or transactions specified in Schedule III (Other than para 5 of the said Schedule).
- ▶ Construction services under clause (b) of para 5 of Schedule II

Note: ITC reversal of input and input services is to be done as per Rule 42 and of capital goods as per Rule 43.

1.2.6.3 Blocked Credits³⁶

While the free flow of input tax credit is backbone of GST law for eliminating cascading effects of taxes. However, Section 17(5) of UKGST ACT, 2017 specifies certain goods and services as blocked credit. In other wards a taxable person is not eligible to take Input Tax Credit (ITC) on these specified goods and services, which has been summarized as under.

ITC Blocked	Exceptions (means ITC allowed)
On Purchase of Passenger motor vehicles having approved seating capacity of up to 13 persons (including the driver, e.g. cars), vessels and aircrafts	If used for: <ul style="list-style-type: none"> • further supply of such motor vehicles (e.g. distributor/ lessors of Motor Vehicles), vessels or aircraft; or • transportation of passengers (e.g. cab operators); or • imparting training on driving such motor vehicles, navigating such vessels, or flying such aircraft (e.g. training schools, academies providing such training); or • transportation of goods by vessels or aircrafts

³⁵ Section 17(3)

³⁶ Section 17(5)

ITC Blocked	Exceptions (means ITC allowed)
	Further, there is no restriction on availability of ITC on other motor vehicles (e.g. goods vehicles, dumpers etc.), passenger motor vehicles having seating capacity of more than 13 persons (e.g. bus). Businesses like transportation/logistic, construction, mining, manufacturing, catering etc. can avail ITC on other motor vehicles. However, if the same businesses say, purchase a car, then ITC thereon shall not be allowed unless and until it is used for the transportation of passengers.
Services of General insurance, Servicing, repair, and maintenance in respect of passenger motor vehicles, vessels, or aircraft	If: <ul style="list-style-type: none"> • used in passenger motor vehicles, vessels or aircrafts which are used for the above specified purposes. • received by a manufacturer or a supplier of general insurance services
Leasing, renting, or hiring services in respect of passenger motor vehicles, vessels, or aircraft	If: <ul style="list-style-type: none"> • used for making an outward taxable supply of the same category or as an element of a taxable composite or mixed supply (e.g. such services availed by a cab-operator company) • employer under obligation to provide such services to its employees under any law for the time being in force
Food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, life insurance and health insurance	If: <ul style="list-style-type: none"> • used for making an outward taxable supply of the same category or as an element of a taxable composite or mixed supply • employer under obligation to provide such services to its employees under any law for the time being in force
Membership of a club, health, and fitness center	If employer under obligation to provide such services to its employees under any law for the time being in force
Travel benefits extended to employees on vacation such as leave or home travel concession	If employer under obligation to provide such services to its employees under any law for the time being in force
Works contract services for construction/re-construction/renovation/	If used for:

ITC Blocked	Exceptions (means ITC allowed)
additions/alterations/repairs of an immovable property capitalized in the books of accounts	<ul style="list-style-type: none"> • further supply of works contract service (e.g. works contract services availed by builder before completion of building/main contractor from sub-contractors) • plant and machinery
Goods or services or both received for construction of an immovable property on own account including when used in the course or furtherance of business	If used for plant & machinery
Goods and/or services: <ul style="list-style-type: none"> • on which tax paid under composition scheme. • received by a non-resident taxable person except on goods imported by him. • used for personal consumption 	
Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples	
Any tax paid in accordance with the provisions of sections 74, 129 and 130	

Explanation: 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 and/or services and includes such foundation and structural supports but excludes:

- ▶ land, building or any other civil structures.
- ▶ telecommunication towers; and
- ▶ pipelines laid outside the factory premises.

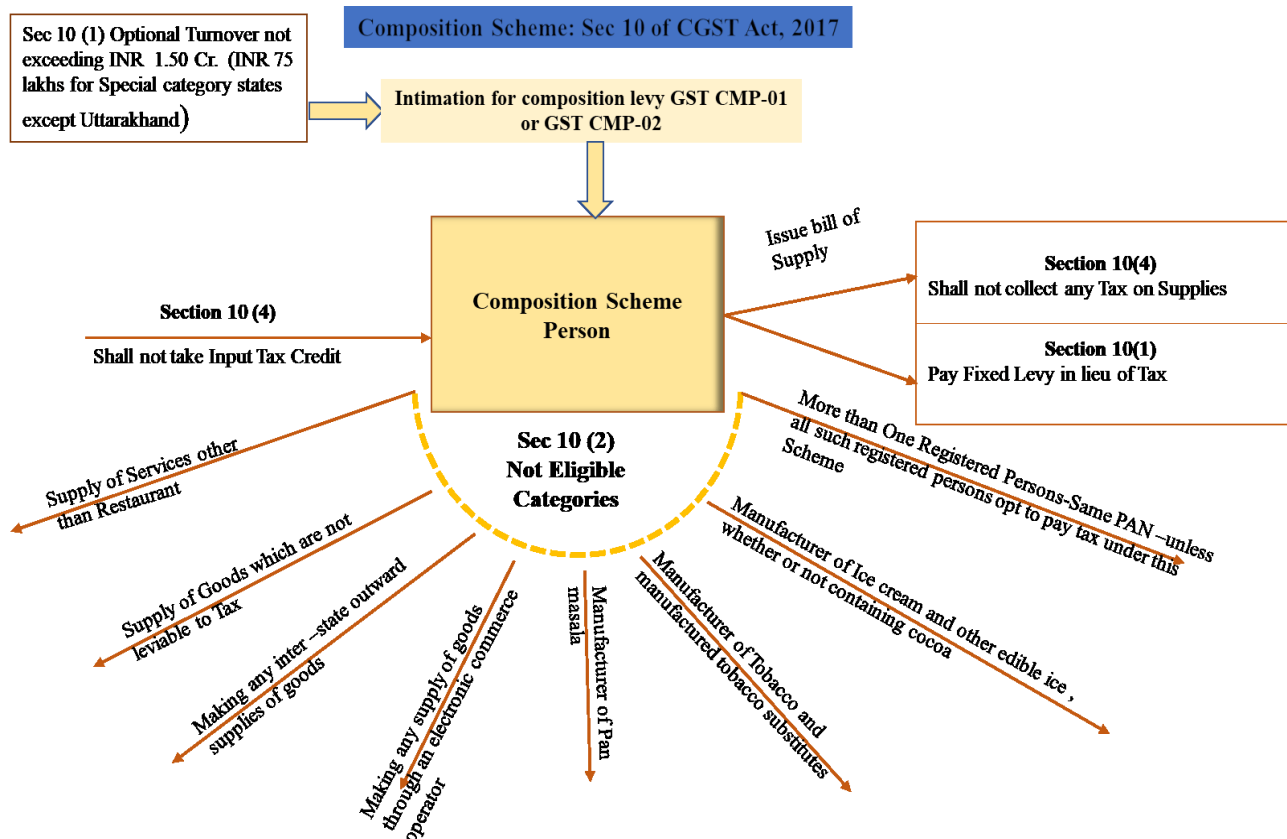
1.2.7 Composition Scheme

A scheme which is made for the benefit of small dealer, small manufacturer and small service provider by reducing their burden of compliances. **Like;** number of returns, less maintenance of books and records as compared to general dealer.

▶ Who can opt for Composition dealer?

- Only persons who deals in goods can opt for such scheme. Manufacturers can also opt for composition scheme, although manufacturers of ice-cream, pan masala and tobacco are not eligible for this scheme. Service providers are kept outside the scope of the scheme, although restaurants who does not serve alcohol can opt for the composition scheme.

- Persons whose Aggregate Turnover in the preceding financial year **does not exceeds INR 1.5 crore** are only eligible under this scheme. For persons in state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Himachal Pradesh this limit will be INR 75 lakhs.



► **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

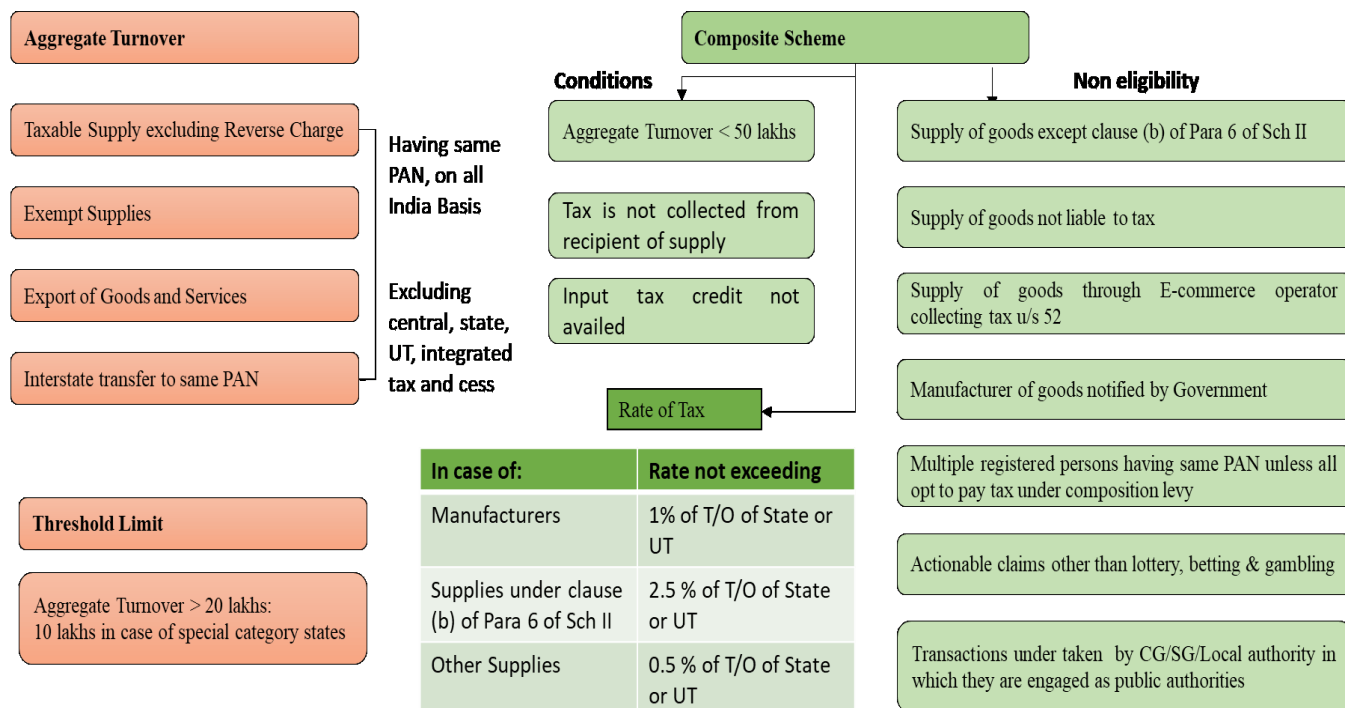
of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess. [Section 2 (6)]

► **Rate of Tax:** Three rates are defined for composition scheme

Particulars	SGST	CGST	Total
For Manufacturers	0.5%	0.5%	1%
Restaurants nor Serving Alcohol	2.5%	2.5%	5%
Any Other Supplier	0.5%	0.5%	1%

► **Terms and Conditions to opt for composition**

- Composition scheme will be available for all businesses registered under single PAN. A Supplier is required to opt composition scheme for all business registered under his PAN.
- Supplier shall not be engaged in making interstate outward supply.
- Supplier shall not be engaged in making any supply of goods which are not leviable to tax under the Goods and Service Tax Act.
- The supplier shall not make any supply through e commerce operator.
- The supplier is required to mention “Composition Taxable person not eligible to collect tax on supplies” on the Invoice.
- The supplier is required to mention “Composition Taxable Person” on every notice, signboard displayed at all place of business.
- The supplier should not be a Casual Taxable Person or Non-resident Taxable Person.
- The supplier is required to pay tax on reverse charge basis as provided in Section 9(3) i.e. Inward Supplies from notified persons and Section 9 (4) i.e. Inward Supplies from unregistered person.
- The supplier shall not be a manufacturer of goods as notified in Section 10(2)(e).
- Stock as on appointed day have not been purchased in the course of
 - Inter State Trade or commerce
 - Imported from a place outside India
 - received from his branch situated outside the state
 - received from his agent or principal outside the state
- If the supplier has stock as on appointed day which is purchased form unregistered dealer then the supplier is required to pay tax under reverse charge according to subsection 4 of section 9 otherwise, he is not entitled to opt composition schemes



“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 Taxable supply has been broadly defined and means any supply of goods or services or both which is leviable to tax under the Act
 “non-taxable supply” means a supply of goods or services or both which is not leviable to tax under CGST Act or under the IGST Act.
 Sec 9 (1) (2) excludes levy on the supply of alcoholic liquor for human consumption, the supply of petroleum crude, high speed diesel, petrol, natural gas and ATF
 “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 IGST Act, and includes non-taxable supply.

For Example:

Mr. A is running a consulting firm and also a readymade garment showroom which are registered in same PAN. Turnover of the showroom is INR 56 lakh and Receipt of the consultancy firm is INR 12 Lakh in the preceding financial year.

- Whether Mr. A is eligible for Composition Scheme? Whether there is any difference if Mr. A want to opt for composition only for Showroom.**
- If instead of consulting agency Mr. A is running a Restaurant, whether he is eligible for composition?**
- If the turnover of garment showroom is 100 Lakh in the preceding financial year and there is no consulting firm whether he is eligible for Composition?**

Aggregate turnover includes all supplies made by all the persons registered under the single PAN. Exempt supply is included in the definition of aggregate turnover and non-taxable supply is included in the definition of exempt supply. Hence non-taxable supply is also included in aggregate turnover. Service providers are not eligible for Composition.

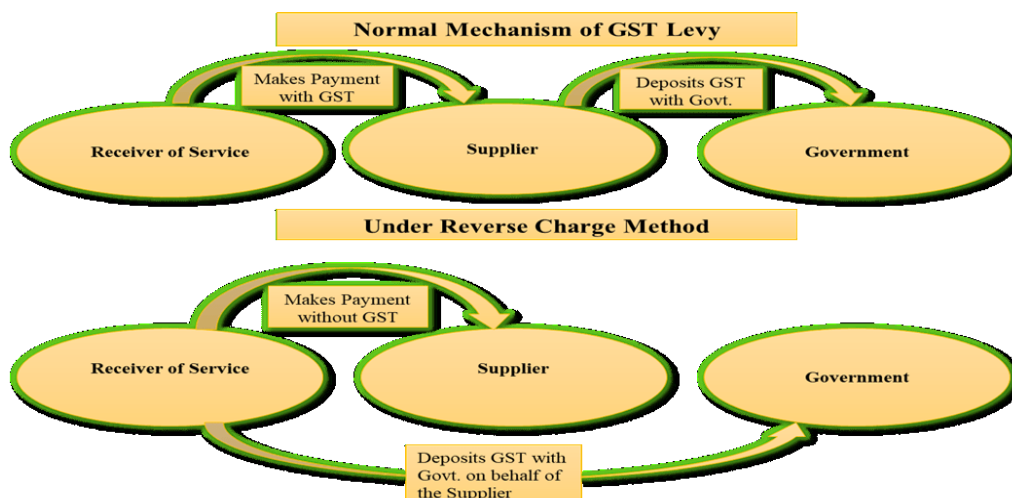
a) Mr. A is providing services in consulting firm hence he is not eligible for composition scheme. If a business is ineligible to opt for composition, then all other business registered under the same PAN shall automatically ineligible for the composition scheme. So Mr. A is not eligible for composition scheme only for showroom also.

- b) Restaurant services are eligible for the composition scheme. Hence Mr. A is eligible for Composition Scheme.
- c) Yes, Mr. A is eligible for composition scheme as turnover of his firm does not exceed INR 150 lakhs in the preceding F.Y

1.2.8 Reverse Charge Mechanism under GST

► **What is Reverse Charge Mechanism?**

In the normal course of taxability in GST liability to pay GST is on supplier on supply of Goods or services but in some cases recipient of goods or services are liable to pay GST i.e., the chargeability gets reversed.



► **Applicability of Reverse Charge Mechanism**

A. **Supply from an Unregistered dealer to a Registered dealer** - If a vendor who is not registered under GST, supplies goods to a person who is registered under GST, then Reverse Charge would apply. This means that the GST will have to be paid directly by the receiver to the Government instead of the supplier. The registered dealer who has to pay GST under reverse charge has to do self-invoicing for the purchases made. For Inter-state purchases the buyer has to pay IGST. For Intra-state purchased CGST and SGST has to be paid under RCM by the purchaser

B. **Services through an e-commerce operator** - If an e-commerce operator supplies services then reverse charge will be applicable to the e-commerce operator. He will be liable to pay GST. For example, UrbanClap/Amazon/Ola cabs provides services of plumbers, electricians, teachers, beauticians etc. UrbanClap/Amazon/Ola cabs is liable to pay GST and collect it from the customers instead of the registered service providers. If the e-commerce operator does not have a physical presence in the taxable territory, then a person representing such electronic commerce

operator for any purpose will be liable to pay tax. If there is no representative, the operator will appoint a representative who will be held liable to pay GST

C. **Supply of certain goods and services specified by CBEC** - CBEC has issued a list of goods and a list of services on which reverse charge is applicable.

- **Notified Categories of services on which tax will be payable under RCM** (Updated list till 31/03/2020)

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
(1)	(2)	(3)	(4)
1	Supply of Services by a goods transport agency (GTA) who has not paid central tax at the rate of 6%, in respect of transportation of goods by road to- (a) any factory registered under or governed by the Factories Act, 1948(63 of 1948);or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) anybody corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law	Goods Transport Agency (GTA)	(a) Any factory registered under or governed by the Factories Act, 1948(63 of 1948); or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) anybody corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person; located in the taxable territory.

	<p>including association of persons; or (g) any casual taxable person Provided that nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to, – (a) a Department or Establishment of the Central Government or State Govt. or Union territory; or (b) local authority; or (c) Governmental agencies, which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.</p>		
2	<p>Services supplied by an individual advocate including a senior advocate by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a business entity</p>	<p>An individual advocate including a senior advocate or firm of advocates.</p>	<p>Any business entity located in the taxable territory.</p>
3	<p>Services supplied by an arbitral tribunal to a business entity</p>	<p>An arbitral tribunal</p>	<p>Any business entity located in the taxable territory</p>
4	<p>Services provided by way of sponsorship to anybody corporate or partnership firm</p>	<p>Any person</p>	<p>Anybody corporate or partnership firm located in the taxable territory</p>

5	<p>Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, – (1) renting of immovable property, and(2) services specified below-(i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority;(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;(iii) transport of goods or passengers.</p>	<p>Central Government, State Government, Union territory or local authority</p>	<p>Any business entity located in the taxable territory</p>
5A	<p>Services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017 (12 of 2017).</p>	<p>Central Government, State Government, Union territory or local authority</p>	<p>Any person registered under the Central Goods and Services Tax Act, 2017.”</p>
“5B	<p>Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter</p>	<p>Any person</p>	<p>Promoter</p>
5C	<p>Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent</p>	<p>Any person</p>	<p>Promoter</p>

	for construction of a project by a promoter		
6	Services supplied by a director of a company or a body corporate to the said company or the body corporate	A director of a company or a body corporate	The company or a body corporate located in the taxable territory
7	Services supplied by an insurance agent to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business, located in the taxable territory
8	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory
9	Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like. <u>w.e.f. 01.10.2019</u> Supply of services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like	Author or music composer, photographer, artist, or the like Music composer, photographer, artist, or the like	Publisher, music company, producer or the like, located in the taxable territory Music company, producer or the like, located in the taxable territory. ”;
9A	<u>w.e.f. 01.10.2019</u> Supply of services by an author	Author	Publisher located in the taxable territory.

	by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher.		Provided that nothing contained in this entry shall apply where-(i) the author has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017), and filed a declaration, within the time limit prescribed with the jurisdictional CGST or SGST commissioner, as the case may be, that he exercises the option to pay central tax on the service specified in column (2), under forward charge in accordance with Section 9 (1) of the Central Goods and Service Tax Act, 2017 under forward charge, and to comply with all the provisions of Central Goods and Service Tax Act, 2017 (12 of 2017) as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;-(ii) the author makes a declaration, as prescribed on the invoice issued by him in Form GST Inv-I to the publisher. ”;
10	Supply of services by the members of Overseeing Committee to Reserve Bank of India	Members of Overseeing Committee constituted by the Reserve Bank of India	Reserve Bank of India.
11	Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability	Individual Direct Selling Agents (DSAs) other than a body corporate,	A banking company or a non-banking financial company, located in the taxable territory

	partnership firm to bank or non-banking financial company (NBFCs).	partnership or limited liability partnership firm.	
12	Services provided by business facilitator (BF) to a banking company	Business facilitator (BF)	A banking company, located in the taxable territory
13	Services provided by an agent of business correspondent (BC) to business correspondent (BC).	An agent of business correspondent (BC)	A business correspondent, located in the taxable territory
14	Security services (services provided by way of supply of security personnel) provided to a registered person: Provided that nothing contained in this entry shall apply to, – (i) (a) a Department or Establishment of the Central Govt. or State Government or Union territory; or (b) local authority; or (c) Governmental agencies; which has taken registration under the Central Goods and Services Tax Act, 2017 only for the purpose of deducting tax under section 51 of the Act and not for making a taxable supply of goods or services; or (ii) a registered person paying tax under section 10 of the said Act.	Any person other than a body corporate	A registered person, located in the taxable territory
15	<u>w.e.f. 01.10.2019</u> Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate.	Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging central tax at the rate of 6 per cent.	Anybody corporate located in the taxable territory.

		to the service recipient	
16	<u>w.e.f. 01.10.2019</u> Services of lending of securities under Securities Lending Scheme, 1997 (“Scheme”) of Securities and Exchange Board of India (“SEBI”), as amended.	Lender i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI	Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI.

- **Notified Categories of Goods on which tax will be payable under RCM (Updated list till Jan’2021)**

Sr. No.	Description of supply of Goods	Supplier of Goods	Recipient of Goods
1	Cashew nuts (not shelled or peeled)	Agriculturist	Any registered person
2	Bidi Wrapper Leaves (tendu), Tobacco Leaves	Agriculturist	Any registered person
3	Silk Yarn	Manufacturer of silk yarn from raw silk or silk worm cocoons	Any registered person
4	Lottery	State Government, Union Territory or local authority	Lottery distributor or selling agent
5	Raw Cotton	Agriculturist	Any registered person
6	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government, State Government, Union Territory or local authority	Any registered person
7	Purchase of priority sector lending certificate	Registered person	Any registered person

1.2.9 Provisions of GST on Import & Export

a. GST on Exports

► **Explanation of Export of Goods and Services under GST**

- As per IGST Act Section 2(5) Export of goods means taking goods out of India to a place outside India. Export means trading or supplying of goods and services outside the domestic territory of a country.
- As per **IGST Act** Section 2(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; *or in Indian rupees wherever permitted by RBI,*
 - (v) the supplier of service and the recipient of service are not merely establishments of a distinct person. if place of supply is out of India

*Supply of services having **place of supply** in Nepal or Bhutan, against payment in Indian Rupees is exempted even if the payment is received in Indian Currency looking at the business practices and trends*

► **Treatment of Exports under GST Law**

Under the GST Law, export of goods or services has been treated as:

- Inter-State supply (Section 7 (5) IGST act) and covered under the IGST Act. Export is treated as Inter-state supply under GST and IGST is charge on export.
- ‘zero rated supply’ (Sec.16 (1) IGST act) i.e. the goods or services exported shall be relieved of GST levied upon them either at the input stage or at the final product stage. Zero-rated supply does not mean that the goods and services have a tariff rate of ‘0%’ but the recipient to whom the supply is made is entitled to pay ‘0%’ GST to the supplier.
- GST will not be levied in any Kind of Exports of Goods or Services

The above can be understood with the following diagram.



► **Concept of Deemed Exports**

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, Some supplies have been notified as **deemed export** as below:

1.	Supply of goods by a registered person against Advance Authorization
2.	Supply of capital goods by a registered person against Export Promotion Capital Goods Authorization
3.	Supply of goods by a registered person to Export Oriented Unit
4.	Supply of gold by a bank or Public Sector Undertaking specified in the notification No. 50/2017-Customs, dated the 30th June, 2017 (as amended) against Advance Authorization

b. **GST on Imports:**

- **Applicability GST on Import of Goods:** The GST Act defines the import of goods as bringing goods into India from abroad. Accordingly, the GST Act considers all imports into India as inter-state attracting IGST. In addition to the IGST, the import would also be subject to Customs Duties. Thus, when goods are imported into India, IGST would be applied to the value of the goods and collected along with Customs Duty.

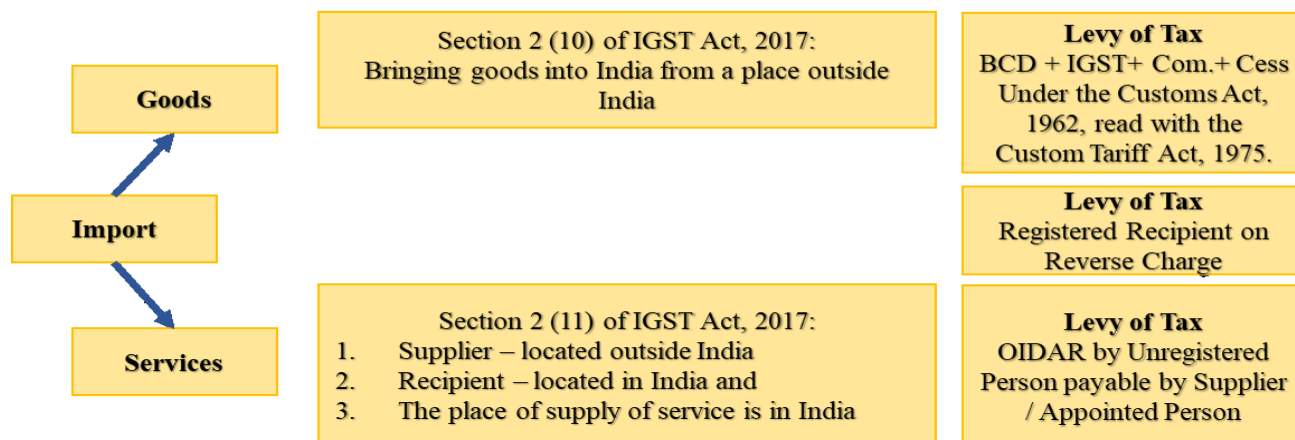
While GST applies to imports in addition to the Basic Customs Duty, GST Compensation Cess shall levy on certain luxury and demerit goods under the Goods and Services Tax (Compensation to States) Cess Act, 2017

► **Amount of GST on Import of Goods**

The amount of GST payable on imported goods would be dependent on the assessable value plus customs duty levied under the Customs Act, and any other duty chargeable on the goods. The value of the imported article for the purpose of levying GST Compensation cess would be, assessable value plus Basic Customs Duty levied under the Act, and any sum chargeable on the goods in the same

manner as a duty of customs. Thus, the GST Compensation cess shall exclude the IGST paid while the calculating value. The concept of the can be understood with the following objectives.

IMPORT



For Example:

- The assessable value of goods imported into India is INR 100.
- Basic Customs Duty is 10% ad-valorem.
- The integrated tax rate shall apply at the rate of 18%

Calculation of IGST

Assessable Value = INR 100

Basic Customs Duty (BCD) = INR 10

Value for the purpose of levying IGST = INR 110

GST-Integrated Tax = 18% of INR 110/- = INR 19.80

Total Taxes = INR 29.80

For goods such as luxury products and if the GST Compensation Cess applies, then GST Compensation Cess shall levy at the value of INR 110/-.

1.2.10 Returns

Under GST law the taxpayer has to file return for each registration separately. And the number of GST returns to be filed by each taxpayer will depend on the type of taxpayer e.g. regular taxpayer, composition taxpayer, e-commerce operator, tax deductor, non-resident taxpayer, Input Service Distributor(ISD) etc. Generally, a regular taxpayer has to file two returns per month (GSTR-1, GSTR-3B) and an annual return (GSTR-9/9C) for each GST registration separately.

Currently all types of returns/statements are being filed by the taxpayers online on GST portal. A brief about the various type of return has been provided below:

Name of Return Form	Information Required	Frequency	Due date
GSTR-1	Details of the outward supplies of taxable goods and /or services provided	Monthly	10 th of the Subsequent Month
GSTR-2	Details of the inward supplies of taxable goods and /or services for claiming Input Tax Credit	Monthly	15 th of the Subsequent Month
GSTR-3	Monthly return populated based on GSTR-1 and GSTR 2	Monthly	10 th of the Subsequent Month
GSTR-4	Details of inward and outward supplies by Composition Dealer	Quarterly	18 th of the Subsequent Quarter
GSTR-5	Details of inward and outward supplies, ITC availed by Non-Resident Taxable Person	Monthly	20 th of the Subsequent Month/ within 7 days of the last date of Expiry of Registration
GSTR-6	Details of the input credit distributed by the Input Service Distributor	Monthly	13 th of the Subsequent Month
GSTR-7	Details of Tax Deducted at Source (TDS) by Tax Deductor	Monthly	10 th of the Subsequent Month
GSTR-8	Details of Tax collected at source and supplies affected by the E-commerce operator	Monthly	10 th of the Subsequent Month
GSTR-9	Annual Return containing details of ITC availed and GST paid. (Not applicable to ISD, TDS, NRI & Casual Taxable Person)	Yearly	31 st December of the Subsequent year

1.2.10.1 GSTR-1³⁷

GSTR-1 is a statement of outward supplies of goods (example-sales) and/or services. It is required to be filed by every registered person except the followings:

- ▶ Input Service Distributor

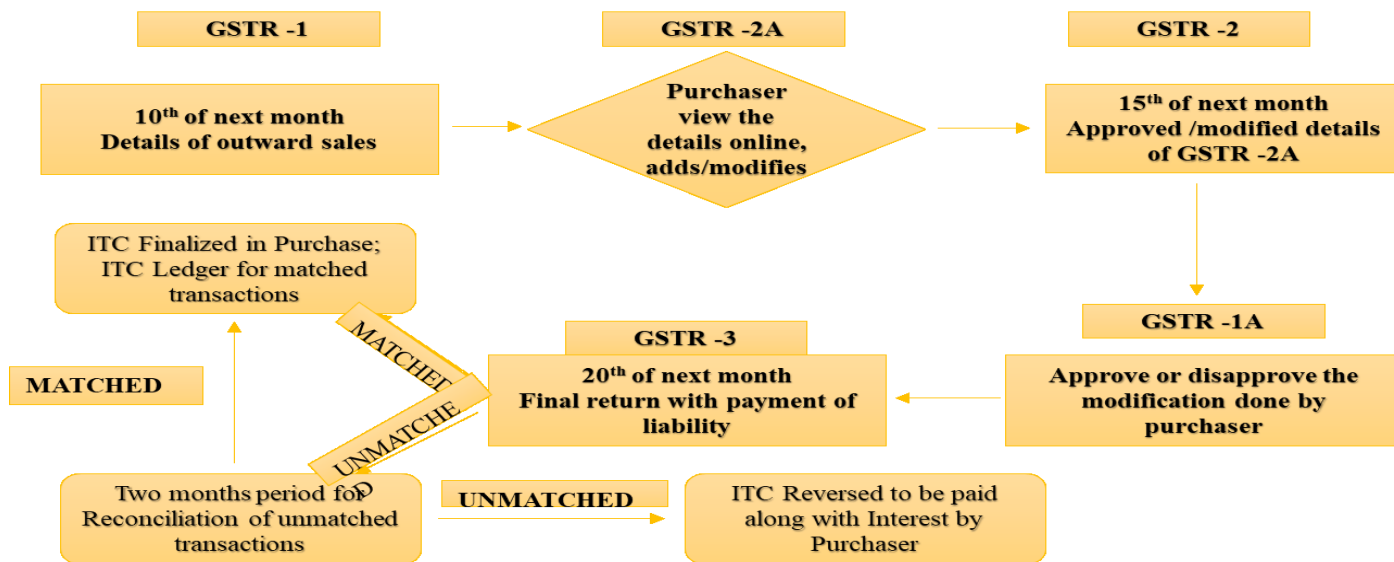
³⁷ Section 37, Rule 59

- ▶ Non-resident taxable person
- ▶ Composition taxpayer
- ▶ Tax deductor u/s 51
- ▶ Tax collector u/s 52
- ▶ Provider of online information and database access retrieval services (referred to in section 14 of IGST Act)

GSTR-1 can be filed both on monthly/quarterly basis as detailed below:

Frequency	Who is required to File	Due date
Monthly	a registered person having aggregate turnover of more than INR 1.50 crores	10 th of the succeeding month or the date as may be extended from time to time (at present the due date is 11 th of the succeeding month).
Quarterly	a registered person having aggregate turnover of up to INR 1.50 crores	31 st of the month succeeding the said quarter

Note: GSTR-1 once filed cannot be revised and any mistake made in the return can be rectified only in the subsequent tax period's return e.g. if a mistake done in September GSTR-1 return this can only be rectified in any subsequent GSTR-1 return whenever it is detected. The above can be understood with the following diagram.



1.2.10.2 GSTR 2A³⁸

The details of outward supplies furnished by the supplier in GSTR-1 is made available to the concerned recipient at GST portal in form **GSTR-2A** after the due date of filing of GSTR-1. The recipient can then

³⁸ Section 37, Rule 59(3)

verify the details provided therein and in case of any discrepancies is noted, the taxpayer may contact the concerned supplier to make necessary amendments/corrections in his subsequent period's GSTR-1 return.

1.2.10.3 GSTR-3B³⁹

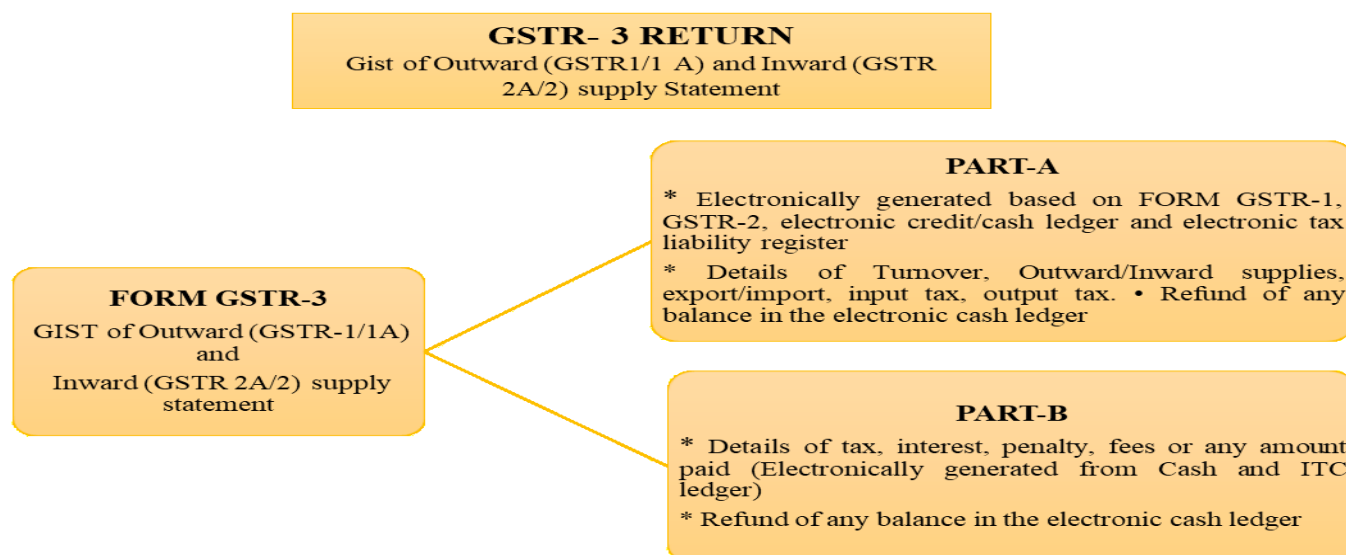
This is a monthly return which is required to be filed by every registered person, other than the exclusions mentioned in GSTR-1 above containing the following details:

- ▶ Inward and outward supplies of goods and/or services;
- ▶ Input tax credit availed;
- ▶ Tax payable,
- ▶ Tax paid; and
- ▶ Other prescribed particulars.
- ▶

Starting from January 2020, the due date for filing of GSTR 3B has been staggered based on the aggregate turnover in the preceding financial year. However, for Uttarakhand, the due date is as follows:

1. If aggregate turnover in the preceding financial year is:
 - ▶ Above INR 5 Crores: On or before the 20th of the next month (For May'20, due date is 27.06.20)
 - ▶ Up to INR 5 Cores: On or before the 24th of the next month (For May'20, due date is 14.06.20)
2. **Nil return:** A Nil return is to be filed even if there is no supply of goods and/or services during a particular tax period.

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. The above can be understood from the below diagram.

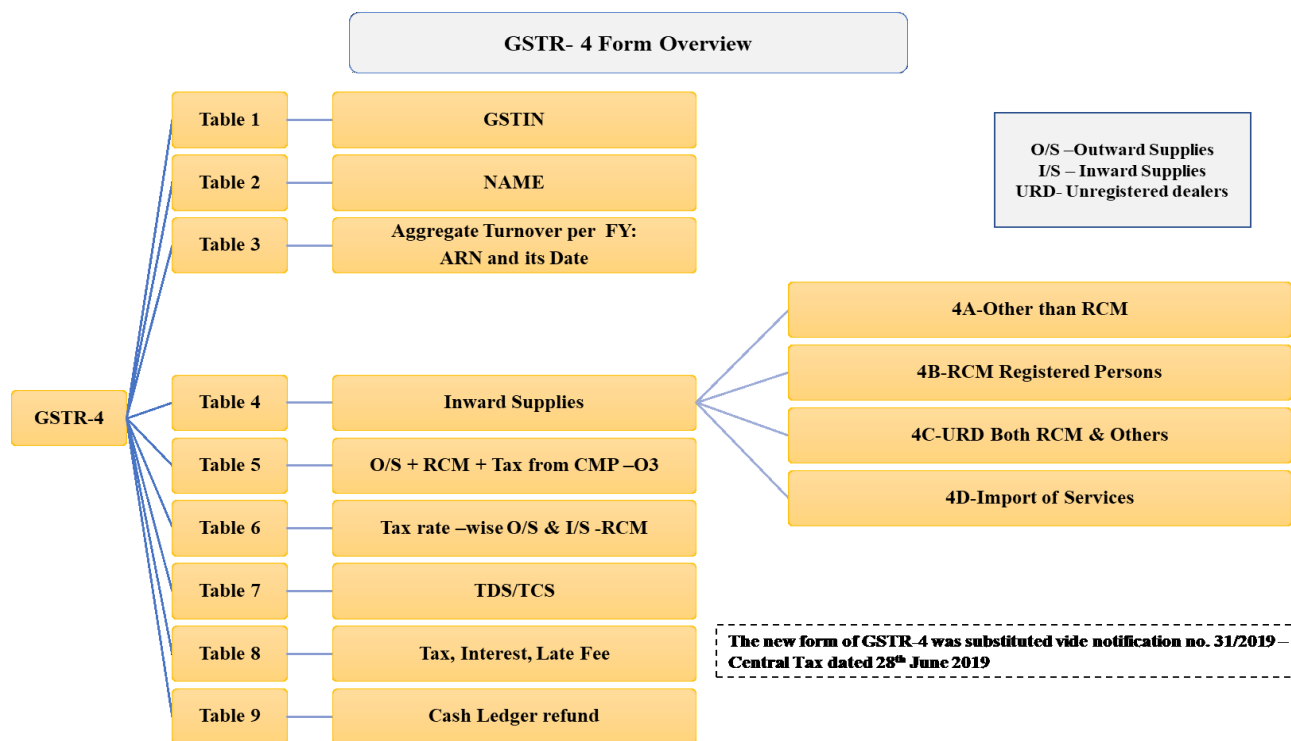


³⁹ Section 39, Rule 61(5)

1.2.10.4 GSTR-4

A composition taxpayer is required to file a quarterly return in GSTR-4 within 18th of the month succeeding such quarter containing the following details:

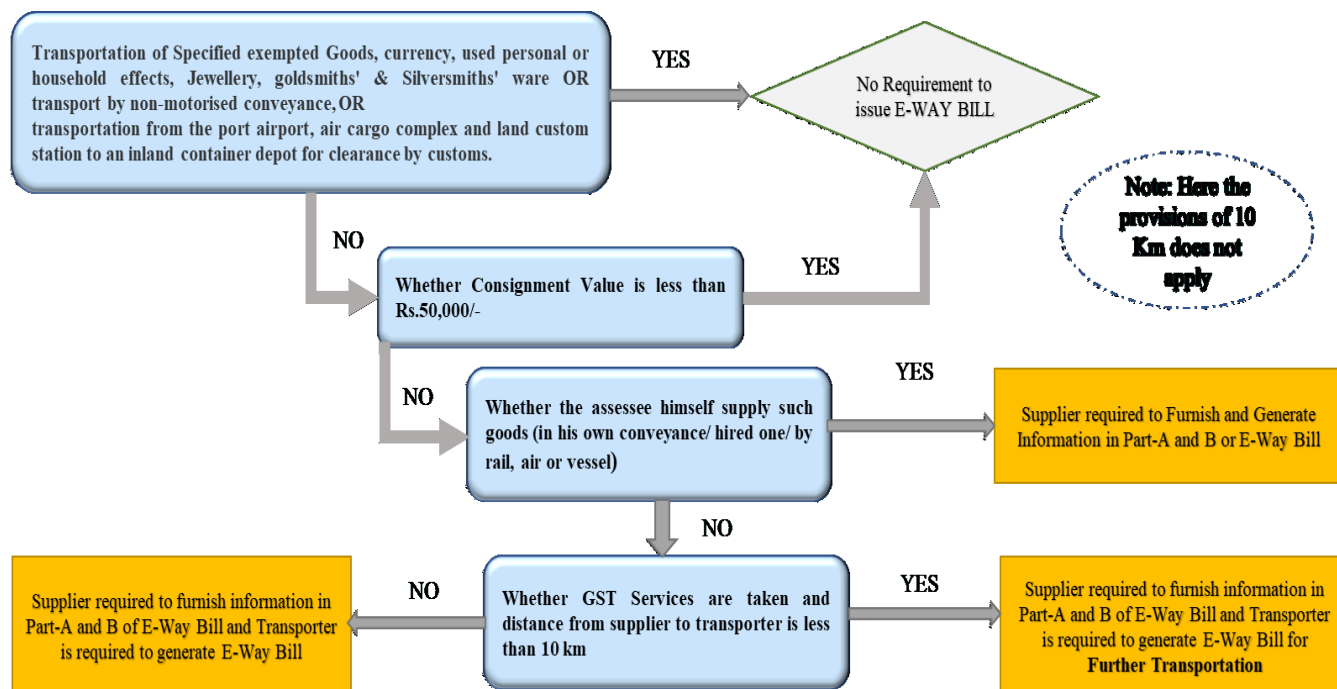
- ▶ Turnover in the State or Union territory;
- ▶ Inward supplies of goods or services or both;
- ▶ Tax payable and
- ▶ Tax paid



1.2.10.5 E-Way Bill (EWB)⁴⁰

The introduction of e-way (electronic way) bill is a monumental shift from the earlier tax regime. It envisages one e-way bill for movement of the goods throughout the country, thereby ensuring a hassle-free movement for transporters throughout the country. The e-way bill system has been introduced nation-wide for all inter-State movement of goods with effect from 01.04.2018. As regards intra- State supplies, option was given to States to choose any date on or before 03.06.2018. All States have notified e-way bill rules for intra-State supplies last being NCT of Delhi where it was introduced w.e.f. 16.06.2018. The concept can be understood with the following diagram.

⁴⁰ Section 68, Rule 138 to 138E



Every registered person who causes movement of goods of consignment value exceeding INR 50,000/- is required to generate EWB before commencement of such movement by furnishing necessary information on the common portal if such movement is:

- ▶ In relation to a supply; or
- ▶ for reasons other than supply; or
- ▶ due to inward supply from an unregistered person,

in case of movement of goods within the state (i.e. intra-state movement), the state can fix their own limits⁴¹. The EWB has been introduced from 20th April 2018 and the limit has been fixed to INR 50,000/- by the State Government. The time limit for validity of the E-way bill is as under.

Time Limit for Validity of E-Way Bill			
Type of Cargo	Distance	Time	E-Way Bill Requirement
Other than over dimensional cargo*	Within 50 kms (intra-state)	N/A	Part-B Not Required
	100 kms	24 hours	Required
	200 kms	2 days	Required
	300 kms	3 days	Required
	500 kms	5 days	Required
	1000 kms or more	15 days	Required
Over dimensional cargo	Less than 20 kms	1 days	Required
	For every additional 20 kms	Additional 1 day	Required

⁴¹ Under Clause (d) of Rule 138(14)

‘**Consignment value**’ here means: Taxable value of goods declared in an invoice, a bill of supply or a delivery challan, as the case may be; **plus** CGST, SGST, IGST, Cess charged **minus** value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

1.2.10.6 TRAN-1⁴²

This declaration was required to be filed by every registered person (other than a composition taxpayer) who was entitled to take credit of the followings in his electronic credit ledger subject to the fulfillment of conditions specified therein:

- ▶ CENVAT credit of eligible duties carried forward in the last return furnished by him under existing law (For example- VAT, Excise, Service Tax).
- ▶ Un-availed CENVAT credit in respect of capital goods, not carried forward in last return filed by him under the existing law.

TRAN 1 was also required to be filed by a registered person who was:

- ▶ not liable to be registered under the existing law; or
- ▶ engaged in the manufacture of exempted goods or provision of exempted services; or
- ▶ providing works contract service and was availing of the benefit of notification No. 26/2012-Service Tax dated 20.06.12; or
- ▶ a first stage dealer; or
- ▶ a second stage dealer; or
- ▶ a registered importer; or
- ▶ a depot of a manufacturer,

If he was 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 1st of July, 2017 subject to the fulfillment of conditions specified therein.

TRAN-1 declaration, duly signed, was required to be filed on the common portal within ninety (90) days of 1.7.2017 i.e. within 28th September 2017 (further extendable for a period of 90 days by the Commissioner, on the recommendation of the GST council).

The amount of credit specified in TRAN-01 shall be credited to the Electronic Credit Ledger of the applicant. ⁴³The amount so credited may be verified and proceedings under Section 73 or, as the case may be, Section 74 shall be initiated in respect of any credit wrongly availed, whether wholly or partly.

Non-submission due to technical difficulties⁴⁴: Where registered persons could not submit the said declaration by the due date on account of technical difficulties on the common portal and in respect of

⁴² Section 140, Rule 117

⁴³ Rule 121

⁴⁴ Rule 117(1A)

whom the GST Council has made a recommendation for the extension, the due date has been extended several time, the latest being upto 31st March, 2020⁴⁵.

1.2.10.7 TRAN-2⁴⁶

A registered person, other than a manufacturer or a supplier of services (For example- a trader), who was not registered under the existing law was allowed to avail input tax credit on goods which he held in stock on 01.07.2017, if:

- ▶ central excise duty or countervailing duty under customs were leviable on such goods; and
- ▶ in respect of such goods, he is not in possession of any invoice or other documents evidencing payment of duty.

The ITC shall be allowed as follows:

- ▶ if such goods attract CGST and SGST of 9% or more each after 01.07.2017, then 60% of such rate (30% in case of IGST); and
- ▶ if such goods attract CGST and SGST below 9% each after 01.07.2017, then 40% of such rate (20% in case of IGST)

The above can more be clarified with the help of the following example:

CGST Rate	SGST Rate	IGST Rate	ITC on CGST (60% of the CGST rate)	ITC on SGST (60% of the SGST rate)	ITC on IGST (30% of the IGST rate)
9%	9%	18%	5.4%	5.4%	5.4%
14%	14%	28%	8.4%	8.4%	8.4%
6%	6%	12%	3.6%	3.6%	3.6%
2.5%	2.5%	5%	1.5%	1.5%	1.5%

This scheme was available for six tax periods from 01.07.2017 subject to prescribed conditions, limitations and safeguards including that the said taxable person has the document for procurement of such goods and that he shall pass on the benefit of such credit by way of reduced prices to the recipient.

The registered person was required to furnish the details of stock held by him in TRAN-1 and then submits a statement in FORM GST TRAN-2 by 31st March 2018, or within the extended period, indicating therein the details of supplies of such goods effected during the tax period. However, in a case where the registered person could not file TRAN-1 in time due to technical glitches and was allowed to file the same by 31.03.2020, he can submit TRAN-2 by 30th April, 2020⁴⁷.

⁴⁵ Substituted vide Notification No. 02/2020 – Central Tax dated 01-01-2020 w.e.f. 31-12-2019

⁴⁶ Proviso to Section 140(3), Rule 117(4)

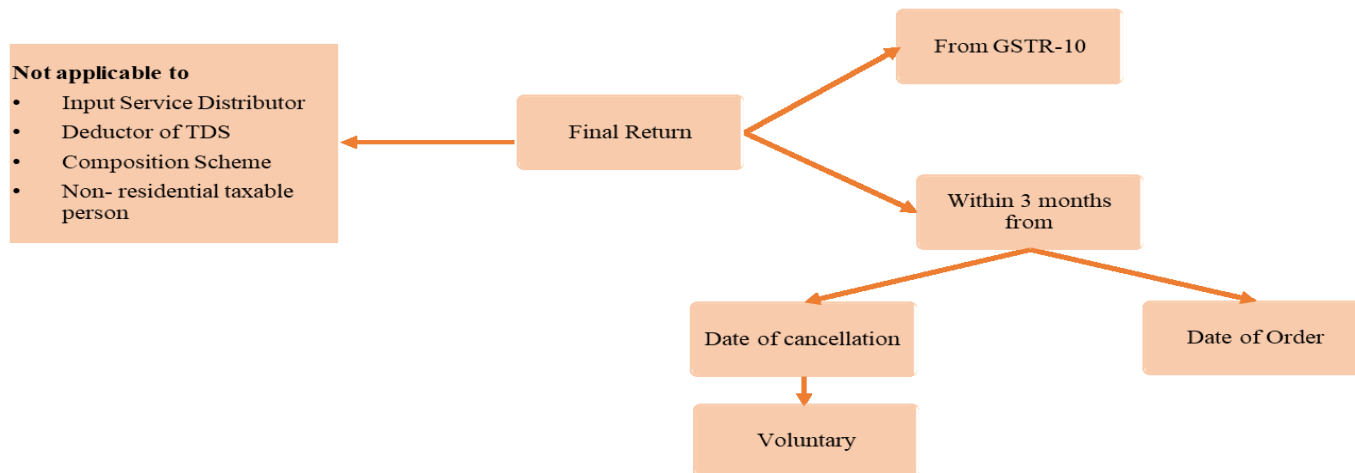
⁴⁷ Substituted vide Notification No. 02/2020 – Central Tax dated 01-01-2020 before it was read as "31st January, 2020]

ITC shall be credited to his electronic credit ledger only after the tax payable on such supply has been paid.

1.2.10.8 Final Return⁴⁸

Every registered person whose registration has been cancelled shall furnish a final return in **Form GSTR-10** within three months of the date of cancellation or the date of order of cancellation whichever is later.

Furnishing of Final Return U/s 45



1.2.11 Payment of Tax⁴⁹

The tax is to be paid on or before the last date of due date of filing of GSTR-3B return. For example, if the last date of filing of return is 20th September, then tax is to be paid on or before 20th September. The tax can be paid either by way of adjustment through input tax credit or through cash.

However, any amount other than tax like interest, late fee, penalty etc. can be paid only through cash. If any payment is required to be made by an unregistered, it shall be made on the basis of a temporary identification number (TIN) generated through the common portal.

1.2.12 Interest Under GST

If a person fails to pay the tax or any part thereof to the Government on or before the last date of due date of filing of GSTR-3B return, then shall be liable to pay interest @ 18% for the period in default.

For example, if the due date of filing of return for the month of August 2019 is say 20th September 2019 and the return is filed on 5th October, then such person shall be liable to pay interest @ 18% p.a. for 15 days.

⁴⁸ Section 45, Rule 81

⁴⁹ Section 39(7)

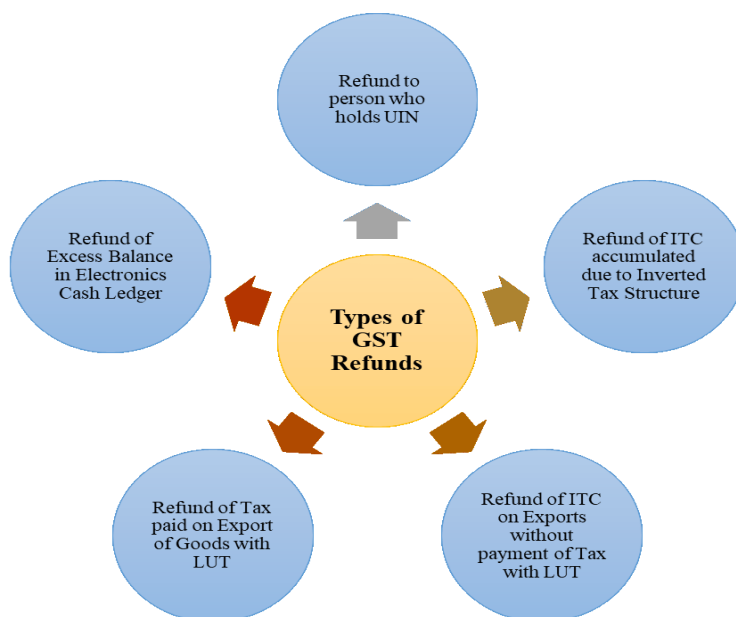
1.2.13 Late Fee Under GST

Late fee in case of failure to furnish following returns/details by the due date:

- **GSTR-1 and GSTR-3B:**
 - INR 100/- per day under CGST and SGST each for the default period (Max. 5000/-).
 - Reduced to INR 25/- per day (10/- in case of Nil return) under each head (No Max. limit)⁵⁰
 - Late fee waived several times by issuing notifications from time to time.
- **Annual Return in GSTR-9:** INR 100/- per day under CGST and SGST each for the default period (Max. 0.25% of turnover in the state or UT). Thus, if state turnover of a registered person is Nil, then he shall not be required to pay any late fee for late filing of annual return.

1.2.14 Refund of Tax

Refund of any tax/ interest or any other amount can be claimed by making an application before the expiry of two years from the relevant date⁵¹. This can be understood from the following example.



1.2.14.1 Refund of Un-utilized Input Tax Credit (ITC)

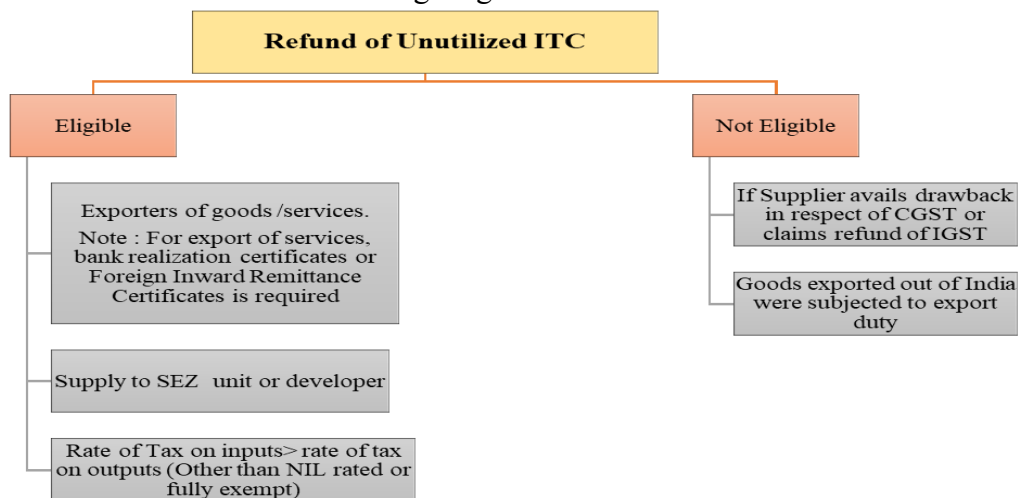
The refund of un-utilized ITC can be claimed only under the following circumstances:

1. Zero rated supplies (i.e. export and SEZ supplies) made without payment of tax;
2. Inverted duty structure cases i.e. where 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).

⁵⁰ N. No. 64/2017-CT dated 15.11.2017 for GSTR-3B and N. No. 4/2018-CT dated 23.01.2018 for GSTR-1

⁵¹ Explanation to Section 54

The above can be understood with the following diagram.



1.2.14.2 Provision Refund

Where the claim for refund is on account of zero-rated supplies of goods and/or services, proper officer may refund 90% of the claim amount on a provisional basis and the balance 10% can be issued after due verification of documents furnished by the applicant.

1.2.14.3 Issue of Refund Order⁵²

When an application for refund is made, the proper officer is required to issue the refund order within 60 days from the date of receipt of application complete in all respect. If refund is not made as such, interest⁵³ at such rate not exceeding 6% becomes payable from 61st day till the date of refund of such tax.

1.2.14.4 Interest on Delayed Payment of Refund⁵⁴

If refund order is not issued within sixty days from the date of the receipt of application complete in all respect, interest @t 6% shall become payable in respect of such refund from 61st day till the date of refund of such tax.

1.2.14.5 Manual Processing of Refund Applications

After roll out of GST w.e.f. 01.07.2017, on account of the unavailability of electronic refund module on the common portal, a temporary mechanism was devised and implemented wherein applicants were required to file the refund application in **FORM GST RFD-01A** on the common portal, take a print out of the same and submit it physically to the jurisdictional tax office along with all supporting documents. Further processing of these refund applications, i.e. issuance of acknowledgement of the refund

⁵² Section 54(7)

⁵³ Section 56

⁵⁴ Section 56, N. No. 13/2017-CT dated 28.06.2017

application, issuance of deficiency memo, passing of provisional/final order, payment advice etc. was done manually.

1.2.14.6 Electronic Submission and Processing of Refund Application⁵⁵

The entire refund procedure (from submission to processing) has been made fully electronic with effect from **26.09.2019**. However, all refund applications filed on the common portal before 26.09.2019 shall continue to be processed manually as prior to the deployment of new system and the provisions of the circulars issued earlier⁵⁶ shall continue to apply on such applications.

1.2.14.7 Rejection of Refund Claim

Where a refund application is made for refund of input tax credit, the electronic credit ledger gets debited (means reduced) by an equal amount⁵⁷. However, if any deficiencies are noticed in the refund application, then the proper officer communicate the same to the applicant in **FORM GST RFD-03** requiring him to file a fresh refund application after rectification of such deficiencies⁵⁸. In such a case, the amount debited earlier is re-credited to the electronic credit ledger.⁵⁹

Where any refund claim is rejected⁶⁰ either fully or partly, the amount debited, to the extent of rejection, shall be re-credited to the electronic credit ledger by an order made in **FORM GST PMT-03**.

Further, in case of rejection of claim for refund of unutilized ITC on account of **ineligibility** of the said ITC, the proper officer order for the re-credit of the rejected amount to the Electronic Credit Ledger of the claimant using **Form GST RFD-01B**. Simultaneously, a demand notice shall also be issued for recovery of this amount from the claimant. The ineligible ITC may be due to distinct reasons such as blocked credit, reversal of extra credit or ITC taken in violation of section 17(1), 17(2) read with rule 42 and 43.

1.2.15 Demand of Tax

The demand provision under GST is as under:

⁵⁵ Master Circular No. 125/44/2019-GST dated 18.11.2019

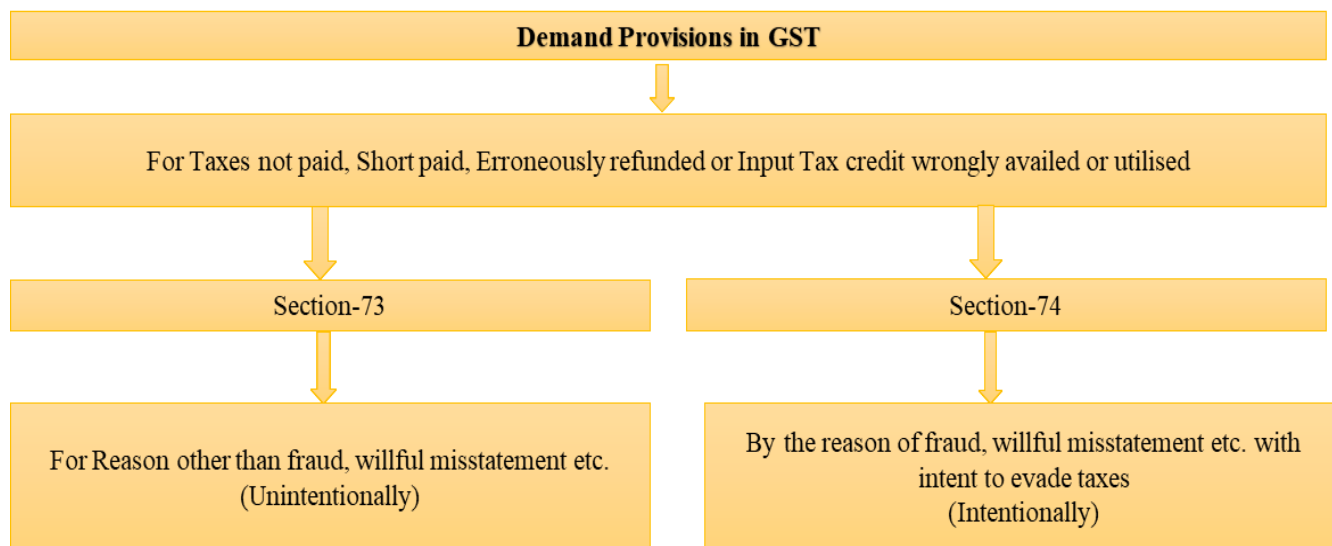
⁵⁶ Circular No. 17/17/2017-GST dated 15.11.2017, 24/24/2017-GST dated 21.12.2017, 37/11/2018-GST dated 15.03.2018, 45/19/2018-GST dated 30.05.2018 (including corrigendum dated 18.07.2019), 59/33/2018-GST dated 04.09.2018, 70/44/2018-GST dated 26.10.2018, 79/53/2018-GST dated 31.12.2018 and 94/13/2019-GST dated 28.03.2019

⁵⁷ Rule 89(3)

⁵⁸ Rule 90(3)

⁵⁹ Rule 93

⁶⁰ Rule 92



The proper officer may issue a show cause notice (SCN) to a person chargeable with tax in the following two cases.

Circumstances	For any reason, other than the reason of fraud or any willful-misstatement or suppression of facts to evade tax ⁶¹	By reason of fraud, or any willful-misstatement or suppression of facts to evade tax ⁶²
When SCN can be issued: If such person: <ul style="list-style-type: none"> • has not paid tax or short paid the tax; • or • was issued refund erroneously; or • has wrongly availed or utilized input tax credit 	Such person may be asked to show cause as to why he should not pay the tax specified in the notice along with applicable interest and penalty.	Such person may be asked to show cause as to why he should not pay the amount specified in the notice along with applicable interest and a penalty equivalent to the amount of tax specified in the notice.
Time limit for issue of order	Three years from the due date for furnishing of annual return for the financial year to which such tax/ITC relates or within three years from the date of erroneous refund.	Five years from the due date for furnishing of annual return for the financial year to which such tax/ITC relates or within three years from the date of erroneous refund.

⁶¹ Section 73, Rule 142

⁶² Section 74, Rule 142

Circumstances	For any reason, other than the reason of fraud or any willful-misstatement or suppression of facts to evade tax ⁶¹	By reason of fraud, or any willful-misstatement or suppression of facts to evade tax ⁶²
Time limit for issue of SCN	At least 3 months prior to time limit specified for issuance of order	At least 6 months prior to time limit specified for issuance of order
Amount of penalty payable if paid along with tax and applicable interest	<ul style="list-style-type: none"> • No penalty if payment of tax and interest either before or within 30 days of issue of SCN. All proceedings deemed to be concluded. • Penalty equal to 10% of tax or INR 10,000/- whichever is higher, <ul style="list-style-type: none"> ○ if tax and interest is paid after issue of order ○ if amount of self-assessed tax or any amount collected as tax is not paid within 30 days from the due date of payment of such tax. 	<p>Before service of SCN: 15% of tax amount</p> <p>Within 30 days of SCN: 25% of tax amount. All proceedings deemed to be concluded.</p> <p>Within 30 days of Order: 50% of tax amount. All proceedings deemed to be concluded.</p> <p>After this: 100% of tax amount.</p>

1.2.16 Power of Officers and Taxpayers Right to Appeal

1.2.16.1 Proper of Proper Officer Access to Place of Business

For the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue, any officer duly authorized by the proper officer not below the rank of Joint Commissioner, shall have access⁶³ to any place of business of a registered person to inspect books of account, documents, computers, computer programs, computer software whether reinstalled in a computer or otherwise and such other things as he may require and which may be available at such place.

Every person in charge of such place shall, on demand, make available the following records and documents to the officer authorized as such or the audit party deputed by the proper officer or a nominated cost accountant or chartered accountant for their scrutiny within a period not exceeding fifteen working days from the day when such demand is made, or such further period as may be allowed:

- ▶ such records as prepared or maintained by the registered person and declared to the proper officer in such manner as may be prescribed;
- ▶ trial balance or its equivalent;

⁶³ Section 71

- ▶ statements of annual financial accounts, duly audited, wherever required;
- ▶ cost audit report, if any, under section 148 of the Companies Act, 2013;
- ▶ income-tax audit report, if any, under section 44AB of the Income-tax Act, 1961; and
- ▶ any other relevant record.

1.2.16.2 Proper of Proper Officer for Recovery the amount of Taxes

If any amount payable by a person to the Government under GST law is not paid, the proper officer shall proceed to recover the said amount by one or more modes as mentioned in section 79. One such mode is attachment of bank account(s) of the concerned person.

1.2.16.3 Taxpayer's Right to Appeal⁶⁴

Any person aggrieved by any decision or order passed under CGST/SGST/UTGST Act by an adjudicating authority may appeal to prescribed Appellate Authority in **FORM GST APL-01** within three months from the date on which the said decision or order is communicated to such person. Such period may be extended further for one month if Appellate Authority is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the previously mentioned period of three months. Such appeal shall be made to:

- i. the Commissioner (Appeals) where such decision or order is passed by the Additional or Joint Commissioner;
- ii. [any officer not below the rank of Joint Commissioner (Appeals)] where such decision or order is passed by the Deputy or Assistant Commissioner or Superintendent,

An appeal can be filed only if the appellant has paid—

- a) in full admitted amount of tax, interest, fine, fee and penalty; and
- b) 10% of the disputed amount of tax

Once such payment is made, the recovery proceedings for the balance amount shall be deemed to be stayed. Adjournment shall be granted not more than three times during hearing of the appeal.

1.2.16.4 Appeal to Appellate Tribunal⁶⁵

Any person aggrieved by an order passed against him by the appellate authority or revisional authority may appeal to the Appellate Tribunal in **FORM GST APL-05** against such order within three months from the date on which the order sought to be appealed against is communicated to him. The Appellate Tribunal may admit an appeal within three months after the expiry of above period of three months if it is satisfied that there was sufficient cause for not presenting it within that period.

⁶⁴ Section 107, Rule 108

⁶⁵ Section 107, Rule 108

An appeal can be filed only if the appellant has paid—

1. in full admitted amount of tax, interest, fine, fee and penalty arising from the impugned order; and
2. 20% of the disputed amount of tax arising from the said order. This 20% is in addition to the 10% paid at the first stage. However, the maximum amount payable is fifty crore rupees, in relation to which the appeal has been filed

1.2.17 Tax Deduction at Source

Certain persons including government departments, local authorities and government agencies, who are recipients of supply, are required to deduct tax at the rate of 1% from the payment made or credited to the supplier where total value of supply, under a contract, exceeds INR 2,50,000/-. The provision for TDS has been operationalized w.e.f. 01st October 2018.

Section 3: State Tax Department – Value Added Tax (VAT)

3.1 Important Definition

Assessee: means any person by whom tax or any other sum of money is payable under the VAT Act and includes every person in respect of whom any proceedings under the VAT Act have been taken for the assessment of tax payable by him

Assessing Authority means any person appointed by the State Government or the Commissioner to perform all or any of the functions of assessing authority under the VAT Act

Assessment Year" means a period of 12 months ending on March 31.

Commissioner: means the Commissioner of Commercial Tax, appointed by the State Government and includes an Additional Commissioner, and a Joint Commissioner of State Tax appointed by the Government

Dealer: means any person who, for the purposes of or in connection with or incidental to or in the course of his business, carries on in Uttarakhand the business of buying, selling, supplying or distributing goods with a motive of profit or not directly or indirectly, regularly or otherwise, whether for cash or deferred payment or for commission, remuneration or other valuable consideration, and includes:

- a) a department of the Central Government or any State Government or a local authority by name of any Panchayat, Municipality, Development Authority, Cantonment Board or any autonomous or statutory body;
- b) an industrial, commercial, banking, insurance or trading undertaking whether or not of the Central Government or any of the State Governments or of a local authority;
- c) a commission agent, factor, broker, arhti, del credere agent, or any other mercantile agent by whatever name called, and whether of the same description as hereinbefore mentioned or not, who carries on the business of buying, selling, supplying or distributing goods on behalf of any principal, whether disclosed or not;
- d) any person who acts within the State as an agent of a non-resident dealer i.e. as an agent on behalf of a dealer residing outside the State, and buys, sells, supplies or distributes goods in the State or acts on behalf of such dealer, as
 - i. a mercantile agent as defined in the Sale of Goods Act, 1930, or
 - ii. an agent for handling of goods or documents of title relating to goods, or
 - iii. an agent for the collection or the payment of the sale price of goods or a guarantor for such collection or such payment
- e) an individual, a firm or a company or other body corporate, club, Hindu undivided family or any other system of joint family, association of persons, trust, and cooperative society or any other society, whether such society is incorporated or un-incorporated, and which carries on such business including

buying goods for and selling to its members for a price, fee or subscription, whether in the course of business or not;

- f) a non-resident dealer whether an individual, or a firm or a company or association or other body of persons, whether incorporated or not, the principal office or head quarter whereof is outside the State, whether or not having branch or office in the State, in respect of purchases or sales, supplies or distribution of goods in the State of Uttarakhand directly or through his agent or through such branch or office;
- g) an auctioneer, who carries on the business of selling or auctioning goods belonging to any principal, whether disclosed or not, and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal;
- h) a casual dealer;
- i) a person who supplies by way of or as a part of any service or any other manner whatsoever, goods, being foods or any other articles for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash or deferred payment or other valuable consideration;
- j) any person who, for the purposes of or in connection with or incidental to or in the course of his business disposes of any goods as unclaimed or confiscated, or unserviceable or scrap, surplus, old, obsolete or as discarded material or waste products by way of sale;
- k) a person engaged in the business of transfer otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;
- l) any person who carries on the business of transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract;
- m) Any person who carries on the business of transfer of right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;
- n) any person engaged in business of delivery of goods on hire purchase or any other system of payment by instalment;

Provided that a person who sells agricultural or horticultural produce grown by him or grown on any land in which he has an interest, whether as owner, usufructuary mortgagee, tenant, or otherwise, or who sells poultry or dairy products from fowls or animals kept by him shall not, in respect of such goods, be treated as a dealer.

Document: means title deeds, writing or inscription and includes electronic data, computer programmes, computer tapes, computer discs computer floppies and the like that furnishes evidence

Goods: means every kind or class of movable property (other than newspaper, actionable claims, stocks, shares and securities and postal stationery sold by the Postal Department) and includes:

- a) livestock, growing crops, grass, trees and things attached to or fastened to anything permanently attached to the earth which under the contract of sale are agreed to be severed;

- b) all materials, commodities and articles (whether as goods or in some other form) involved in the execution of works contract including those used in the fitting out, improvement or repair of any movable or immovable property, or involved in lease or hire purchase.

Government: means the Government of the State of Uttarakhand.

Importer: in relation to any goods means a dealer who brings or receives any goods into the State from any place outside the State and includes a dealer:

- i. who makes first sale of any goods brought or received into the State from any place outside the State; or
- ii. who receives any goods into the State on behalf of any other persons from any place outside the State; or
- iii. on whose behalf any goods are received into the State from any place outside the State by any other person.

Import: means bringing or receiving of goods, into the State from outside the State or from outside the country, as a result of purchase or otherwise.

Input Tax: in relation to any registered dealer means a tax paid or payable under the VAT Act by the dealer to another registered dealer on the purchase of any taxable goods **other than Special Category Goods** in the course of business for re-sale or for use in manufacturing or processing of such taxable goods for sale or for use as containers or packing materials for packing of such manufactured goods

Manufacturer: in relation to any goods means the dealer who makes the first sale of such goods in the State after their manufacture and includes a dealer who makes purchases from any other dealer not liable to tax on the sales under the Act other than sales exempted under section 4

Officer-In-Charge of a check post or barrier" means an officer not below the rank of Commercial Tax Officer Grade-I, posted at such check post or barrier

Output Tax: in relation to any registered dealer means the tax charged or chargeable under the VAT Act in respect of any sale or supply of taxable goods made by the dealer in the course of business and includes tax paid by a Commission Agent in respect of sale of taxable goods made on behalf of such dealer

Registered Dealer: means dealer registered under the VAT Act and includes a dealer who has obtained registration voluntarily.

Return: means any return prescribed and/or required to be furnished under the VAT Act or the rules made there under.

Rules: means rules made under the VAT Act

Sale Invoice: means a document listing goods sold, with price, quantity, tax charged, and such other particulars as may be prescribed in the Act or the Rules made there under

Special Category Goods: means the goods specified in Schedule III of this Act on which tax is payable at the point of Importer or Manufacturer.

3.2 Important Provisions of the Acts and Rules

The relevant provisions in the VAT Act are briefly mentioned as under:

3.3.1 Registration of Dealer

This is the first stage for levy and collection of VAT. The objective of registration is to have a complete record of the business activities of the dealers who are assessed to tax and to ensure that all dealers who are liable to assessment under the Uttarakhand VAT Act are so assessed. There are three type of registration under Uttarakhand VAT Act, 2005.

- ▶ Compulsory Registration
- ▶ Deemed Registration
- ▶ Voluntary Registration

Provided that following class of dealers shall be liable for registration, irrespective of their turnover at the commencement of their business in the State:

- ▶ every casual dealer
- ▶ every dealer registered under the Central Sales Tax Act,1956, within the State
- ▶ every dealer residing outside the State but carrying on business within the State
- ▶ every dealer in liquor including beer
- ▶ every commission agent, broker, del credere agent, auctioneer or any other mercantile agent by whatever name called, who carries on the business of buying, selling supplying or distributing goods on behalf of his principal

a. Compulsory Registration: U/s 15 of Uttarakhand Vat Act 2005, in the following cases every dealer shall be liable for compulsory registration.

- ▶ Who sells any goods imported by him from outside the State of Uttarakhand;
- ▶ Who sells goods manufactured by him by using goods imported from outside the State;
- ▶ Who is liable to pay tax under any other provision of the VAT Act;
- ▶ Who is subjected to tax deduction at source;
- ▶ Who would be liable to pay tax (had the exemption not been granted under the VAT Act), provided his/her actual or estimated turnover for the assessment year is not less than the taxable quantum as per Section 3(7);
- ▶ Who commences business during the course of an assessment year and whose average monthly estimated turnover for the remainder of such year, or whose actual turnover in any month during the aforesaid period, is not less than one-twelfth of the amount specified in section 3 (7);

- b. **Deemed Registration:** In case of certain dealers, even though not liable to pay tax, shall get registration under the VAT Act from the date on which a dealer for the first time:
- ▶ Receives any taxable goods from outside the state;
 - ▶ Import goods inside or export goods outside the territory of India;
 - ▶ Consign any taxable goods outside the state except by reason of a sale

- c. **Voluntary Registration:** U/s 16 of the Uttarakhand VAT Act 2005, any dealer who;
- ▶ Intends to manufacture any taxable goods for sale,
 - ▶ Intends to carry on business of sale or purchase of taxable goods,
 - ▶ Is carrying on business of sale or purchase of goods but otherwise is not liable to obtain registration if he so desires, may present an application for grant of voluntary registration under the VAT Act, and such registration certificate if granted, shall be valid with effect from the date on which the application is presented

A dealer who has been granted voluntary registration under this section shall, for so long as his registration remains in force, be liable to pay tax under the VAT Act.

- d. **Procedure for Registration:** U/s 17 of the Uttarakhand VAT Act 2005 and Rule 7 of Uttarakhand VAT Rules 2005, the registration process is as under:
- ▶ The dealers shall submit the application for registration in Form-I electronically on department website with the requisite fee to the officer authorised by the commissioner
 - ▶ The dealer submitting the application for registration shall be introduced by an existing registered dealer of three years standing, an advocate or by Chartered Accountant or Cost and Management Accountant.
 - ▶ The assessing authority after proper verification shall issue certificate of registration in Form-II. Provided where any security u/s 20 for grant of registration has been demanded from the dealer, the registration certificate shall be issued after furnishing of such security to the satisfaction of the assessing authority.
 - ▶ Every registration certificate in Form-II shall bear Taxpayers Identification Number (TIN) and it shall be entered in the register of the Registered Dealer. TIN will comprise of three components such as:
 - ▶ State code in 2 characters as 05
 - ▶ Seven digits serial number, with first 2 digits as an index mark that may be assigned to that Sector by the Commissioner, and 5 digits shall indicate the serial number which shall be consecutive for all dealers in a Sector according to the entry in **the Register of Registered Dealers**
 - ▶ Check digits in 2 characters as may be worked out by the Commissioner
 - ▶ A registration certificate granted under Rule 7 of the Uttarakhand VAT Rules, 2005 is not transferable. In case register dealer is succeeded in the business by another dealer by transfer, reconstitution or otherwise the dealer so succeeded shall obtain fresh registration certificate

- ▶ The registration shall be effective from the date on which dealer become liable to registration in case the application was made within 30 days and in any other case from the date on which he applies for registration
- ▶ In case lost, defaced or destroyed the duplicate certificate will be issued on payment of requisite fee.
- ▶ The assessing authority may reject the application after giving a reasonable opportunity of being heard to the dealer
- ▶ In case of casual dealer, the TIN shall be suffixed by (T) in **Register of Registered Dealer** in red ink.

e. **Suspension of Registration:** The assessing authority in the following cases may suspend registration after giving reasonable opportunity of being heard to the dealer where.

- ▶ Dealer fail to file return within due date under the VAT Act
- ▶ Knowingly furnishes incomplete or incorrect particulars in the returns
- ▶ Fail to pay tax including interest, penalty and late fee under the VAT act within the time
- ▶ Where any proceeding for cancellation of registration u/s 18 are pending before the assessing authority

However, the suspension of registration will not be done in case the dealer furnishes the return or returns and deposit the tax due, interest and late fee within the time specified in the notice.

The suspension of registration will be withdrawn on application made by the dealer and on furnishing the evidence of payment of all taxes including penalty and interest within 45 days from the date of suspension.

f. **Transfer of Business:** If any dealer,

- ▶ Transfer any of his business or any part thereof by sale, lease leave license, hire or in any other manner whatsoever or otherwise disposed off his business or any part thereof;
- ▶ Acquire any business, whether by purchase or otherwise or
- ▶ Effects or comes to know of any other change in ownership or constitution of his business or
- ▶ Discontinue his business or changes his place of business or warehouse or opens a new place of business or warehouse or
- ▶ Change his name, style or nature of business or effects any changes in the class or description of goods in which he carries on business as specified in the certificate of registration or
- ▶ Enter into a partnership or other association in regard to his business or
- ▶ Start a new business or joins any other business either singly or jointly with other person or
- ▶ In case of company incorporated or a private company registered under the companies Act, effect of any change in the constitution of Board of Directors or
- ▶ Effects any changes in the particulars furnished in application for grant of registration certificate

Shall within 30 days of the occurring of any of the events as mentioned aforesaid inform the assessing authority.

- g. **Security in the Interest of Revenue:** U/s 20, the assessing officer, in the following cases if, it appears him so to do, by an order in writing and for reasons to be recorded therein, direct, before the grant of, or, as the case may be, at any time while the certificate of registration is in force, to the dealer or the person concerned to furnish, within the specified time, such security or if the dealer or the person concerned has already furnished such security, such additional security of any nature, as may be specified:
- ▶ for the proper realization of any tax, penalty or other sums due or payable under the VAT act, or
 - ▶ for the proper custody or use of forms under the VAT act or the rules framed there under, or
 - ▶ as a condition for the grant or as the case may be, the continuance in effect of registration certificate
- h. **Cancellation of Registration:** U/s 18 of the Uttarakhand VAT Act, 2005, certificate of registration granted u/s 15 or u/s 16 to dealer, may be cancelled by assessing authority either on the application by the dealer or on its motion, if the assessing authority is satisfied that:
- ▶ Business for which registration was granted has been discontinued
 - ▶ Owner of the proprietary business dies leaving no successor to carry on business
 - ▶ In case of dissolution of firm or AOP
 - ▶ Dealer has ceased to be liable to pay tax under the VAT act
 - ▶ A dealer failed to pay any tax including penalty or interest due from him under the provision of the VAT act within three months of the due date
 - ▶ Failure to account for sale invoice in the books of account by the dealer
 - ▶ Dealer whom registration certificate was granted allowed other person to carry on business in his name
 - ▶ Knowingly furnished false information
 - ▶ Failure to submit the security as required u/s 20 of the Act
 - ▶ Any other reason which in the opinion of the assessing authority warrants the cancellation of registration, the assessing authority at any time, for reason to be recorded in writing and after giving an opportunity of being heard to dealer cancel the registration certificate
 - ▶ The registration certificate shall be cancelled on its motions and the dealer's application for cancellation shall not be rejected by the assessing authority without providing a reasonable opportunity of being heard
- i. **Amendment of Registration:** U/s 19 of the Uttarakhand VAT Act, 2005, the assessing authority after making such inquiry as he may deemed fit, basis of any information furnished under the VAT act, amend any certificate for registration and such amendment shall take effect.

Particulars	Effective Date of Amendment
In case of change in the name, ownership or place of business or opening of a new place of business	From the date of the event necessitating the amendment
In case of any addition or modification in the description of any goods in the certificate of registration	From the date of the event necessitating the amendment
In case of deletion of any goods or class of goods	From the date of order of deletion

3.3.2 Returns and Payment of Tax

- a. **Computation of Tax:** Under the VAT the tax is payable at multipoint on sales by every successive dealer on the value addition and net tax payable of dealer shall be calculated by using the following formula.

Net Tax Payable = Output Tax - Input Tax

Output Tax is computed on every taxable sale at the prescribed rate. Set off is allowed of the tax paid on creditable purchases made by a dealer known as **Input Tax** and the difference between the two is **Net Tax** payable by a dealer. Therefore, net tax payable is Output Tax minus Input Tax. If the balance is a negative balance, it is adjustable towards central sales tax (CST) payable & if there is still a negative balance, it is carried forward to next tax period.

The input tax credit is available for purchase made for affecting taxable sales. Input tax credit is not available on purchases from unregistered dealer and from non-creditable goods specified under schedule -III and on purchases from casual dealer.

The dealer is entitled to adjustment in the output tax on account of adjustment due to return of goods, variation/alteration in the sale price by agreement, discount and bad debt etc.

- b. **Periodical and Annual Return and Payment of Tax:** As per rule 11 of Uttarakhand VAT Rules, 2005, every dealer, liable to tax shall submit periodical returns of his turnover to the assessing authority in the manner specified (**quarterly return for quarter ending on June 30, September 30, December 31, and March 31, up to the last day of the succeeding months**) accompanied by supporting documents including:

- ▶ Proof of payment of amount of tax or interest, if any.
- ▶ Proof of payment of late fees along with satisfactory reasons for the delay in case such return is not filed within the time.
- ▶ List of tax charged by the registered selling dealers on the turnover of State Purchases of non-capital VAT goods in respect of which ITC is claimed.

- ▶ List of tax charged by the registered selling dealers on the turnover of State purchases of capital VAT goods in respect of which ITC is claimed.
 - ▶ List of tax Charged on the turnover of State Sales of Vat Goods (including capital goods) from the registered purchasing dealers.
 - ▶ Such other annexure documents and statements as may be specified by the assessing officer
- c. **Annual Return**, in addition to the periodical return as mentioned above, every dealer shall submit an annual return of his turnover on or before December 31 in the succeeding assessment year.
- d. **Late Fee**, if the periodical/ annual return as mentioned above is not filled within the due date as mentioned above, the dealer shall be liable to pay late fee of INR 100 /Rs 200 per week or part thereof till the date of actual submission of periodical or annual return respectively.
- e. **Revised of Return:** If dealer discovers any error or omission in return submitted by him, he may at any time before submitting the next return, submit the revised return. However, if the revised return shows greater amount of tax to be due than was shown in the original return. Then the dealer shall be liable to pay the difference of tax due along with interest. And if the revised return shows lesser amount the excess may be adjusted in the subsequent payment.
- f. **Payment of Tax:** The amount of tax shall be paid monthly by e-payment up to 20th of the succeeding month. Provided that in case the tax due for a month is Nil the dealer shall submit such information in Form VI (A) (refer website of VAT department) up to 20th of the succeeding month.
- g. **Realisation of Tax by Dealer:** Section 22(1) states “where any tax on sale of goods is payable on any turnover by a dealer (including a commission agent) registered under the VAT Act, such a dealer may recover an amount, equivalent to the amount of tax on sale of goods payable, from the person to whom the goods are sold by him, whether on his own behalf or on behalf of his principal”

Provided that no dealer shall realize from any person whom the goods are sold, any amount by way of tax or any amount in lieu of the tax by giving it a different name or colour, which is not payable by him or is in excess of the amount payable by him under the provisions of the VAT Act. Provided further that no dealer who agrees to pay a Presumptive Tax or from whom the Assessing Authority agrees to accept a composition money in lieu of the amount of the tax payable by him, shall realize from any person any amount by way of tax on sale of goods or an amount in lieu thereof by giving it a different name or colour.

Section 22(4) states “where a registered dealer realizes tax on sale of goods from the purchaser, the Sale Invoice shall separately show the price of the goods sold, and the amount realized as tax”.

Section 22 (5) states “If a dealer who is liable to pay tax on sale of any goods does not charge amount of tax separately from the purchaser of such goods or after charging the amount of tax,

does not show such amount separately on Sale invoice, the selling dealer shall be liable to pay tax on total price of goods”.

Section 40 states “where any amount is realised from any person by any dealer in contravention of the provisions of section 22 as mentioned above, then the dealer shall deposit the entire amount so realised within 30 days of the expiry of the relevant quarter. And any amount so deposited by the dealer under this section to the extent it is not due as tax, be held by the State Government in trust for the person for whom it was realised by the dealer or for his legal representatives”.

- h. Payment and Recovery of Tax:** Section 34 of the Uttarakhand VAT Act, 2005 states that the payment and recovery of tax due under the VAT Act shall be recovered in the following manner:

Instances	Time Limit for Payment
The Tax Admissibility Payable*	Shall be deposited along with return of the respective tax period. Failing which simple interest at the rate of 15% per annum shall become due immediately following the last date till the date of payment of such amount.
Amount Assessed Tax	Shall be paid within 60 days of service of Assessment and Notice of Demand.
Amount Imposed by Way of Penalty	Shall be paid within 60 days of service of the Order of Imposing Penalty
Any Other Amount including late fee if any except as mentioned above	Shall be paid in time, provided that where no such time has been specified the same shall be deposited within 60 days from the date the service of order by which the amount has been determined.
Payment of Interest in any other case except as mentioned in (1) above.	If the tax (other than the tax admittedly payable to which sub-section (2) applies) assessed, reassessed or enhanced by any authority or Court remains unpaid for <i>three months</i> after expiration of the period specified in the order of assessment and demand notice, a simple interest at the rate of 9 % per annum on unpaid amount calculated from the date of such expiration shall become due and be payable Provided that the amount of interest under this sub-section shall be re calculated if the amount of tax is varied on appeal or revision or by any order of a competent Court.
Payment of Interest in case of stay by Court	Where realization of any tax remained stayed by order of any Court or authority and such order of stay is subsequently vacated, the interest shall be payable

Instances	Time Limit for Payment
	also for any period during which such order remained in operation.

**Note: (1) For the purpose of this sub-section, the tax admittedly payable means the tax which is payable under the VAT act on the turnover of sales, or as the case may be. (2) Month shall mean thirty days and the interest payable in respect of period of less than one month shall be computed proportionately.*

3.3.3 Assessment

- a. **Assessment:** Assessment means determination of Turnover of the dealer to ascertain whether tax has been correctly calculated or not. The following types of assessment is done under the Act:

Types of Assessment	Conditions
Provisional U/s 24 of the Act	<p>In the following situation the assessing authority shall after making such inquiries as it considers necessary, determine the turnover of the sales or of purchase or both, as the case may be, provisionally assess the tax payable thereon as specified in the Act in respect of one or more tax period as the case may be:</p> <ul style="list-style-type: none"> The tax payable as shown in the return appears to be incorrect or Tax paid along with return is less than the amount due under the VAT act or shown as payable in the return or The input tax credit claimed in the return is not supported by the required information <p>The provisional assessment under this section shall be made on the basis of the past returns or past records or on the basis of information received by the assessing authority and the assessing authority direct the dealer to pay the amount of tax in such manner and by such date as may be specified u/s 34 of the Act.</p> <p>No provisional assessment under this section shall be made without giving reasonable opportunity of being heard to the dealer.</p> <p>Nothing contained in this section shall prevent the assessing authority from making final assessment for the entire year under section 25 or section 26 and any tax paid against the provisional assessment shall be adjusted against tax, interest and penalty payable on final assessment under sections referred above.</p>
Deemed Assessment U/s 25A of the Act	<p>With the objective to dispose large numbers of pending assessments, notwithstanding anything contained in the VAT act, the commissioner may by notification declare that the registered dealers, as listed in such notification, are deemed to have been self-assessed for the dealer having Annual Gross Turn Over of INR 1 Crore.</p>

Types of Assessment	Conditions
	However, there shall not be any such limit for dealer who is exclusively dealt in the Special Category goods as specified in Schedule-III.
Assessment U/s 25 of the Act	<p>The assessing authority shall do the assessment of taxable turnover, amount of tax payable on such turnover and the amount of input tax credit admissible to the dealer if any based on the additional information supplied by the dealer as may be desired by the assessing authority.</p> <p>If the assessing authority on the basis of scrutiny or any information received is satisfied that tax liability exceeds by INR 5,000 over the admitted tax liability, then such assessment may be open for re-assessment with the permission of commissioner of Joint Commissioner authorized by the commissioner in this behalf.</p> <p>But the reassessment shall not be opened more than 5 years after the close of such assessment and the limit for finalizing such assessment shall not be more than one year from the date of opening reassessment.</p>
Assessment of Unregistered Person Liable to Tax U/s 26 of the Act	<p>If the assessing authority based on the information which has come to his possession, is satisfied that any person who is liable to tax under the VAT act in respect of any period has failed to get himself registered, he shall before expiry of three years following the end of the financial year, proceed to assess the person to the best of his judgment as to the amount tax due in respect of such period and all subsequent periods and shall direct the person to pay by way of penalty, a sum equal to the amount of tax found due as a result of such assessment.</p> <p>No such assessment shall be done unless the person is being given a reasonable opportunity of being heard.</p>
Protective Assessment U/s 28(2) of the Act	Where the assessing authority has reason to believe that any person or dealer, with a view to evading payment of tax or in order to claim any input tax credit which he otherwise is not eligible for, may do the protective assessment after providing a reasonable opportunity of being heard.
Assessment of Escaped Turnover U/s 29 of the Act	<p>Where a dealer is assessed u/s 25 or u/s 26 for any year and the assessing authority has reason to believe that the whole or part of turnover of the dealer in respect of any tax period has:</p> <ul style="list-style-type: none"> • escaped assessment; or • been under assessed; or

Types of Assessment	Conditions
	<ul style="list-style-type: none"> • been assessed at rate lower than the rate at which is assessable; or • been wrongly allowed any exemption or deduction there from; or • been wrongly allowed any tax credit therein <p>then the assessing authority after recording the reason in writing, serve a notice to dealer and after giving a reasonable opportunity of being heard and after making such inquiry as he considered necessary, assess or reassess the turnover of the dealer and tax according to the law.</p> <p>The tax shall be assessed at the rate at which it would have been charged had the turnover not escaped.</p> <p>Except as provided in section 28, no order of assessment or reassessment shall be made after the expiry of three years from the end of the year in respect of which tax is assessed.</p> <p>The order for escaped turnover assessment may be passed within three year and nine months ending of 31st December after expiry of the assessment year for which assessment is to be made.</p> <p>However, the commissioner may on his own or on the basis of reasons recorded by the assessing authority may extend the period for assessment or reassessment for further period but not after the expiration of six years from the end of each assessment year.</p>

- b. **Rectification of Order:** U/s 30 of Uttarakhand VAT Act, 2005, any officer or authority or the Tribunal or the High Court may, on its own motion or on the application of the dealer or any other interested person, rectify any mistake in any order passed by him or it under the VAT act apparent on the face of the record, **within three years** from the date of the order sought to be rectified.

Provided that where an application under this section has been made within such period of **three years**, it may be disposed of even beyond such period.

Provided further that no such rectification has the effect of enhancing the assessment, penalty, fee or other dues shall be made unless a reasonable opportunity of being heard has been given to the dealer or other person likely to be affected by such enhancement.

Where such rectification has the effect of enhancing the assessment, the assessing authority concerned shall serve on the dealer a revised **notice of demand** and then all the provisions of the Act and the Rules framed thereunder shall apply as if such notice had been served in the first instance.

- c. **Power to Set Aside an Order of Assessment:** U/s 31 of the Act, where an order of assessment or reassessment or order of penalty is passed ex-parte, the dealer may apply to the assessing authority within *thirty days* of the service of the order to set aside such order and reopen the case; and if such officer is satisfied that the applicant did not receive notice or was prevented by sufficient reason from appearing on the date fixed, he may set aside the order and reopen the case for hearing.

Provided that no such application for setting aside such ex-parte order shall be entertained unless the dealer has submitted all **Periodical Returns and Annual Return** completely and correctly and it is accompanied by satisfactory proof of the payment of the amount of tax admitted by the dealer to be due.

Where an assessment order u/s 24 is passed ex-parte, the dealer may apply to the assessing authority within 30 days of the service of the order, to set aside such order and if such authority is satisfied that the dealer has filed the return and deposited the tax due according to the return within 30 days from the last day of filing such return, it may modify or set aside such order and also the demand notice, if any, issued there under.

If a dealer is granted an eligibility certificate under section 4A of the Uttarakhand (the Uttar Pradesh Trade Tax Act,1948) Adaptation and Modification Order, 2002 for the period for which an order of assessment or reassessment or an order in appeal has been passed prior to the grant of eligibility certificate, such order may be set aside either on its own or on the application of the dealer, by assessing or appellate authority having jurisdiction within one year of receipt by him of the copy of the order granting such eligibility certificate and a fresh order may be passed according to law. Provided that where the application under this section has been made by the dealer within the period aforesaid, it may be disposed of even beyond such period.

- d. **Period of Limitation for Making Assessment of Reassessment:** U/s 32, following are the time limit for making assessment or reassessment under the Act.

S. No.	Type of Assessment or Reassessment	Limitation of Time
1.	Assessment U/s 24 (provisional assessment) for any assessment year	No assessment after filling of Annual Return
2.	Assessment or Reassessment of escaped turnover except otherwise provided u/s 28	No Assessment after the expiration of three years from the end of the relevant assessment year
3.	If an order of assessment is set a side or the case is remanded for reassessment by any authority under any provisions of the Act or by a competent Court	The order shall be made within one year after receipt of the copy of order remanding the case.

4.	<p>If an order of assessment is quashed on the following ground:</p> <ul style="list-style-type: none"> • want of jurisdiction of the assessing authority • due to improper service of notice by any competent authority or a court, then a fresh assessment shall be made by the assessing authority having jurisdiction 	<p>Within one year from the date of receipts of copy of quashed order</p>
5.	<p>If an assessment or reassessment passed under section 31 is set a side</p>	<p>Fresh order shall be passed within one year from the date of receipt of earlier order set a side.</p>

Note 1: Where the proceeding of assessment or reassessment has been stayed by court or authority, the period of stay be excluded while calculating the period of limitation under this section.

Note 2: The period during which any appeal or other proceeding is pending before the High Court or Supreme Court involving question of law having direct impact on the assessment or reassessment in question, shall be excluded while calculating the period of limitation under this section.

Note 3: Where the State Government is of the opinion that due to any extraordinary circumstance in the State it will be difficult to complete the assessment or reassessment in case or class of cases, it may, by notification in the Gazette extend the time limit for making any such assessment or reassessment.

3.3.4 Refund of Tax

- a. **Refund:** U/s 36 of the Act, the assessing authority shall refund to a person the amount of tax, penalty and interest, if any, paid by such person in excess of the amount due from him after making adjustment towards the amount of tax or any other amount outstanding against the dealer under the VAT act or under the Central Sales Tax Act, 1956 and only the balance, if any, shall be refunded.

The amount of refund shall be made through a **refund voucher** through electronic methods within one month from the date of order of refund or the date of receipt, of the order of refund by the assessing authority, if such order is passed by any other competent authority or Court.

If the refund is not made within sixty days of the date of such order or as the case may be, the date of receipt of such order of refund, by the assessing authority, the dealer shall be entitled to simple interest on such amount at the rate of **nine percent per annum** from the date of expiry of such period to the date of refund.

Provided that if any amount is found to be refundable in the cases deemed to have been self-assessed in accordance Section 25, the refund shall be made within one month of the expiry of one year from

the last date specified for filling the annual return under Rule 11 relating to the particular assessment year or the actual date, when the annual return is filed, whichever is later.

Explanation:

1. The expression " Refund" includes any adjustment as given above.
2. If the refund is made electronically the date of refund shall be deemed to be the date on which the refund is made, otherwise the date of refund shall be deemed to be the date on which intimation regarding preparation of the refund voucher is sent to the dealer.
3. When the amount to be refunded is more than rupees Twenty-Five thousand, it shall be countersigned by the Joint Commissioner (Executive) of the region as per Rule 41 of VAT Rules 2005.

- b. Power to withhold Refund in Certain Cases:** Where an order giving rise to a refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and the assessing authority is of the opinion that grant of such refund is likely to adversely affect the revenue and that it may not be possible to recover the amount later, the assessing authority may, with the permission of the Commissioner or any officer authorized by him, withhold the refund till such time as he may determine.

Where a refund is withheld and as a result of the appeal or further proceeding or any other proceeding, dealer becomes entitled to any refund, the dealer shall be entitled to interest as provided under Section 41 (interest on refund) on the refundable amount.

And if any refund has been withheld under this section, and if any amount out of the refundable amount is adjusted towards any tax liability of the dealer, the dealer shall not be entitled for any amount of interest for the relevant period on the amount so adjusted

- c. Interest on Refund:** U/s 41 of the Act, where any dealer or a person entitled to refund in pursuance of any order under the VAT act (including assessment under Section 24, Section 25, or Section 26) or in pursuance of any order by any court, shall subject to rules, be entitled to receive, in addition to the refund, a simple interest at the rate of *nine percent per annum*, if the refund voucher/electronic intimation of refund is not sent to him as per the provisions of section 36.

The interest shall be calculated on the amount of refund due after deducting any tax, interest, penalty or any other dues under the VAT act or under the Central Sales Tax Act, 1956.

If as a result of any order passed under the VAT act the amount of such refund is enhanced or reduced such interest shall be enhanced or reduced accordingly. Further, where as a result of any final order the amount of tax (including any penalty) due is wholly reduced, the amount of interest if any, paid shall be refunded or if such amount is modified, the interest due shall be calculated and refunded accordingly.

3.3.5 Offences and Penalties

As per section 58 of Act, if the assessing officer is satisfied that any dealer has committed any offence, may after such enquiry, direct the dealer to pay such amount by way of penalty, in addition to the tax, if any payable by him in the following cases:

- ▶ being liable to pay tax, carries on business as a dealer without getting himself registered; or
- ▶ not being a registered dealer, falsely represents, while making any sale or purchase of goods that he is a registered dealer; or
- ▶ being a registered dealer falsely represents when purchasing any class of goods that goods of such class are covered by his certificate of registration; or
- ▶ submit a false return of turnover under the VAT act or furnishes a false statement; or
- ▶ fails or neglects to issue sale invoice; or
- ▶ liable to pay penalty as prescribed under the VAT Act.

3.3.6 Audit Under the Act

Under the VAT, the dealer would be required to compute their own tax liability, file their returns, pay the correct amount of tax and make their own assessment without the department being involved. Thus, system of self-assessment is part of an obligation entrusted to dealers to comply with their tax obligation. However, in order to ensure tax collection system efficient and to minimise the tax evasion by the dealer, the department conducts audit on regular basis. Often the following types of offenses are committed by the dealers.

- a) Non registration of business
- b) Under reporting of turn over
- c) Non reporting of VAT credit
- d) Use of fake invoices
- e) Non accounting of proper adjustments

Under the Act there are two types of audit provisions and the result of which is being utilised by the assessing officer for assessment or reassessment or reopening of the cases.

Audit by Accountant U/s 62

- ▶ Where in any particular year gross turnover of a dealer exceed one crore rupees or such other amount as the State Government may by notification in the official gazette specify
- ▶ Such dealer shall get his accounts in respect of that year by an accountant and obtain a report of such audit by duly signed and verified by such accountant in Form No. XXXII
- ▶ The true copy of such report shall be furnished by the dealer the assessing authority along with the annual return
- ▶ Where in any particular year the turn over of the dealer exceed forty lakh rupees but does not exceed one crore rupees then the dealer shall furnish the true copy of the audit report of his accounts duly signed by chartered accountant or cost accountant or auditor.
- ▶ This report shall be submitted to assessing authority along with annual return

Audit by VAT Department U/s 25(9)(b)

- ▶ Tax audit may be conducted by an officer posted in the tax audit wing or by any other officer authorized for this purpose by the Commissioner
- ▶ No dealer may be selected for tax audit for an assessment year after the expiration of five years from the end of such assessment year
- ▶ The tax audit report conducted by the audit wing shall be sent to the assessing authority for consideration.
- ▶ The assessing authority based on the observation in the audit report may reopen the case with the prior approval of the commissioner

Section 4: Excise Department

4.1 Important Definitions

A. Definition Regarding Distillation

1. **Allottee** means a person in whose favour an order has been made by the **Controller of Molasses** from the Occupier of sugar factory. **Rule 2 of UP Sheera Niyantran Niyamavali, 1974.**
2. **Molasses** means the heavy dark coloured residual syrup drained away in the final stage of manufacture of Gur or Sugar, containing in solution or suspension, sugars, which can be fermented. It includes any product formed by the addition to such syrup of any ingredient which does not substantially alter the character of the syrup. **Section 4 of UP Sheera Niyantran Adhinyam, 1964.**
3. **Molasses year** means the period beginning on **the first day of November** and ending on the **thirty first day of October** in the next following year.
4. **Storage Tank** means covered accommodation provided for safe preservation of molasses. **Section 5 of UP Sheera Niyantran Adhinyam, 1964.**
5. **Brix** is the density of solutions expressed on brix den stromatic scale and is taken to represent the percentage of dissolved solid matter in it.
6. **Preservation of Molasses** every occupier of a sugar factory shall have such number and size of storage tanks within the premises of his factory, so as to store at any time at least fifty percent of total production of molasses, calculated at 4 per cent of the total cane that can be crushed in 140 working days, according to the full registered cane crushing capacity for the time being of the factory or fifty percent of the highest production of the last four years whichever is higher. **Rule 2 of UP Sheera Niyantran Niyamavali, 1974.**
7. Where on the ground of increased production of molasses, the Controller finds difficulty in the availability of transport facilitates in any area or any other ground to be recorded by him, he may direct the occupier of a sugar factory to provide additional storage tanks whether covered or uncovered to the extent indicted in the direction and thereon the occupier shall provide such storage tanks within such period as may be specified in the direction.
8. **Uncovered storage tanks** shall not be utilized for the storage of molasses without prior sanction of the controller.
9. **All storage Tanks** shall be serially number by the Occupier of the factory and the number allotted to each tank along with dimension and storage capacity of each tank shall be displayed on a permanent fixture. The serial number once allotted shall not be altered without proper permission of the Controller.
10. The dimension of all the storage tanks provided by the Occupier of the sugar factory shall be recorded in a register in Form MF-14 and gauge chart in respect of each storage tank shall be maintained in the register for showing at every 5 CM of depth of the tank, the content of the molasses in the tank in quintals. The gauging the storage tanks should be done taking molasses of 45 percent sugar as standard. **Rule 4 of UP Sheera Niyantran Niyamavali, 1974.**

11. In case any change in the storage capacity of storage tanks is proposed, the Occupier shall submit to the Controller, a blue print showing the exact location, the serial number, the dimensions, the type (steel masonry) and capacity at every 5 cm of the depth of each storage tank and also showing the pipes and drainage lines connected with such tank.
12. In case any additional storage tank not shown in the blue print submitted, is subsequently provided by the Occupier of the sugar factory, a similar blue print thereof shall be submitted to the Controller within one month of its construction. . **Rule 5 of UP Sheera Niyantran Niyamavali, 1974.**
13. The provision of Rules 4 & 5 of UP Sheera Niyantran Niyamavali, 1974 shall apply *mutatis mutandis* to owner of distillers in respect of molasses supplied to them by the sugar factories for distillation purposes. **Rule 6 of UP Sheera Niyantran Niyamavali, 1974.**
14. If the Controller is of the opinion that any storage tank or any device of fixture thereof including wall, pipelines or drain, cannot adequately safeguard the quantity and quality of the molasses's produced in the factory, he may by order in writing, direct the Occupier of the factory to take necessary measures including the removal of wall, pipeline or drain to secure safe prevention of the molasses and the occupier shall comply with such directions within the time specified therein. **Rule 7 of UP Sheera Niyantran Niyamavali, 1974.**
15. The Controller may specify the order in which storage tanks in the factory shall be filled or emptied and such direction shall be binding on the Occupier of the sugar factory. **Rule 8 of UP Sheera Niyantran Niyamavali, 1974.**

B. Distilleries

1. **Intoxicant:** An intoxicant as defined in section 3(13) of United Provinces Excise Act, means;
 - ❖ Liquor, and
 - ❖ Intoxicating drug
2. **Liquor:** For excise purposes all liquor is either country liquor or foreign liquor.
3. **Excise Revenue:** "Excise revenue" means revenue derived or derivable from any duty, fee, tax, fine (other than a fine imposed by a court of law), or confiscation imposed or ordered under the provisions of this Act, or any other law for the time being in force relating to liquor or intoxicating drugs.
4. **Rectified Spirit:** It is a clear colourless and homogenous liquid consisting essentially of ethanol (CH₃ CH₂ OH) admixed with water not exceeding the limit agreed between the purchaser and the vendor provided that the strength shall be not below 91.27 per cent by volume or 60 degrees over proof (60-degree O.P.)
5. **Absolute Alcohol:** Ethyl Alcohol (Absolute Alcohol) is clear, colourless and homogeneous liquid consisting essentially of ethanol admixed with not more than 0.50 per cent, by volume of water
6. **Denatured Spirit:** Intoxicating drugs are defined in section 3(12) of the Excise Act as amended by Dangerous Drugs Act, 1930, and include at present;
 - ❖ Ganja
 - ❖ Charas, and
 - ❖ Bhang, and any mixture of these three hemp drugs with or without neutral materials

7. ⁶⁶**Country Liquor:** Means;
- ❖ Plain or spiced spirit containing alcohol, and which has been made in India from materials recognised as bases for country spirit, namely, mahua, rice, Gur or molasses, and on which duty has not been imposed at the rate fixed for importation of spirit into India.
 - ❖ Tari; and
 - ❖ All fermented alcoholic beverages made from mahua, rice, millet, or other grain according to Indian processes
8. ⁶⁷**Foreign Liquor:** Means;
- ❖ Beer and spirit, wines and liquors, which have been imported into India and are intended for human consumption, and were liable, on such importation, to duty under the Custom Tariff Act, 1975 read with the customs act, 1962;
 - ❖ Spirit made in India and sophisticated or coloured so as to resemble in flavour or colour liquor imported into India;
 - ❖ Beer brewed in India
 - ❖ Wines and liquors made in India; and
 - ❖ All rectified, perfumed, medicated and denatured spirits, wherever made.
 - ❖ Malt liquor produced in India
9. **Monthly Minimum Guarantee Duty:** means that part of consideration money for the grant of licence for exclusive privilege under section 24 of the excise act, which is payable on entire monthly minimum guarantee quantity of the month.
10. **Alcoholic Litre (AL):** Means a litre with reference to alcoholic contents of the Spirit.
11. **Bulk Litre (BL):** Means a litre with reference to the Bulk or Quantity of the Contents.
12. **Bonded Warehouse:** Means any warehouse or part of a distillery appointed by the Excise Commissioner as a bonded warehouse for the storage of intoxicants brought there under bond for the payment of duty when issued from such warehouse.
13. **Issued under Bond:** Means issued under a bond for subsequent payment of duty.
14. The following terms have been defined as under in Medicinal and Toilet Preparations (Excise Duties) Act, 1955:-“**medicinal preparation**” includes all drugs which remedy, or prescription are prepared for internal or external use of human beings or animals and all substances intended to be used for in the treatment, mitigation or prevention of disease in human beings or animals.
15. **Definitions w.r.t Distilleries**
16. **Officer in Charge** means the Excise Inspector in charge of distillery.
17. **Vat** means any fixed vessel used for storage of spirit.
18. **Warehouse** means the part of distillery in which spirit in a fit state for consumption is stored.
19. **Wash** means a saccharine solution from which spirit in a fit state for consumption is stored.
20. **Wash back** means a vessel in which fermentation is carried out

⁶⁶ Country liquor and foreign liquor have been defined by the State government by issue of notification under sub-section(2) of section -4 of the UP-Excise Act, 1910

⁶⁷ Country liquor and foreign liquor have been defined by the State government by issue of notification under sub-section(2) of section -4 of the UP-Excise Act, 1910

4.2 Relevant Provisions of the Act and Rules

The important provision so Act for conducting revenue audit of excise are as under:

a. *Import of intoxicants under the provisions of this Act*⁶⁸

(1) No intoxicant shall be imported unless-

- a) the State Government has given permission either general or special, for its import ;
- b) such conditions (if any) as the State Government may impose have been satisfied ; and
- c) the duty (if any) imposed under section 28 has been paid or a bond has been executed for the payment thereof.

(2) Sub-section (1) shall not apply to any article which has been imported into India and was liable on such importation to duty under the Indian Tariff Act, 1894 , or the Sea Customs Act, 1878.

b. *Export of intoxicants under the provisions of this Act*⁶⁹

No intoxicant shall be exported or transported unless -

- a) the duty (if any) imposed under section 28, or
- b) if the article was previously imported, the duty (if any) imposed on its importation under the Indian Tariff Act, 1894 or the Sea Customs Act, 1878, has been paid, or a bond has been executed for the payment thereof.

c. *Manufacture of intoxicants prohibited except under the provisions of this Act*⁷⁰

- (1)
 - (a) No intoxicant shall be manufactured;
 - (b) no hemp plant (Cannabis Sativa) shall be cultivated;
 - (c) no portion of the hemp plant (Cannabis Sativa) from which any intoxicating drug can be manufactured shall be collected;
 - (d) no liquor shall be bottled for sale; and
 - (e) no person shall use, keep or have in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any intoxicant other than *tari*; except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Collector.
- (2) No distillery, [brewery or manufactory] shall be constructed or worked except under the authority and subject to the terms and conditions of a licence granted in that behalf by the Excise Commissioner under Section 18.

⁶⁸ Section -12, UP Excise Act, 1910

⁶⁹ Section -13, UP Excise Act, 1910

⁷⁰ Section -18, UP Excise Act, 1910

d. Establishment or licensing of distilleries and warehouses⁷¹

The Excise Commissioner may:

- a) establish a distillery in which spirit may be manufactured under a licence granted under Section 17 on such conditions as the State Government deems fit to impose;
- b) discontinue any distillery so established;
- c) licence, on such conditions as the State Government deems fit to impose the construction and working of a distillery or [brewery or manufactory];
- d) establish or licence a warehouse wherein any intoxicant may be deposited and kept without payment of duty; and
- e) discontinue any warehouse so established.

e. Removal of intoxicants from distillery, etc.⁷²

No intoxicant shall be removed from any distillery, [brewery, manufactory], warehouse or other place or storage established under this Act unless the duty (if any) payable under Chapter V has been paid or a bond has been executed for the payment thereof.

f. Sale of intoxicants without licence is prohibited.

No intoxicant shall be sold without a licence from the Collector provided that -

1. a person licensed under section 17 to cultivate or collect hemp plant (cannabis sativa) may sell without a license those portion of the plant from which any intoxicating drug can be manufactured to any person licensed under this Act to deal in the same or to any officer whom the Excise Commissioner may prescribe;
2. a license for sale in more than one district of Uttar Pradesh shall be granted only by the Excise Commissioner;

g. Price of intoxicants: .

Factor determining the retail price of an intoxicants are

- a) Supplier's price, covering the cost of production, manufacture or import, the cost of distribution to bonded warehouse or to shops, to profit of the producer, manufacturer, or importer;
- b) The excise duty, if any, levied on the article produced, manufactured or imported, or, in the case of an article imported into India, customs, tariff duty, if any;
- c) The licence fee levied by the government from the vendor in return for the grant of the right to sell article, and
- d) The vendor's profit

⁷¹ Section-19, Excise Act, 1910

⁷² Section-19, Excise Act, 1910

REVENUE AUDIT MANUAL PART-II MANUAL -REFERENCE MATERIAL

Calculation of MRP is done by manufacturer/ supplier and forwarded to excise officer for review. The MRP of Liquor as per Excise Policy, 2019 is as under:

Particulars	Foreign Liquor	Particulars	Country Liquor
Ex-distillery price/ Ex-brewery price (EDP/ EBP)	XXX	Ex Duty Price Fixed by the Govt.	XXX
Export Duty	XXX	Excise Duty @ per AL/BL	XXX
Import Duty	XXX	Total	XXX
Bonded Warehouse/ Warehouse Expenses	XXX	Commercial Tax	10% of Total
Excise Duty @ per AL	XXX	Cess @ 2%	XXX
Total	XXX	Cost to Whole Sale Depot (MFL2)	XXX
Commercial Tax	20% Total	Licence Fee Incidence (8% of total License Fee)	XXX
Cess @ 2%		MGD	XXX
Hologram/Trace and Trade Fee	XXX	Total Cost	XXX
Cost to Wole Sale Depot (MFL2)	XXX	Margin to Retailers	25% of Total Cost
TCS	XXX	MRP*	XXX
MGD/ Assessment Fee	XXX	.	
Total Cost	XXX		
Margin to Retailers	25% of Total Cost		
MRP*	XXX		

Note: The above MRP is indicative only and the auditor should refer to the latest MRP declared in the Excise Policy at the time of audit.

Section 5: Stamp Duty and Registration

5.1 Indian Stamp Act 1899

The Important provisions of Indian Stamp Act 1899 for conducting revenue audit is as under.

5.1.1. Important Definitions U/s 2

Bill of Exchange means as defined in the Negotiable Instruments Act 1881. This includes hundi, any other document entitling/purporting to entitle any person (whether named therein/not) to payment by any other person or to draw upon any other person any sum of money.

Bill of exchange payable on demand includes an order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen; and any such goods, merchandise or property from any risk, loss or damage, such agreement or engagement shall be deemed to be a contract for sea insurance.

Bond includes:

- a. any instrument whereby a person obliges himself to pay money to another on the conditions that the obligation shall be void if a specified act is performed, or is not performed, as the case may be,
- b. any instrument, attested by a witness and not payable to order/bearer, by which a person obliges himself to pay money to another
- c. any instrument so attested, by which a person obliges himself to deliver gain/other agricultural produce to another.

Collector means within the limits of Kolkata, Madras, Mumbai, the Collector of these cities and in any other place, the collector of a district. Note: the term, however, includes a Deputy Commissioner and any other officer whom the SG may appoint by gazette notification in this behalf.

Conveyance means on sale and every instrument by which movable/immovable property is transferred inter vivos (between two living persons) and which is not otherwise specifically provided for in Schedule I.

Duly Stamped means instrument bears an adhesive/impressed stamp of not less than the proper amount and that such stamp that has been affixed/used as per the prevalent law in India at that time.

Execution means signed/signature.

Impressed Stamp means labels affixed and impressed by the proper officer and Stamps embossed/engraved on stamped paper.

Instrument every document by which any right/liability is or purports to be created, transferred, limited, extended, extinguished, or recorded.

Instrument of Partition means any instrument by which co-owners of any property divide/agree to divide the property in severalty and includes a final order for effecting a partition passed by any revenue authority/any civil court and an award by an arbitrator directing a partition.

Lease means a lease of immovable property and includes:

- A patta
- A kabuliyat/other undertaking in writing (not being a counterpart of a lease) to cultivate, occupy, pay, deliver rent for immovable property.
- Any instrument by which tolls of any description are let.
- Any writing on an application for a lease intended to signify that the application is granted

Marketable Security means A security of such a description as to be capable of being sold in any stock market in India/in the UK.

Mortgage Deed means every instrument by which one person transfers/creates to/in favour of another a right over/in respect of specified property for the purpose of securing money advanced/to be advanced by way of loan/an existing or future debt/the performance of an engagement.

Paper means Vellum, Parchment/any other material on which an instrument may be written.

Policy of Insurance means (a) any instrument by which one person engages to indemnify another person against loss, damage or liability arising from an unknown/contingent event for premium. (b) a life policy and any policy insuring any person against accident/sickness and any other personal insurance.

Policy of Group Insurance: Any instrument covering minimum 50 (or such smaller number as approved by CG) either generally/with reference to any particular case, by which an insurer engages to cover with/without medical examination for premium paid by the employer/jointly by the employer & employee, for the sole benefit of the persons (except the employer) / the lives of all the employees or of any class of them, determined by conditions of employment, for insured amount based on a plan which precludes individual selection

Policy of Sea Insurance/Sea Policy means:

- a) Any insurance made upon any ship/vessel (marine/inland navigation)/ upon the machinery, tackle/ furniture of any ship or vessel or upon any goods/merchandise/property of any description whatever on board of any ship/vessel or upon the freight of or any other interest which may be lawfully insured in or relating to any ship/vessel
- b) Includes any insurance of goods/merchandise/property for any transit which includes not only a sea risk within the meaning of (a) but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance.
- c) Where any person, in consideration of any sum of money paid/to be paid for additional freight/otherwise, agrees to take upon himself any risk attending goods, merchandise or property

of any description while on board of any ship/vessel or engages to indemnify the owner of any such goods, merchandise or property from any risk, loss/damage, such agreement/engagement shall be deemed to be a contract for sea insurance.

Promissory Note means as defined by the Negotiable Instruments Act, 1881. It includes a note promising the payment of any sum of money out of any particular fund which may/may not be available OR upon any condition/contingency which may/may not be performed/happen.

Power of Attorney means Any instrument (not chargeable with court fee) empowering a specified person to act for and in the name of the person executing it.

Receipt means (a) by which any money/bill of exchange/cheque/promissory note is acknowledged to have been received. (b) by which any other movable property is acknowledged to have been received in satisfaction of a debt. (c) By which any debt/demand/any part of a debt/demand is acknowledged to have been satisfied/discharged. (d) Which signifies/imports any such acknowledgement and whether the same is/is not signed with the name of any person.

Power of Attorney means any instrument (not chargeable with a fee under the law relating to court fees for the time being in force) empowering a specific person to act for and in the name of the person executing it.

Settlement is a non-testamentary disposition in writing, of movable/immovable property made:

- a) In consideration of marriage.
- b) For the purpose of distributing property of the settlor among his family/those for whom he desires to provide/for the purpose of providing for some person dependent on him.
- c) For any religious/charitable purpose and 'Settlement' also includes an agreement in writing to make such a disposition and where any such disposition has not been made in writing, any instrument recording, by way of devolution of trust/otherwise, the terms of any such disposition.

Stamp means any mark, seal and endorsement by any agency/person duly authorised by the SG and includes an adhesive/impressed stamp for the purpose of duty chargeable under this act.

5.1.2. Levy Stamp Duty on Different Types of Instruments

1. **Instruments Chargeable with Stamp Duty:** All instrument instruments mentioned in Schedule I, IA and IB of the Indian Stamp Act 1899 whether executed in out of India or in Uttarakhand or out of Uttarakhand and related to any property situated or to any matter or things done or to be done in India or in Uttarakhand and received in India or in Uttarakhand are chargeable to stamp duty of amount indicated in those schedules subject to the exception mentioned therein (**Section 3 of Indian Stamp Act 1899**).
2. **Documents Executed Outside Uttarakhand.** The stamp duty in respect of instruments mentioned in Schedule I and Schedule-IA is uniform throughout the India as they constitute subject matter of Union Legislature, but instruments mentioned in IB differs from State to State as they are in the State List under the Constitution. For example, as an adoption deed executed on a stamp of INR

35 in Uttar Pradesh and received in Uttarakhand will require an additional stamp duty of INR 15 as the duty in Uttarakhand on such deeds is INR 50. (**Section 19-A of the Indian Stamp Act 1899**).

3. **Several Instruments Executed in a Single Transaction:** In case of any sale, mortgage, or settlement, several instruments are employed for completing the transaction, the **principal instrument** shall only chargeable with stamp duty prescribed in Schedule-IB for the conveyance, mortgage or settlement, and each other instruments shall be chargeable with a stamp duty of INR 5 instead of the duty (if any) prescribed for it in that schedule. (**Section 4 of Indian Stamp Act 1899**). **Note: The parties may themselves determine the principal instrument. However, the stamp duty chargeable on the principal instrument shall be the highest stamp duty and other instrument chargeable INR 5 per instrument**
4. **Instrument Related to Several Distinct Matter:** Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act. (**Section 5 of Indian Stamp Act 1899**).
5. **Instrument Coming with Several Description:** Where any instrument are so framed as to come within two or more description in Schedule I, IA & IB and the stamp duty chargeable to these instruments are different, chargeable with highest of such duty. (**Section 6 of Indian Stamp Act 1899**).
6. **Payment of Duty Instrument Coming with Several Description:** Notwithstanding anything contained in section 4 or 6 or any other law, unless it is proved that the duty chargeable under this Act, as amended in its application to Uttar Pradesh, has been paid,— (a) on the principal or original instrument as the case may be, or (b) in accordance with the provisions of this section, the duty chargeable on any one of the Several instrument employed for completing a transaction of sale, mortgage or settlement other than a principal or original instrument would when received in Uttar Pradesh, have been chargeable under this Act, as amended in its application to Uttar Pradesh, with a higher rate of duty, be the duty with which the principal or original instrument would have been chargeable under Section 19-A. [(1-a) Where any instrument is registered in any part of India other than Uttar Pradesh and the Instrument relates, wholly or partly to any property situated in Uttar Pradesh, the copy of such instrument shall, when received in Uttar Pradesh, be liable to be charged with the difference of stamp duty as on original under Section 19–A to the extent of and in proportion to the consideration or value of the property situated in Uttar Pradesh, and the party liable to pay the stamp duty on the original instrument shall, upon receipt of notice from registering officer pay the difference in the duty within the time allowed. (2) Notwithstanding anything contained in any law, no instrument, counterpart, duplicate or copy chargeable with duty under this section has been paid thereon: Provided that a court before which any such instrument, counterpart, duplicate or copy is produced, may, in its discretion, permit the duty chargeable under this section to be paid thereon, and may then receive it in evidence. (**Section 6A of Indian Stamp**

Act 1899). In other words, if for completing a transaction of sale, mortgage or settlement, several instruments have been employed and instead of principal instrument or the original instrument, a supplementary instrument, counterpart, duplicate or copy is received in Uttarakhand, the difference between the enhanced duty as payable in Uttarakhand and that already paid in respect to the original or principal instrument, shall be realised before any of the aforesaid instrument can be admitted in evidence.

7. **Policy of Sea Insurance:** If any sea insurance is made for/upon a voyage and also for time or to extend to or cover any time beyond 30 days after the ship shall have arrived at the destination and been there moored at anchor, the policy shall be charged with duty as a **policy for/upon voyage + as a policy for time**.
8. **Bonds, debentures or other securities issued on loans under Act 11 of 1879:** If any local authority raises loan under the **Local Authorities Loan Act, 1879** or any other law for the time being in force, by issue of bonds, debentures or other securities, shall in respect of such loan, be chargeable with a duty of **one per centum on the total amount of the bonds, debentures or other securities issued by it**.
 - Such bonds, debentures or other securities need not be stamped, and shall not be chargeable with any further duty on renewal, consolidation, subdivision or otherwise.
 - Further, such exemption is available for all the bonds, debentures or other securities of all outstanding loans of the kind mentioned here. All such bonds, debentures or other securities shall be valid, whether these are stamped or not.
 - However, local authority is to pay Stamp Duty in respect of bonds, debentures or other securities if issued before 26.03.1897.
 - Where there is an wilful neglect to pay the stamp duty under this section, the Local Authority shall be liable to forfeit to the Government a sum equal to 10% upon the amount of duty payable and a like penalty for every month after the first month during which the neglect continues.

5.1.3. Value for Levy of Stamp Duty

Sections 20 to 28 of the Indian Stamp Act 1899 deals the method for determination of value for levy of stamp duty. U/s 27 of the Indian Stamp Act 1899, parties to an instrument are bound to set forth fully and truly the consideration, if any, the market value of the property and all facts and circumstances affecting the chargeability of an instrument. Failure on the part of an executant to do this with intent to defraud the Government and deprive the Government of any duty or penalty is punishable with fine which may extend to INR 5,000/- (Rupees five thousand). The liability of fine not only extend to the executant but also to any person who being employed or concerned in or about the preparation of any instrument neglects or omits to set forth therein all facts and circumstances (Section-64). There are two facts that are affecting to determination of the value for charging stamp duty is provided below.

- a. Value or consideration set forth in the instrument

- b. In case of instrument relating to immovable property, the property chargeable with an ad-valorem duty on the value of the property, and not on the value set forth. The instrument shall fully and truly set forth the land revenue in case of revenue paying land, the annual rental or gross assets if any to which such property may be subject and any other particulars which may be prescribed by rules made there under.

Other scenario which is affecting the value of the instrument is provided below.

Instrument	Value for Determination of the Stamp Duty
Conversion of Amount Expressed in Foreign Currencies.	Where an instrument is chargeable with duty based on value specified in a non-Indian currency, such duty is to be calculated on the Indian equivalent of such money according to the current rate of exchange on the date of the instrument. The rate of exchange as notified by the Government of India from time to time under the India Stamp Act, may be adopted for the purpose U/s 20 of the Indian Stamp Act 1899.
Stock and marketable securities how to be valued.	Where an instrument is chargeable with duty with respect to any stock or of any marketable or other security, such duty shall be calculated on the value of such stock or security according to the average price or the value thereof on the day of the date of the instrument U/s 21 of the Indian Stamp Act 1899. When an instrument is stamped on the basis of the statement or current rate of exchange or it should be deemed to have been duly stamped until the contrary to be proved U/s 22 of the Indian Stamp Act 1899.
Instruments Reserving Interest	Where interest is made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no interest been there U/s 23 of the Indian Stamp Act 1899.
Certain Instruments Connected with Mortgage of Marketable Securities to be Chargeable as Agreements	Instruments (other than promissory notes and bills of exchange) evidencing mortgage by deposit of marketable securities are chargeable as agreements or memorandum of agreements under Article-5(c) of Schedule I-A. A release or discharge of any such instrument is also chargeable with like duty U/s 23A of the Indian Stamp Act 1899.
Where the sale of a property is subject to a mortgage, the mortgage debt or charge outstanding together with interest, if any.	In such a case any unpaid mortgage money or money charged together with interest (if any) due on the same is to be deemed to be part of the consideration for sale. For example where 'A' owes to 'B' INR 1,000 and sells a property to 'B' for a consideration of INR 500 and the release of previous debt of INR 1,000. Then the stamp duty is payable on INR 1,500. In another case where 'A' sells property to 'B' for INR 500 which is subject to a mortgage

	<p>to 'C' for INR 1,000 and unpaid interest of INR 200, in this case stamp duty is payable on INR 1,700. Where a property subject to mortgage is sold to the mortgagee himself, he is liable to pay stamp duty on the value of the transfer less the duty already paid on the mortgage deed. But where only a part of the mortgage debt remains due, the rest having been discharged, a deduction can be allowed only in respect of the duty chargeable on the unpaid mortgage money which alone forms part of the consideration for sale. The benefit is available to the mortgagee, the successors and assignees taking a sale of the mortgaged property.</p>
<p>Valuation in Case of Annuity</p>	<p>Where an instrument is executed to secure the payment of an annuity/other sum payable periodically or where the consideration for a conveyance is an annuity/other sum payable periodically, the amount secured by such instrument/the consideration for such conveyance shall be deemed to be-</p> <ol style="list-style-type: none"> a) Where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained, such total amount. b) Where the sum is payable in perpetuity/for an indefinite time not terminable with any life in being at the date of such instrument/conveyance-the total amount which will/may be payable during the period of 20 years calculated from the date on which the first payment becomes due and c) Where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument/conveyance-the maximum amount which will/may be payable during the period of 12 years calculated from the date on which the first payment becomes due. <p>U/s 25 of the Indian Stamp Act 1899.</p>
<p>Value of Stamp where Subject Matter is Indeterminate</p>	<p>Where the amount or value of the subject matter of any instrument chargeable with duty cannot be/could not have been ascertained at the date of its execution or first execution, the highest rate of stamp duty which would have been applicable for another instrument of the same description shall be sufficient.</p> <p>In case of a mining lease in which royalty or share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such royalty/the value of such share for the purpose of Stamp duty:</p> <ol style="list-style-type: none"> a) when the lease has been granted by or on behalf of Government at such amount or value as the Collector may, having regard to all the circumstances of the case, have estimated as likely to be

	<p>payable by way of royalty, or shall to Government under the lease or</p> <p>b) When the lease has been granted by any other person at INR 20000 per year</p> <p>And the whole amount of such royalty or share shall be claimable under such lease. Also provided that, where proceedings have been taken in respect of an instrument under Section 31 or 41, the amount certified by the Collector shall be deemed to be stamp actually used at the date of execution U/s 26 of the Indian Stamp Act 1899.</p>
<p>Directions as to Duty in Case of Certain conveyances</p>	<ul style="list-style-type: none"> • Where any property has been contracted to be sold for one consideration for the whole and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in the manner that parties think fit. Provided that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with ad valorem duty in respect to such distinct consideration. • Where property contracted to be purchased for one consideration for the whole by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the consideration, the conveyance of each separate part shall be chargeable with ad valorem duty in respect of the distinct part of the consideration therein specified. • Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the same to any other person and the property is in consequence conveyed immediately to the sub- purchaser, the conveyance shall be chargeable with ad valorem duty in respect of the consideration for the sale by the original purchase to the sub-purchaser. • Where a person having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the whole, or any part thereof, to any other person or persons, and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with ad valorem duty in respect only of the consideration paid by such-sub-purchaser, without regard to the amount or value of the original consideration, and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable

	<p>with ad valorem duty in respect only of the excess of the original consideration over the aggregate of the consideration paid by the sub-purchaser: Provided that the duty on such last-mentioned conveyance shall in no case be less than one rupee.</p> <ul style="list-style-type: none"> • Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with ad valorem duty in respect of the consideration paid by him and is duly stamped accordingly, any conveyance to be after wards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller or, where such duty would exceed five rupees, with duty of five Rupees. <p>U/s 28 of the Indian Stamp Act 1899.</p>
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5.1.4. Stamping and Mode of Payment of Duty

Stamp duty with which any instruments are chargeable shall be paid and such payment shall be indicated on such instruments, by means of non-judicial stamps **U/s 10 of the Indian Stamp Act 1899**. Further, Rule 6 of Uttar Pradesh Stamp Rules 1942, the instruments should be written on impressed stamp of chargeable amount. However, there are cases in which duty is paid on instrument otherwise than stamp which is as under.

- c. When instrument are bought to the collector U/s 31 of the Stamp Act for Adjudicating of duty or U/s 41 of the Stamp Act for voluntary payment of duty.
- d. when excess duty and penalty are levied on the impounded documents.

In the above case the stamp duty is paid in cash, the payment is indicated by the endorsement of the collector on the instruments.

The non-judicial stamps are of two categories viz:

- I. Impressed Stamps:** Impressed stamp shall be written in same manner that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument **U/s 13 of the Indian Stamp Act 1899.**
- II. Adhesive Stamps:** Following instrument may be stamped with the Adhesive Stamp **U/s 11 of the Indian Stamp Act 1899.**
 - i. Instruments chargeable with a duty of maximum ten naye paise, except parts of bills of exchange payable otherwise than on demand and drawn in sets.
 - ii. Bills of Exchange and promissory notes drawn or made out of India.
 - iii. Entry as an advocate, vakil or attorney on the roll of a High Court.
 - iv. Notarial Acts and
 - v. Transfers by endorsement of shares in any incorporated company/other body corporate

Cancellation of the Adhesive Stamp U/s 12 of the Indian Stamp Act 1899:

1. (a) whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any person shall, when affixing such stamp, cancel the stamp so that it cannot be used again; and
(b) whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.
2. Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again, shall, as far as such stamp is concerned, be deemed to be unstamped.
3. The person required by sub-section (1) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials or the name or initials of his firm with the true date of his so writing, or in any other effectual manner.

Penalty for Non-Cancelation: Any person who is required to cancel an adhesive stamp and fails to cancel such stamp in the manner mentioned above, shall be punishable with fine which may extend to one hundred rupees **U/s 63 of the Indian Stamp Act 1899.**

Every instrument written in contravention of Section 13 or Section 14 shall be deemed to be unstamped U/s 15 of Indian Stamp Act 1899.

Payment of duty is normally made through challan or by electronic payments (Online mode) through National Electronic Funds Transfer (NEFT)/Real Time Gross Settlements (RTGS)/Net Banking/ IMPS/ PPIs, PoS etc. through online portals of the States. For the receipt of all types of stamp duty and fees through electronic/ online/ paper-based instruments, the Registering officers shall use their DDO Bank account already in operation. The proper receipt shall be granted only after the realization of the said fees in the bank account.

However, if the collector is satisfied that there is temporary shortage of stamps in the district or that stamps of required denominations are not available, he may by general or special order issued in this behalf, permit the duty to be paid in cash and authorise the officer in-charge of the treasury of the sub treasury, as the case may be, on production of challan evidencing payment of duty in the Government treasury or sub treasury to certify endorsement on the instruments the amount of duty so paid in cash. **(U/s 10A of the Indian Stamp Act 1899).**

5.1.5. Time of Stamping

- a. **Instrument Executed in India:** All instruments chargeable with duty and executed by any person in India shall be stamped before or at the time of execution of the Instrument **U/s 17 of the Indian Stamp Act 1899.**
- b. **Instrument Other than Bill and Notes Executed Out of India:** Every instrument chargeable with duty executed only out of India and not being a bill of exchange or promissory note, may be stamped **within 3 months** after it has been first received in India. If any instrument cannot be stamped with reference to the description of prescribed stamp by a private person, it may be taken

to the Collector within 3 Months and he will stamp it with required stamp and the person so taking such instrument shall pay the stamp duty **U/s 18 of the Indian Stamp Act 1899.**

- c. **Bill and Notes Drawn Outside India:** The 1st holder in India of any bill of exchange (Payable otherwise on demand)/promissory note drawn/made out of India shall affix the proper stamp and cancel the same before he presents the same for acceptance/payment/endorsement/transfers/otherwise negotiates the same in India. Any person omitting to affix/cancel a stamp shall be charged with a penalty **U/s 19 of the Indian Stamp Act 1899.**

5.1.5. Person Liable to Pay Stamp Duty

The general rule is that in the absence of any agreement among the parties as to the incidence of duty, the stamp duty is to be borne by the executant. Means if there is an agreement between the parties as to who would bear the stamp duty the agreement will prevail over Section-29. However, in the absence of any agreement to the contrary, the expense of providing the proper stamp shall be borne by the following person **U/s 29 of the Indian Stamp Act 1899.**

- a. In the case of any instrument described in any of the following Articles of Schedules I, I-A or I-B, as the case may be namely:

Article	Nature of Instrument	Liability to Pay Stamp Duty
No. 2	Administration bond	Person making drawing, making or executing such instrument.
No. 6	Agreement relating to deposit of title deeds, pawn or pledge	
No. 13	Bill of Exchange	
No. 15	Bonds	
No. 16	Bottomry Bond	
No. 26	Customs Bond	
No. 27	Debenture	
No. 32	Further Charge	
No. 34	Indemnity Bond	
No. 40	Mortgage Deed	
No. 49	Promissory Note	
No. 55	Release	
No. 56	Respondentia bond	
No. 57	Security bond or Mortgage deed	
No.58	Settlement	Person drawing, making or executing such instrument.
No. 62 (a)	Transfer of shares, in an incorporated company/other body corporate	
No. 62 (b)	Transfer of debentures, being marketable securities, whether the debenture is liable to duty	

	or not, except debentures provided for by Section 8 of the Indian Stamp Act 1899 i.e. Bonds, debentures or other securities issued on loans under Act XI of 1879. Refer point no. 5.1.2 for details.	
No. 62 (c)	Transfer of any interest secured by a bond, mortgage deed or policy of insurance	
	In the case of a policy of insurance other than fire insurance	By the person effecting the insurance
	In case of policy of fire-insurance	By the person issuing the policy
23 & 54	The conveyance including reconveyance of mortgaged property	The grantee
35	Lease or agreement to lease	Lessee or intended lessee
25	Counterpart of a lease.	Lessor
31	Deed of exchange	Parties in equal shares
18	Certificate of sale	The purchaser of the property to which such certificate relates.
45	Instrument of partition	Parties thereto in proportion to their respective shares in the whole property partitioned or when the partition is made in execution of an order passed by a Revenue Authority or Civil Court/Arbitrator in the proportion as directed by such authority, court or arbitrator.

5.1.6. Power to Reduce, Remit or Compound the Stamp Duties

The CG reserves the right to **reduce/remit, prospectively/retrospectively** in the **whole/any part** of the territories under its administration, the duties with which any instruments/any particular class of instruments/any of the instruments belonging to such class/any instrument executed by or in favour of any particular class of persons, by/in favour of any members of such class are chargeable.

Similarly, the SG reserves the right to provide for the composition/consolidation of duties of policies of insurance and in the case of issues by any incorporated company/other body corporate or of transfers(whether there is a single transferee, incorporated or not) of debentures, bonds or other marketable securities.

In relation to stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts and in relation to any other stamp duty chargeable under this act and falling within entry 96 of List I in the 7th Schedule to the Constitution, except the subject matter referred in the second bullet of this section, the CG.

5.1.7. Adjudication as to Stamps

Section 31 and 32 deal with the procedure of adjudication as to stamps by the Collector in cases where applications are received from parties for determination of proper stamp duty. The Party applying for determination of such duty should produce the instrument before the Collector along with a **fee not exceeding twenty rupees and not less than five rupees** as the Collector may direct in each case. The instruments executed or in stages of execution can also be presented for adjudication. In the case of instruments already executed, the party gets the benefit of getting the instrument certified as duly stamped on payment of the duty, if any, determined by the Collector. No penalty is payable in such cases. Certificate by the Collector regarding the adequacy or otherwise of the stamp duty paid applies only to instruments produced before the Collector within one month from the date of its execution or first execution in India and within three months from the date of its first receipt in India. The collector ordinarily determines the duty but in case of any doubt, he may refer the case to the Board of Revenue for opinion and on receipts of the opinion form the Board of Revenue he will proceed to charge of duty. The adjudication of the collector is rendered effective only when he endorses a certificate to that effect. The certificate endorsed by the collector is final and cannot be revised by the Board of Revenue or High Court.

5.1.8. Instrument Not Duly Stamped

Where the Registering officer finds that an instrument (produced before him for registration or coming in performance of his functions within three years from the date of registration), not duly stamped, he is to impound the same and send the original or copy of the instrument where original is not produced, to the Collector for determination of proper stamp duty. If the Collector is of the opinion that the instrument is duly stamped, he will return it to the impounding officer endorsing thereon a certificate to the effect that it is duly stamped. But if, he is of the opinion that the same is not duly stamped, he will pass orders for payment of proper duty or the deficit duty along with a penalty of five rupees. If he thinks fit, he may also pass orders for realisation of a penalty not exceeding **ten times** the amount of proper duty or of the deficient portion, whether such amount exceeds or falls short of five rupees. The Collector is also empowered to remit the penalty in cases where instruments are impounded only because these are written in contravention of Section 13 or 14 of the Indian Stamp Act 1899.

5.1.9. Prevention of Under Valuation of Instrument

The duty is based on the value of the instrument or consideration specified therein. U/s 27 of the Indian Stamp Act 1899, the consideration, if any, the market value of the property and all other facts and circumstances affecting the chargeability of an instrument are to be fully and truly set forth in the

instrument. Failure to comply with the provisions contained U/s 28 is punishable U/s 62 with a fine which may extend up to five hundred rupees.

If a registering officer while registering any instrument of conveyance, exchange, gift, settlement, partition has reasons to believe that the market value of the property which is the subject matter of such instrument, has not been rightly set forth in the instrument, he may, before registering such instrument refer the same under Section-47A to the Collector for determination of the market value of such property and the proper duty payable thereon. On receipt of such a reference, the Collector is to determine the market value of the property and the deficient amount of stamp duty, if any, is to be paid by the person liable to pay the duty. Deficit registration fees, if any, is also to be paid under Section-89-A of the Registration Act by the person liable to pay deficit stamp duty and all amounts recoverable may be recovered as arrears of land revenue. 5.35 Where no reference has been made by the registering officer, the Collector may, on his own volition, within three years from the date of registration of an instrument call for and examine the same for the purpose of satisfying himself as to the correctness of the market value of the property which is the subject matter of such instrument and the duty payable thereon.

5.1 Indian Stamp Act 1899

The Important provisions of Registration Act 1908 for conducting revenue audit is as under.

5.2.1. Important Definitions U/s 2

Addition- “Addition” means the place of residence and the profession, trade, rank and title, if any of a person described and his father’s name or where he is usually described as the son of his mother, then his mother’s name.

Important Register – Of all the registers maintained in the Registration Offices, the “Register Books” and “Indexes” are the most important ones as per Section-51 of the Registration Act, 1908.

Register Books – Register books kept in Registration Offices are 1, 2, 3, 4 and 5. Books 1 to 4 kept in all Registration Offices while Book 5 is kept only in the office of the District Registrar as per Section 51 of the Registration Act, 1908.

Book-1 “Register of non-testamentary documents relating to immovable property” – The true copy of all documents and all memoranda relating to non-testamentary disposition of immovable property registered under Sections-17 18 and 89 of the Registration Act are filed in this Book.

Book-2 “Record of reasons for refusal to register” – In this book reasons for refusal to register a document under Section-71 of the Registration Act are recorded.

Book-3 “Register of wills and authorities to adopt” – In this book, wills and authorities to adopt alone are recorded.

Book-4 “Miscellaneous Register“– In this book true copies of all documents registered under clauses (d) and (f) of Section-18 of the Act, which do not relate to immovable properties are filed.

Book-5 “Register of deposit of Wills” – In this book, the names of testators or their agents, the year, month, day and hour of presentation etc. of the document deposited under Section 43 of the Act, are recorded.

Effects of non-registration – Section-49 of the Registration Act, 1908 states that, any document required to be registered under Section-17 of the Registration Act or under the provision of the Transfer of Property Act, 1882 shall, not, unless it has been so registered, affect any immovable property comprised therein or confer any power to adopt, or be received as evidence of any transaction affecting such property or conferring such power.

Power to remit fees – Section 78-A of the Registration Act, 1908 states that, the State Government have powers to remit fees in public interest.

Reporting System: Under Section 22-A of the Registration Act, 1908, the registering officer shall refuse to register any instrument relating to the transfer of immovable properties by way of sale, gift, mortgage, exchange or lease, belonging to the State Government, or the local authority or any religious institution. Audit observed that master database of such restricted properties and properties as opposed to public policy was not created or consolidated by R&DM Department or IGR. In absence of such master database in the application system, the alerts for such properties could not be generated from the system.

Current Indexes – (Section-54 and 55 of the Registration Act, 1908) – Current indexes are of much importance since they form the basis for tracing previous documents and encumbrances affecting title to property. They contain the contents of every document of which a true copy or a memoranda filed in Register books and are prepared immediately after true copies of documents or memoranda are filed in the Register books. There are four types of current indexes as described below:

Index-I This contains the names and additions of all persons executing and of all persons claiming under every documents of which a true copy or a memorandum is filed in Book-1. This is maintained in alphabetical order.

Index-II This contains particulars mentioned in Section-21 of the Act, namely, village survey and sub-division number, address of executants and claimants, nature, extent and value of property, date of execution, presentation and registration, stamp duty levied and registration fee collected, registration number of document, references to page No. and volume No. of Book-1 in which it is recorded. This

index is maintained village-wise. Where the property to which the document relates is situated in several villages in the same or different sub-districts, reference to such villages and subdistricts are also given.

Index-III This contains the names and additions of all persons executing every will and authority or which a true copy is filed in Book-3 and of the executors and persons respectively appointed thereunder, and after the death of the testator or the donor (but not before), the names and additions of all persons claiming under the same.

Index-IV This contains the names and additions of all persons executing and of all persons claiming under every document of which a true copy is filed in Book-4

Register of Visits and Commission: The entries in the register are to be checked with the reference to applications of the parties for such visit of the Sub-Registrar at the private residence of the parties. It is to be seen that in cases of examination of persons under Section-33 and 38 of the Indian Registration Act, 1908 the documents must be presented in the Office of the Sub-Registrar while under Section-31 the document shall be presented at the private residence of the executant. The Sub-Registrar is to examine the executants only at his private residence. All applications for visit etc. shall be accompanied with the fixed fee as laid down in the Table of Fees under the Indian Registration Act, 1908.

Short realisation of Stamp Duty and Registration Fee due to registration of documents as General Power of Attorney

As per Article 48(f) read with explanation below Article 23 of Schedule I-A of IS Act, 1899 as amended by the State in 2003, and Sections 78 and 79 of the Registration Act, 1908, an agreement to sell any immovable property or a power of attorney (POA) shall, in case of transfer of possession of such property before or at the time of or after execution of such Agreement or POA, be deemed to be a conveyance. Accordingly, SD and RF applicable to conveyance shall be charged thereon. Further, it was clarified (December 2011) by the Deputy Inspector General of Registration (Central Region) that as the 'principal' permanently hands over the possession of the property to the 'attorney holder' for development of land and relinquishes his power to cancel the POA in future, such document should be classified as deed of conveyance and SD and RF should be charged as per benchmark value of the property. Section 33 of IS Act also empowers the RA to impound the instrument if it is not duly stamped.

During test check of documents relating to general power of attorney (GPA) in the offices of, Audit noticed (.....) that in documents, owners of land executed irrevocable / general power of attorney with second parties for land measuringacres valued at INR As per recitals in those documents, the 'principals' agreed to transfer the possession of said lands after registration to Attorney holders (second party) to sell, lease out, develop, construct buildings and to receive consideration from prospective purchaser. As such, these documents were classifiable as instruments of conveyance and SD of INR and RF of INR was leviable. However, the RAs, while registering the documents,

realised SD of INR and RF of INR classifying the documents as GPA. This resulted in short realisation of SD and RF of INR

After Audit pointed out these cases,stated (.....) that compliance would be submitted after scrutiny of the documents. The matter was reported to the IGR, Odisha inand the Government in..... Their replies are awaited (.....).

(Para 4.5.4 of Audit Report (Revenue Sector) for the year ending March 2015).

Fees Payable U/s 78 of the Registration Act, 1908

S.R.O No. 51/2001, dated 30th January, 2001. In exercise of the power conferred by Sec.78 read with Sec.79 of the Registration Act, 1908 (16 of 1908) amended from time to time on the subject, the State government prepare and publish the following table of fees payable for the purposes specified in the Se.78 of the said Act within the State of Odisha effect from the date of the publication of this notification in the Odisha Gazette

In exercise of the powers conferred by section 78-(A) of the Registration Act, 1908 (Act 16 of 1908) read with Section 79 of the said Act, the State Government, in order to give effect to the incentives declared under the Resolution of the Industries Department bearing No 3971/I, XIX-15-I-I-II-53/2015, dated 18.6.2015, known as the Policy for Special Economic Zones-2015, remit the registration fees payable by such developers, codevelopers, units, Industries or establishment under the act and in respect of such instruments as specified below (Order No.Regn.05/2014.27007, dated 21.9.2015).

S .No.	Description of the documents	Extent of remission of the registration fees
1	Deed of transfer of land or built up space for carrying out authorized operations by Developers, Co-developers, and Units within the Processing Area.	Full
2	Loan agreements, credit deeds and mortgage executed by the Developers, Co-developers, SEZ Units, Industry or establishment	Full

Section 6: Geology and Mining Unit

6.1 Mines and Minerals (Regulation and Development) Act, 1957

6.1.1. Important Definitions U/s 3

- (aa) “**minerals**” includes all minerals except mineral oils
- (b) “**mineral oils**” includes natural gas and petroleum
- (d) “**mining operations**” means any operations undertaken for the purpose of winning any mineral
- (e) “**minor minerals**” means building stones, gravel, ordinary clay, ordinary sand other than sand used for prescribed purposes, and any other mineral which the Central Government may, by notification in the Official Gazette, declare to be a minor mineral
- (g) “**prospecting licence**” means a licence granted for the purpose of undertaking prospecting operations
- (h) “**prospecting operations**” means any operations undertaken for the purpose of exploring, locating or proving mineral deposit
- (ha) “**reconnaissance operations**” means any operations undertaken for preliminary prospecting of a mineral through regional, aerial, geophysical or geochemical surveys and geological mapping, but does not include pitting, trenching, drilling (except drilling of boreholes on a grid specified from time to time by the Central Government) or sub-surface excavation
- (hb) “**reconnaissance permit**” means a permit granted for the purpose of undertaking reconnaissance operations

6.1.2. Licencing/ Leasing of Area for Mining U/s 4

The prospecting or mining operations are to be under **license or lease**. No person shall undertake any reconnaissance, prospecting or mining operations in any area, except under and in accordance with the terms and conditions of a reconnaissance permit or of a prospecting license or as the case may be, of a mining lease granted under this Act and Rules made there U/s 4(1).

No person shall transport or store or cause to be transported or stored any mineral otherwise than in accordance with the provision of the Act and the Rules made there U/s 4 (1A)). State Government may after prior consultation the Central Government, and in accordance with the rules made U/s 18, undertake reconnaissance, prospecting or mining operations with respect to any mineral specified in the first schedule in any area within the State U/s 4(3).

Where the holders of the mining lease fail to undertake mining operations for a **period of two years** after date of execution of the lease deed or having commenced mining operation discontinued the same for a period of two years, lease shall lapse after two years from its date of execution of lease deed or discontinuance of operation U/s A (4).

6.1.3. Grant of Maximum Area for Prospecting License or Mining Lease U/s 6 (1) (a to c)

Sr. No.	License/Permits	Area
1	One or more reconnaissance Permits	Covering total area of 10,000 sq. kms. (single permit-not to exceed 5000 Sq. Kms)
2	One or more prospecting Licenses	Covering total area of not more than 25 sq. kms.
3	One or more mining lease	Covering a total area of not more than 10 sq. kms

Provided that if the Central Government is of the opinion that in the interests of the development of any mineral, it is necessary to do so, it may, for reasons to be recorded in writing, permit any person to acquire one or more prospecting licences or mining leases covering an area in excess of the aforesaid total area.

No person shall acquire in respect of any mineral in a State any reconnaissance permit, mining lease or prospecting license in respect of any area which is not compact or contiguous.

Provided that if the State government is of the opinion that in the interests of the development of any mineral, it is necessary to do so, it may, for reasons to be recorded in writing, permit any person to acquire reconnaissance permit, prospecting licenses or mining leases in relation to any area which is not compact or contiguous.

6.1.4. Grant Period and Renewal U/s 7 & 8

Section	license/Lease	Period	Renewal
U/s 7	Reconnaissance Permit or Prospecting License	Not exceeding three years	Not exceeding five years in case of prospecting license only
U/s 8	Mining lease	Not exceeding thirty years (and not less than twenty years)	Not exceeding twenty years.

Note: Minerals as specified in Part-A or Part-B of the First schedule shall be renewed with previous approval of the Central Government.

6.1.5. Royalty in respect of Mining Lease U/s 9

The holder of a mining lease granted before the commencement of this Act/ on or after the commencement of this Act, shall, notwithstanding anything contained in the instrument of lease or in any law in force at such commencement, pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub-lessee from the leased area after such commencement, at the rate for the time being specified in the Second Schedule in respect of that mineral.

6.1.6. Dead Rent to be Paid by the Lessee U/s 9A

The holder of a mining lease, whether granted before or after the commencement of the Mines and Minerals (Regulation and Development) Amendment Act, 1972, shall notwithstanding anything contained in the instrument of lease or in any other law for the time being in force, pay to the State Government, every year, dead rent at such rate, as may be specified, for the time being, in the Third Schedule, for all the areas included in the instrument of lease.

Provided that where the holder of such mining lease becomes liable, under section 9, to pay royalty for any mineral removed or consumed by him or by his agent, manager, employee, contractor or sublessee from the leased area, he shall be liable to pay either such royalty, or the dead rent in respect of that area, whichever is greater.

6.1.7. District Mineral Foundation U/s 9B

The object of the District Mineral Foundation is to work for the interest and benefit of persons, and areas affected by mining related operations in such manner as may be prescribed by the State Government

The holder of a mining lease or a prospecting licence-cum-mining lease granted on or after the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, shall, in addition to the royalty, pay to the District Mineral Foundation of the district in which the mining operations are carried on, an amount which is equivalent to such percentage of the royalty paid in terms of the Second Schedule, not exceeding one-third of such royalty, as may be prescribed by the Central Government.

The holder of a mining lease granted before the date of commencement of the Mines and Minerals (Development and Regulation) Amendment Act, 2015, shall, in addition to the royalty, pay to the District Mineral Foundation of the district in which the mining operations are carried on, an amount not exceeding the royalty paid in terms of the Second Schedule in such manner and subject to the categorisation of the mining leases and the amounts payable by the various categories of lease holders, as may be prescribed by the Central Government.

6.1.8. National Mineral Exploration Trust U/s 9

The object of the Trust shall be to use the funds accrued to the Trust for the purposes of regional and detailed exploration in such manner as may be prescribed by the Central Government.

The holder of a mining lease or a prospecting licence-cum-mining lease shall pay to the Trust, a sum equivalent to two per cent of the royalty paid in terms of the Second Schedule, in such manner as may be prescribed by the Central Government.

6.1.9. Application U/s 14 & 15

The provisions of sections 5 to 13 (inclusive) shall not apply to quarry leases, mining leases or other mineral concessions in respect of minor minerals.

Section 15- The State Government may, by notification in the Official Gazette, make rules for, regulating the grant of quarry leases, mining leases or other mineral concessions in respect of minor minerals and for purposes connected therewith.

6.1.10. Penalties U/s 21

Whoever contravenes the provisions of sub-section (1) or sub-section (1A) of section 4 shall be punishable with imprisonment for a term which may extend to **five years** and with fine which may extend to **five lakh rupees** per hectare of the area.

Any rule made under any provision of this Act may provide that any contravention thereof shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to **five lakh rupees**, or with both, and in the case of a continuing contravention, with additional fine which may extend to **fifty thousand rupees** for every day during which such contravention continues after conviction for the first such contravention.

Where any person trespasses into any land in contravention of the provisions of sub-section (1) of section 4, such trespasser may be served with an order of eviction by the State Government or any authority authorised in this behalf by that Government and the State Government or such authorised authority may, if necessary, obtain the help of the police to evict the trespasser from the land.

Whenever any person raises, transports or causes to be raised or transported, without any lawful authority, any mineral from any land, and, for that purpose, uses any tool, equipment, vehicle or any other thing, such mineral tool, equipment, vehicle or any other thing shall be liable to be seized by an officer or authority specially empowered in this behalf.

Any mineral, tool, equipment, vehicle or any other thing seized under sub-section (4), shall be liable to be confiscated by an order of the court competent to take cognizance of the offence under sub-section (1) and shall be disposed of in accordance with the directions of such court.

Whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, where such mineral has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax, as the case may be, for the period during which the land was occupied by such person without any lawful authority.

6.2 Mineral Concession Rules 1960

6.2.1. Law of License/Permits/ Lease Fees and Security Deposit

To grant license/permit/lease for mining operation, the levy of such fees prescribed under the Act/Rules is given in Table-A. Security deposit to safeguard the revenue of Government is to be taken from lease holder as prescribed under Table-A which is as under.

Sr. No.	License/ Permit/Lease	Application &Renewal Forms	Non- Refundable application fees	Fees	Deed to be executed	Security Deposit	Register of	
							Applications received	Permits/licence/lease granted
1	Reconnaissance permit	Form-A	INR 5 per sq. km	Not less than INR 5 per sq. km and not more than INR 20 per sq. km each year or part thereof	Form F-1 within 90 days from the date of communication of the order for grant	INR 20 per sq. km or part thereof for which permit is granted	Form G-1	Form H-1
2	Prospecting Licenses	Form-B Form-E	INR 250 for first sq. km. or part thereof and INR 50 for each additional sq. Km	Not less than INR 1 and not more than INR 10 per hectare for each year or part thereof for which the licence is granted or renewed.	Form-F within three months from the date of order for grant Transfer of deed in Form-P	INR 2500 per sq. km or part thereof for which license is granted	Form-G	Form-H
3	Mining Lease	Form-I Form-J	INR 2500+1000 (for meeting preliminary expenses) Fee for mining plan approval- INR 1000 for every sq. km., or part thereof of mining area covered under the mining lease	-	Form-K within six months from the date of order for grant.	INR 10,000	Form-L	Form-M

(Source: Chapter II to VI of the Mineral Concession Rules 1960-amended till 26 July 2012)

6.2.2. Levey of Surface Rent Rule 27(d)

The lessee shall also pay, for the surface area used by him for the purposes of mining operations, surface rent and water rate at such rate, not exceeding the land revenue, water and cesses assessable on the land, as may be specified by the state Government in the lease.

6.2.3. Returns and Statements Rule 51

The holder of a prospecting licence or a mining lease shall furnish to the State Government such returns and statements and within such period as may be specified by it.

6.2.4. Penalty Rule 51

If the holder of a prospecting licence or a mining lease or his transferee or assignee fails, without sufficient cause, to furnish the documents or information, or returns referred to in:

- Rule 46- Transfer or assignment
- Rule 47- Submission of copy of licence or lease
- Rule 48- Communication of transfer or assignment
- Rule 51- Returns and Statements or acts in any manner in contravention of
- Rule 49- Prohibition of premium
- Rule 50- Prohibition of working of mines he shall be punishable with imprisonment for a term which may extend to one year or fine which may extend to five thousand rupees or with both.

6.2.5. Application of Revision Rule 54

Any person aggrieved by any order made by the State Government or other authority in exercise of the powers conferred on it by the Act or these rules may, within three months of the date of communication of the order to him, apply to the Central Government in triplicate in Form N for revision of the order. The application should be accompanied by a Bank Draft for 1[five thousand rupees] on a nationalised bank in the name of 'Pay and Accounts Officer, Department of Mines' payable at New Delhi or through a treasury challan [five thousand rupees] **under the Head of Account - 0853 - Non-ferrous Mining and Metallurgical Industries -102 Mineral Concession Fees, Rents and Royalties.**

6.2.6. Levy of Interest for Belated Payment Rule 64 A

The simple interest at the rate of **Twenty four per cent per annum** is chargeable on any rent, royalty or fee (other than under sub-rule (1) of rule 54) or other sums due to the Government from the sixtieth day of the expiry of the date fixed by the Government for payment of such royalty, rent, fee or other sum and until payment of such royalty, rent, fee or other sum is made.

6.2.7. Manner of Payment of Royalty on Mineral on Ad-Volorem Basis Rule 64 D

- a) for all non-atomic and non-fuel minerals sold in the domestic market or consumed in captive plants or exported by the mine owners (other than bauxite and laterite despatched for use in alumina and metallurgical industries, copper, lead, zinc, tin, nickel, gold, silver and minerals specified under Atomic Energy Act), the State-wise sale prices for different minerals as published by Indian Bureau of Mines shall be the sale price for computation of royalty in respect of any mineral produced any time during a month in any mine in that State, and the royalty shall be computed as per the formula given below:

Royalty = Sale price of mineral (grade wise and State-wise) published by IBM X Rate of royalty (in percentage) X Total quantity of mineral grade produced/ dispatched

- b) for the grades of minerals produced for captive consumption (other than bauxite and laterite despatched for use in alumina and metallurgical industries, copper, lead, zinc, tin, nickel, gold and silver) and those not despatched for sale in domestic market or export, **the sale price published by the Indian Bureau of Mines shall be used as the benchmark price for computation of royalty.**
- c) for primary gold, silver, copper, nickel, tin, lead and zinc, the total contained metal in the ore or concentrate produced during the period for which the royalty is computed and reported in the statutory monthly returns under Mineral Conservation and Development Rules, 1988 or recorded in the books of the mine owners shall be considered for the purposes of computing the royalty in the first place and then the royalty shall be computed as the percentage of the average metal prices published by the Indian Bureau of Mines for primary gold, silver, copper, nickel, tin, lead and zinc during the period of computation of royalty as follows:

Royalty = sale price X rate of royalty in percentage

where sale price = Average price of metal as published by Indian Bureau of Mines during the month X Total contained metal in ore or concentrate produced X Rupee or Dollar exchange rate selling as on the last date of the month of computation of royalty.

- d) In case of metallic ores based on metal contained in ore and metal prices based on benchmark prices, **the royalty shall be charged on dry basis, and the mine owner shall establish suitable facilities for collection of sample and its analysis on dry basis at the mine site.**

6.2.8. Payment of Compensation to Owner of Surface Right etc. Section 72 of Chapter X

The holder of a reconnaissance permit or prospecting licence or mining lease shall be liable to pay to the occupier of the surface of the land over which he holds the reconnaissance permit or prospecting licence

or mining lease, as the case may be, such annual compensation as may be determined by an officer appointed by the State Government.

In the case of agricultural land, the amount of annual compensation shall be worked out on the basis of the average annual net income from the cultivation of similar land for the previous three years.

In the case of non-agricultural land, the amount of annual compensation shall be worked out on the basis of average annual letting value of similar land for the previous three years.

6.2.9. Assessment of Compensation for Damage Section 73 of Chapter X

After the termination of a reconnaissance permit or a prospecting licence or a mining lease, the State Government shall assess the damage, if any, done to the land by the reconnaissance or prospecting or mining operations and shall determine the amount of compensation payable by the permit holder or licensee or the lessee as the case may be, to the occupier of the surface land.

6.3 Uttarakhand Minor Mineral Concession Rule 2001

6.3.1. The following notifications have been considered

1. Notification no. 162/VII-II-13/24-B/2007 dated 18 January 2013
2. Notification no. 1207/VII-I/24-B/2007 dated 07 August 2015
3. Notification no. 1591/VII-I/24-B/2007 dated 07 October 2015
4. Notification no. 1724/VII-I/24-B/2007 dated 30 October 2015
5. Notification no. 211/VII-I/24-B/2007 dated 26 February 2016
6. Notification no. 842/VII-I/2016/24-B/2007 dated 19 May 2016
7. Notification no. 1757/VII-I/16/24-B/2007 dated 22 November 2016
8. Notification no. 1582/VII-I/2017/31-B/17 dated 31 October 2017

6.3.2. Application Fee and Deposit for Grant of Mining Lease Rule 6

Every application for grant of mining lease shall be accompanied by-

- a fee of three thousand rupees
- a deposit of two thousand rupees for meeting the preliminary expenses, other than those specified in Rule 17

Period of Mining lease

- Under rule 12 as per the provision of sub rule 2 any mining lease shall not be allocated more than five years.
- In case the State Government opinion the time period for mining lease is in the interest of the State the time period may be extended from five to ten years, but not more than that.

6.3.3. Application Fee etc for Renewal of Mining Lease Rule 6A

An application for renewal of mining lease may be made at least six months before the date of expiry of the mining lease along with four copies of the map of lease hold area showing clearly the area applied for renewal and the renewal fees shall be same as the application fees i.e. three thousand rupees.

6.3.4. Security Deposit Rule 13

An application for a mining lease shall, before the deed referred to in rule 14 is executed and in such manner as the State Government may by order specify deposit as security, for the due observance of the terms and conditions of the lease, a sum equal to **twenty five percent of the annual dead rent or annual lease amount of the leased area subject to the minimum of INR 2,000**. No interest shall be payable on such security deposit.

6.3.5. Lease Deed to be Executed within three Months Rule 14

Where an order has been made for the grant of a mining lease for sand or morrum or bajari or boulder or any of these in mixed state, **25% percent of the annual lease amount shall be deposited** within seven days of the order or within such further - period as may be allowed by the District Officer not exceeding seven days and a lease deed in form MM-3 or in a Form as near there-to-as the circumstances of each case may require, shall be executed within one month of the communication of the said order of within such further period as the State Government may allow in this behalf.

The lease amount shall in respect of sand or morrum be determined on the basis of the average of the amount received during the last three years from that area or the amount received in the preceding year from such area whichever is higher and in respect of sand, bajari, and boulder or any of these in mixed state be determined on the basis of the highest amount received during the last three years. If no lease amount is deposited or no lease deed is executed within the aforesaid period due to any default on the part of applicant, the State Government may revoke the order granting the lease and in that event the application fee and security amount shall be forfeited to the State Government.

As per the Supreme Court order NPV free Units and other before commencement of the work all the formalities shall be carried out with a MOU with the Director General of Mining and Geology

6.3.6. Refund of Fee

1. Where an application for grant or renewal of a mining lease is refused, the fee paid by the applicant under clause (a) of sub-rule (1) rule 6 or under rule 6-A shall be refunded to him.
2. Where the whole or part of the amount deposited under clause (b) of sub rule (1) of rule 6 has not been expended for the purposes specified in the said clause, it shall be refunded to the applicant:

Provided that in case the amount to be expended for the purposes specified in the said clause (b) is more than the amount deposited under that clause, that applicant shall have to deposit the extra amount as may be determined by the State Government.

3. Unless the State Government having regard to the facts of a particular case direct otherwise, the application fee shall not be refunded on an application being withdrawn.
4. Notwithstanding anything contained in sub-rules (1) and (2), where an application for grant or renewal of a mining lease is refused on account of any lapse on the part of the applicant, the application fee and preliminary expenses shall not be refunded and forfeited to State Government.

6.3.7. Survey of the Area Leased Rule 17

When a mining lease is granted, arrangement shall be made by the Director for survey and demarcation of the area granted under the lease for which lessees shall be charged at the following rates:

- (i) for area up to 5 hectares INR 5000
- (ii) for areas beyond 5 hectares at the rate of INR 1000 per hectare

6.3.8. Registers Rule 20

The following registers shall be maintained in the office of the District Officer:

- (a) a register of applications for mining leases in Form MM-2, and
- (b) a register of mining leases in Form MM-4.

6.3.10. Royalty

1. The holder of a mining lease granted on or after the commencement of these rules shall pay royalty in respect of any mineral removed by him from the lease area at the rates for the time being specified in the First Schedule to these Rules,
2. The State Government may, by notification in the Gazette, amend the First Schedule so as to include therein or exclude there from or enhance or reduce the rate of royalty in respect of any mineral with effect from such date as may be specified in the notification.

Provided that the State Government shall not enhance the rate of royalty in respect of any mineral for more than once during any period of three years and shall not fix the royalty at the rate of more than 20 percent of the pit's mouth value,

3. Where the royalty is to be charged on the pit's mouth value of the mineral, the State Government may assess such value at the time of the grant of the lease and the rate of royalty will be mentioned in the lease deed. It shall be open to the State Government to reassess not more than once in a year the pit's mouth value if it considers that an enhancement is necessary.

6.3.11. Dear Rent Rule 22

The holder of a mining lease shall, during the terms of the lease, pay advance, in instalments for every year of the lease, such amount as dead rent at the rates mentioned in the second schedule to these rules, as may be specified in the lease deed by the State Government, and if the terms of lease permit the working of more than one mineral in the same area, the said dead rent shall be paid separately for each such minerals.

Provided that the lessee shall in respect of each mineral, pay the dead rent or the royalty, whichever is higher in amount and not the both.

6.3.12. Grant of Lease by Auction/ Tender/ Action-cum-Tender Rule 27, 27A and 27 B

- Any person intending to bid shall deposit INR 2000 with the Presiding Officer in advance as earnest money.
- On completion of the auction/tendering, the result shall be announced and the provisionally selected bidder shall immediately deposit 25% of the amount of bid/amount offered in tender as security for execution of the lease deed and due observance of the terms and conditions of the lease and an equal amount as first instalment of royalty.
- The earnest money shall be refunded at the end of the auction/tendering except that which was deposited by the provisionally selected bidder, in whose case it will be adjusted towards security.
- E Procurement and E-Auction.

Under the rule 27-C for approval of the mining / leasing rights the individual person / co-operative/ firm/ company group of individual person shall be done through e procurement and e auction only

Performance Guarantee

A Performance Guarantee of 25% of the maximum annual e- auction shall be paid as an advance through Departmental Gateway within 07 days of the official order of mining, After due deposition the Bank Guarantee shall be released and the lease deed shall be issued by the director within seven days through online system. The information shall also be communicated online to the Government and the DM of the district The Lease deed copy shall be printed by the leaseholder to the district officer for its the signature of DM Mandatory Documents for registration for E-auction of mining rights

- Copy of Individual Aadhar card/ voter's identity card
- Copy of Aadhar card and voters identity card of the partners of the firm
- In case of company Director Identification Number
- Permanent Residential Certificate'
- Recent Character Certificate, certificate by partners of firm that in no criminal case pending against them
- PAN and GST No of the applicant

- Bank account details in which all financial transactions relation to E procurement and e-auction shall be carried out
- Officers designated by the Director Mining and Geology to issue certificate of no dues or no evasion of mining in the State
- An affidavit that the person / firm / company has not been backlisted in any of the States due to illegal mining
- Annual renewal fee of registration on the portal of e-procurement cum e-auction is INR 1000 excluding applicable GST
- Document and fees required at the time of E Procurement cum E auction, Fees for mining lots in plain areas is INR 01 Lac and for hilly area is INR 50,000, the amount shall be deposited in designated payment gateway with statutory dues. This shall be scanned and uploaded in the system
- Earnest Money shall be deposited by the bidders mandatorily before the e-auction
- Calculation of EMD= Estimated maximum quantity of mining material * Prevalent rate of royalty *25%

Solvency Certificate – An solvency certificate shall be calculated at twenty five percent of the maximum of royalty material multiplied current rate of the royalty fee by DM or officer authorized by the DM or in the case of non-availability of updated financial certificate an affidavit shall be provided by the bidder indicating Movable and Immovable or the Bank Guarantee or mortgage the property of any relative of family to licensing officer for the financial certificate or in case any amount less than the amount for financial certificate through a FDR of a bank as designated by the Director mining and Geology.

STEPS AND PROCESS OF E-PROCUREMENT

FIRST STAGE

1. Publication Of Advertisement In Case Of State Two Hindi Widely Circulated In the Region.
 - At the Notice Board Of District Officer and DM Office.
 - At E Procurement Website And Departmental website
 - National mining cases shall be advertised in two national newspaper.
2. Interested Bidder on the designated date and time as advertised shall participate in the E-Auction .The publication shall include maximum and minimum quantity to be extracted in a mining session.
3. The bidder /auctioneer shall quote the quantity to be extracted which is not less than the minimum quantity and not more than the maximum quantity At least three bidder should have indicated more than the minimum quantity for proceeding for the e-auction , in such cases where number of the bidders are more , maximum of five highest bidders shall be qualified for the next stage.
4. Maximum quantity as indicated in the first stage of shall be multiplied by the prevalent rate of royalty as per Uttarakhand Minor Mineral concession rule and shall be the minimum reserve / floor price for the second stage of procurement .Top five bidders details shall be published on the departmental website.

SECOND STAGE

1. The Director mining and geology on the specified date and time shall declare the rate of quantity of mining above the floor price, the bidders shall participate through e-auction system
2. Each Bidder shall have to quote the bid price higher than 0.5 percent of the price quoted just preceding the quote mandatorily above floor price
3. The identity of the bidders shall not be disclosed during auction, the highest bidder bid price shall be always be reflected on the screen, the bidders can bid the price as many times the bidder wants to bid out.
4. The bidding shall automatically stop after the time gets over , but in case of last five minutes of bid closing the maximum , bid amount is received an additional five minutes time for the auction automatically increases this shall increase till in last five minutes no bid price is quoted higher than the previous bid price
5. The bidder with the highest bid price shall be declared H1 for the bid and subsequent H2, H3,H4

PROCEDURE TO BE FOLLOWED FOR ALLOCATION OF MINING / LEASE

1

- The bidder with highest bid price shall deposit 10 percent of the annual e auction price within three days through online mechanism and will be called as prospective Bidder Amount.
- In case of the highest bidder fails the H2 shall be invited at the price quoted by H2, in case this bidder also fails the third the process shall continue till the successful bidder is declared by the Director Mining. Declaration of Successful bidder shall be within seven days of the depositing of the amount by the Director Mining.

2

- Prospective leaseholder documents shall be verified within three days by Director Mining and Geology with clear recommendations to the Government.

3

- An Online Intent letter shall be issued under the provision of section17 and mining policy, environmental clearance , Transfer of forest land ,NBWL permission for 50 hectares in six months and more than 50 hectares one year.

4

- Prospective bidder shall prepare the mining policy for the authorized RQP and deposit the fees in requisite head , after which the director shall approve mining plan within seven days.

5	<ul style="list-style-type: none"> ➤ All environmental and forest clearances shall be taken by the prospective bidder. In case the prospective leaseholder fails to comply or does not receive requisite clearances the advance money deposited, and Bank Guarantee shall be forfeited, and letter of intent shall stand cancelled
6	<ul style="list-style-type: none"> ➤ Registered Qualified personnel shall prepare the mining plan shall be approved by the Director contain details of quantity of mineral to be extracted and the environmental and technical specifications ,DGPS Coordinates , Geo referencing ,Khasra no , Private land , revenue land , forest land and to depict all the public places with 100-meter periphery , and satellite map with scale of 1:10000 . it shall be compulsory to depict the DGPS in all corners of the mining area.
7	<ul style="list-style-type: none"> ➤ Not more than 5 Lease or mining or more than 400 Hectares can be allocated to an individual or firm or comp or cooperative societies. ➤ In case of more leaving the largest the second mining or leasehold shall be cancelled.
8	<ul style="list-style-type: none"> ➤ Security deposit shall be deposited by the prospective leaseholder in form of a FDR of 25 percent of the annual royalty or lease hold fee calculated in form of a bank guarantee pledged within seven days of issue of letter of intent ,this bank guarantee shall be deposited at the district offices . In case the leaseholder fails to receive the clearances in requisite time this money shall be forfeited.
9	<ul style="list-style-type: none"> ➤ The State Government may increase the time period for the clearances in case of mining lots less than 5 of hectares the renewal of letter of intent may be increased for further six months more but after a year the leaseholder wants to renew the letter of intent the prospective leaseholder deposit 20 percent of the amount and increase the bank guarantee of 25 percent also . In case of more than 50 hectares the process shall be same as laid down ,with the difference that this shall be after 12 months as per the rule.
10	<ul style="list-style-type: none"> ➤ After receiving the clearances, the documents shall be submitted to DG mining FOR verification of documents in case of documents are incomplete , the director or officer authorized shall
11	<ul style="list-style-type: none"> ➤ After the due verification an order shall be issued online for the time period left for the lease

6.3.13. Register of Lease Rule 30

A register of mining lease shall be maintained in the officer of the District Officer in Form MM-7 and a copy thereof shall be sent by the District Officer to the Director General Geology and Mining, Uttarakhand.

A proper maintenance of accounts of minerals the quantity, the no of registered vehicles, no of registered animals for carrying minerals.

6.3.14. Mining Permit Rule 52

An application for the grant of a mining permit shall be submitted in form MM-8, in triplicate, to the District Officer or to such other authority who may be authorised by the State Government to grant such permit. It shall be accompanied by:

- (i) a fee of INR 400, and

(ii) two copies of a cadastral survey map, or in case of area not covered by such survey two copies of a topographical survey map, on a scale of at least 4" =1 mile, on which the area applied for is clearly marked.

6.3.15. Deposit of Royalty Rule 54

When an order granting a mining permit has been made under rule 53, the applicant shall, within fifteen days of the communication of the order, deposit the royalty for the total quantity of the mineral permitted in the said order at the rate of the time being specified in the first Schedule to these rules and, if the holder of the permit, due to any reason attributable on his part, could not remove the mineral within the permitted time, any amount deposited as royalty shall not be refunded.

6.3.16. Penalties for Unauthorised Mining Rule 57

Whoever contravenes the provisions of rule 3 (**Mining operations to be under a mining lease or mining permit**) shall on conviction be punishable with imprisonment of either description for a term, which may extend up to six months or with fine which may extend to INR 25000, or with both.

6.3.17. Consequences of Non-Payment of Royalty Rent or Other Dues Rule 58

Simple interest at the rate of 24% per annum may be charged on any rent, royalty, demarcation fee and any other dues under these rules, due to the State Government after the expiry of the period of notice (notice on the lessee to pay within thirty days of the receipt of the notice any amount due or dead rent under the lease including the royalty due to the State Government if it was not paid within fifteen days next after the date fixed for such payment)

6.3.18. Consequences of Contravention of Certain Conditions Rule 59

Any lessee holding a mining lease who commits a breach of any of the conditions provided in rules 44 and 47 (relating to inspection of workings and weighing machines) shall on conviction be punishable with imprisonment of either description for a term which may extend up to six months or with fine which extend to one thousand rupees, or with both.

6.3.19. Consequences of Contravention of Rules and Conditions of Lease Generally Rule 60

In case of any breach or contravention by a lessee of any of these rules or conditions and covenants contained or deemed to be contained in the lease except those relating to payment of royalty, rent or other sums due to the State Government, the State Government, after giving the lessee a reasonable opportunity to state his case, determine the lease.

If a lease is determined under sub-rule (1), the lessee may be blacklisted by the District Officer for such period, not exceeding five years, as may be considered proper and during this period no mineral concession under these rules shall be granted to him. An entry in this regard shall be made in the remarks column of the registers of mining lease or the auction lease, as the case may be.

6.3.20. Returns Rule 73

The holder of a mineral concession under these rules shall submit quarterly return in respect of the preceding quarter in Form MM-12 to the District Officer and to the Regional Office of the Director, in the second week of July, October, January and April every year.

Whenever any holder of mineral concession fails to submit the return within the time specified in sub-rule (1) he shall be liable to a penalty of INR 400.00.

First Schedule: Rate of Royalty (Rule 21)

S.No.	Minerals	Rate of Royalty
1	Limestone	INR 200.00 per tonne
2	Marble or Marble Chips (Sang Mermer)	INR 500 per tonne
3	Brick	INR 1000.00 per thousand bricks
4	Sora (Salt peter)	INR 6.00 per kg or INR 600.00 per quintal
5	Building stone (i) all types of minor mineral made of (except Granite) sized Dimensional stone including slabs ashlar (Sandstone, Quartzite) (who have any one site is above in 25 cm) (ii) sandstone quartzite	INR 350.00 per tonne INR 500.00 per tonne
6	The river level from different location Khandas / Boulders (any site which does not exceed 25 cm), Bajri (single), Ballast (Giti), morrum deposit due to erosion of hill/ sand	INR 194.50 per cubic meter i.e. INR 8.85 per quintal
7	Granite (sized) Dimensional Stone	INR 1000.00 per cubic meter
8	Ordinary sand (other than sand used for prescribed purposes available in the riverbed) or Morrum and Bajri and Boulders and any of the above in a mixed condition	INR 8.50 per quintal i.e. INR 187 per cubic meter (Gla River)
		INR 8 per quintal i.e. INR 176 per cubic meter (Kosi, Dabka River)
9	Kankar	INR 7 per quintal i.e. INR 154 per cubic meter (Haridwar and other places)
		INR 200.00 per tonne
10	Ordinary earth	INR 50.00 per tonne

S.No.	Minerals	Rate of Royalty
11	Silika sand	INR 350.00 per tonne
12	Dolomite	INR 500.00 per tonne
13	Bairite	INR 250.00 per tonne
14	Quartzite	INR 100.00 per tonne
15	other any minerals which are not indicated above	20% of the drilled value
16	Soapstone	Low Category- INR 350 per tonne
		High Category- INR 450 per tonne

Second Schedule: Rate of Dead Rent (Rule 22)

Sl. No.	Minor Minerals	Rate of dead rent per acre per annum (INR)
1	Marble and Marble chips	40,000.00 per acre per annum. 20% growth after three years (if new rates are not the State Government)
2	Limestone	40,000.00 per acre per annum. 20% growth after three years (if new rates are not the State Government)
3	Available in the river Building stone/ Khandas/Boulders/ Bajri/ Giti/ Ballast/ Singal/Morrum deposited erosion of hills/Sand/Earth	40,000.00 per acre per annum. 20% growth after three years (if new rates are not the State Government)
4	Ordinary sand in available in riverbed /Morrum / Bajri /Boulder/ if any of these in a mixed state	80,000.00
5	Ordinary Clay or Ordinary Earth	25,000.00
6	For Minerals Silica sand	30,000.00 per acre per annum. 20% growth after three years (if new rates are not the State Government)
7	For Minerals Dolomite	20,000.00 per acre per annum. 20% growth after three years (if new rates are not the State Government)
8	For Minerals Quartzite	20,000.00 per acre per annum. 20% growth after three years (if new rates are not the State Government)

Sl. No.	Minor Minerals	Rate of dead rent per acre per annum (INR)
9	For Minerals Bairite	20,000.00 per acre per annum. 20% growth after three years (if new rates are not the State Government)
10	For Minerals Soapstone	5,000.00 per acre per annum. 20% growth after three years (if new rates are not the State Government)

6.4 Uttarakhand Mineral (Prevention of Illegal Mining, Transportation and Storage) Rules 2021

As per section 23C of Mines and Minerals (Development and Regulation) Act, 1957, the State Government may, by notification in the Official Gazette, make rules for preventing illegal mining, transportation and storage of minerals and for the purposes connected therewith. Thus, Uttarakhand Minerals (prevention of illegal mining, transportation and storage) rules, 2005 were framed by the Government of Uttarakhand.

Following are the list of amendments considered:

1. Notification no.1031/VII-I/2015/158-B/2004 dated 31 July 2015
2. Notification no.1590/VII-I/2015/158-B/2004 dated 07 October 2015
3. Notification no.1592/VII-I/2015/158-B/2004 dated 07 October 2015
4. Notification no.96/VII-I/2016/158-B/2004 dated 22 January 2016
5. Notification no.390/VII-I/2016/158-B/2004 dated 04 March 2016
6. Notification no.851/VII-I/2016/158-B/2004 dated 19 May 2016
7. Notification no.1576/VII-I/2016/158-B/2004 dated 30 September 2016
8. Order no. 1578/VII-I/158-B/04TC-II dated 30 September 2016
9. Notification no.1771/VII-I/16/68-B/15 dated 19 November 2016
10. Notification No 1874/VII-12021/03(102)/ 2021 Dated 10th November 2021
11. Uttarakhand Mineral (Prevention of Illegal Mining, Illegal Transport and Illegal Storage Rule) Dated on - 15 July 2020
12. Uttarakhand Mineral (Prevention of Illegal Mining, Illegal Transport and Illegal Storage Rule) Amendment-2021 Dated on - 19 Jan 2021
13. Uttarakhand Mineral (Prevention of Illegal Mining, Illegal Transport and Illegal Storage Rule) (Second Amendment) 2021 Dated on - 15 April, 2021
14. Uttarakhand Mineral (Prevention of Illegal Mining, Illegal Transport and Illegal Storage Rule)- 2021 Dated on - 11 Nov-2021

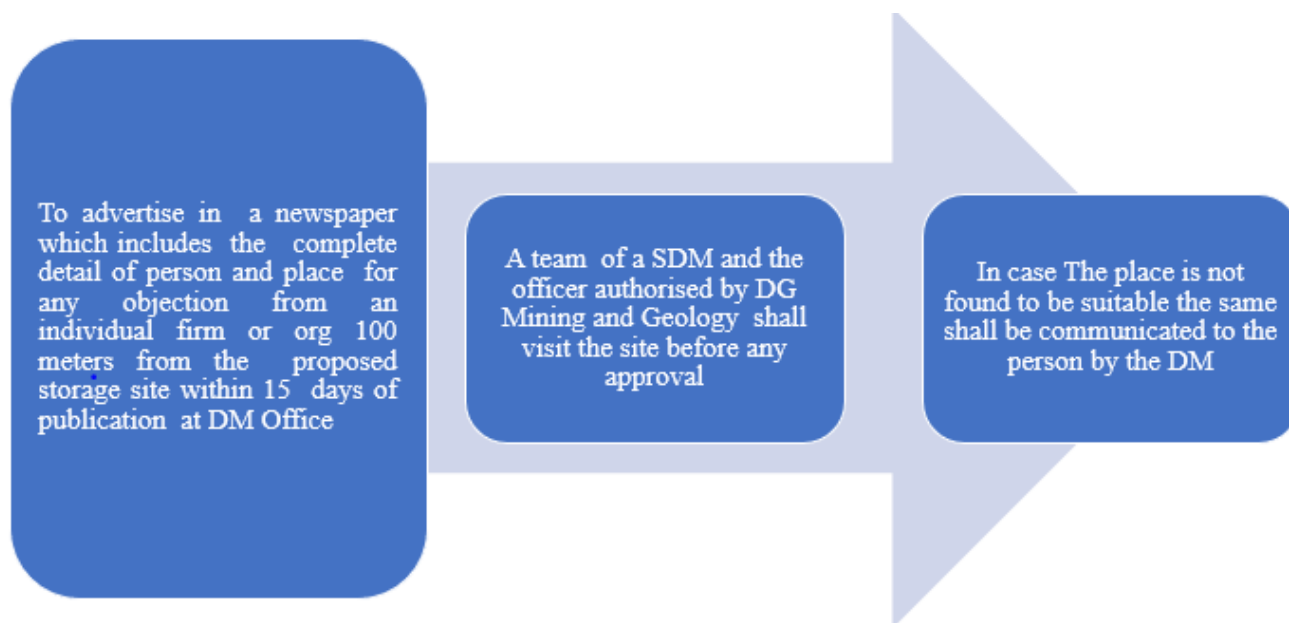
6.4.1. Application for Obtaining Licence for Storage of Minerals Rule 8(2) & Rule 9

Under the rules for obtaining a license for storage of minerals in retail form H shall be filled in four sets. In case of storage of minerals Stone crusher, mobile screening plant, hot mix plant, ready mix plant,

Pulveriser plant under the formats as laid down by the State Government by the policy of Uttarakhand Mineral (Prevention of Illegal Mining, Illegal Transport and Illegal Storage Rule)-2021 Dated on - 11 Nov-2021.

The Storage of minerals and sub minerals can be made except Vehicle, office space, area of plant and weighing machine. The maximum height of storage height shall be 03 meters in no case more than that expect in case of screening plant where the average maximum height may be up to 5m.

In case of application for obtaining the following procedure shall be followed by district mining officer:



Non-Refundable application fees for storage of minerals:

- INR one lakh for storage of minerals by the stone crusher licence holder and screening plant licence holder.
- INR 25000 for retail storage

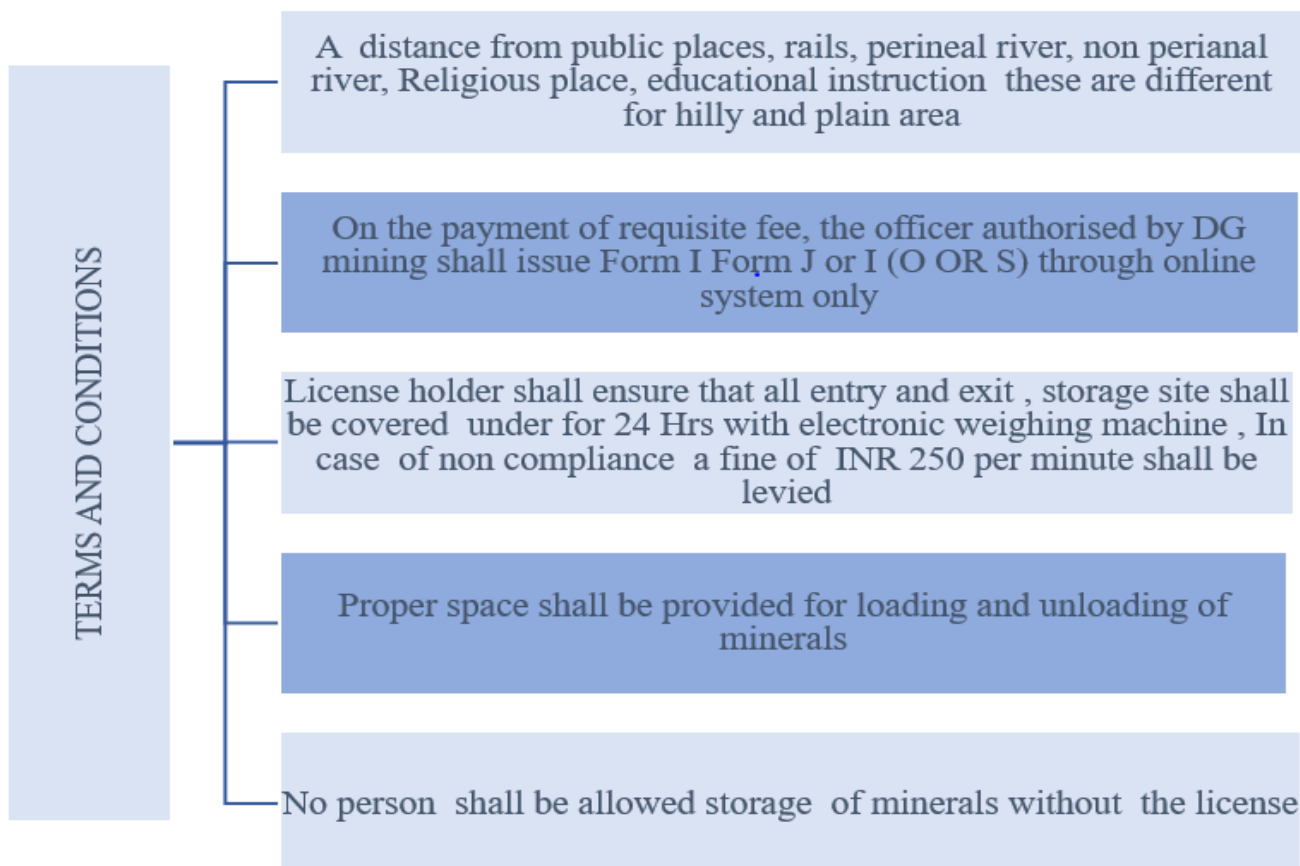
The soapstone leaseholder and pulveriser holder will not require separate permission for storage of mineral but he will send the monthly details of purchase and sale of mineral every month in Form L to the district office, commercial tax department and mining officer/deputy director, mining and director, Geology and Mining unit. If not made available, then penalty will be levied as per rule 13 (2)(b).

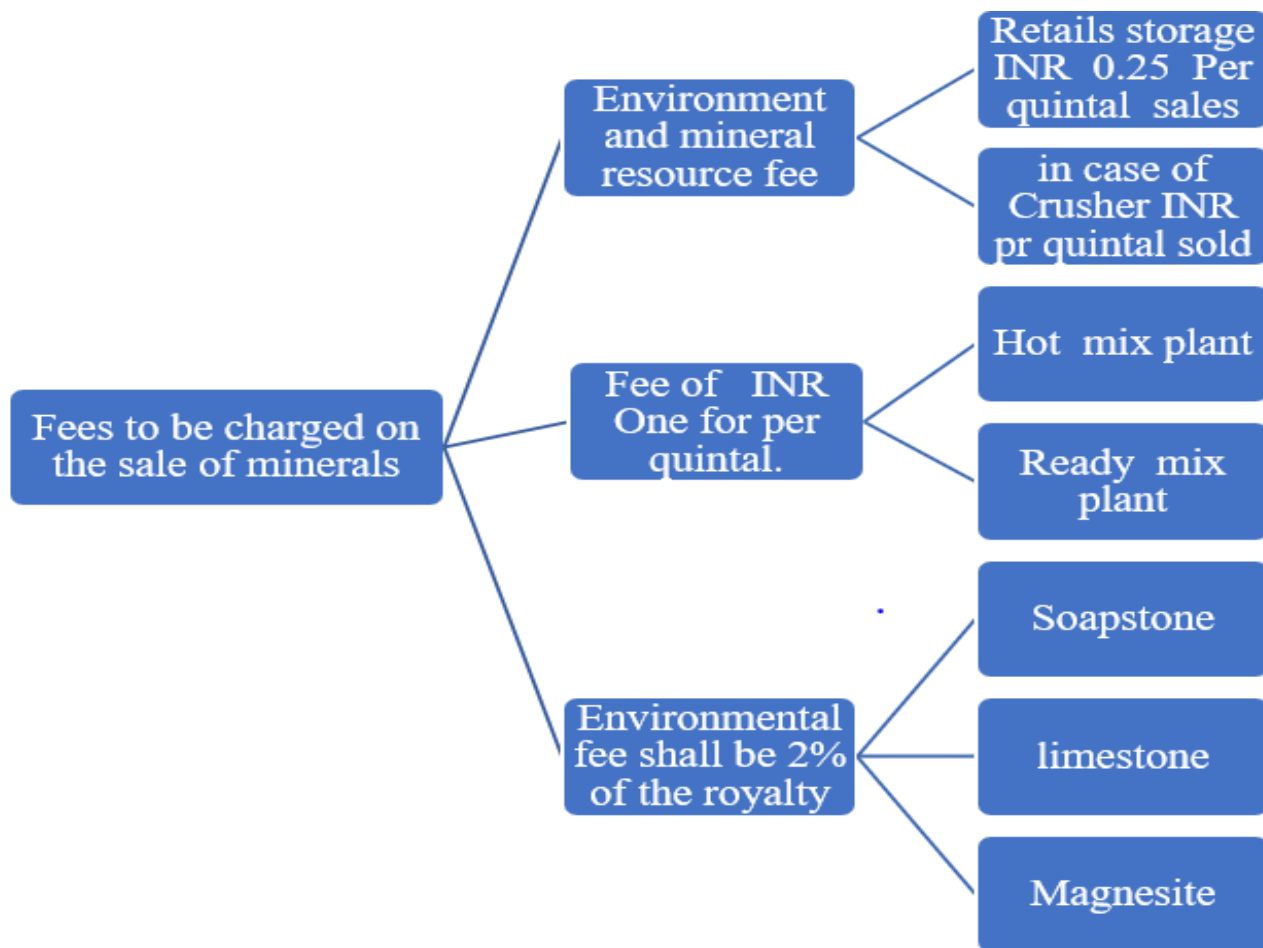
TIME PERIOD FOR REGISTRATION

S.No.	Particulars	Time Period	Authority
1	Retail storage	Five years	DM shall issue the license on the recommendation of the committee
2	Mobile crusher and Mobile Screening plant	One year or completion of the project whichever is earlier	
3	Hot mix plant or ready mix plant	Two year or completion of the project whichever is earlier	

6.4.2. Application for Renewal of License for Storage of Minerals Rule 10

An application for the renewal of license for storage of minerals shall be made to the district officer at least two months before the date on which, the license is due to expire along-with a fee as per rule 8(2) and particulars of previous license and subject to the provision of these rules after inquiry from sub-district magistrate and senior mining officer/mining inspector. On the basis of recommendation of the committee the DM may renew the license for further five year which shall be carried out and updated in the system by the Director mining unit.





BOOK KEEPING FOR MINERALS

<p>01 Form K</p> <ol style="list-style-type: none"> 1.Complete details of mineral stored 2.Detail of purchase of mineral /minerals for storage in quantity and amount 3.Detail of transportation 4.Detail of mineral consigned or sold with name of in charge transportation 5.Closing stock 	<p>02 Form L</p> <ol style="list-style-type: none"> 1. Monthly statement of purchase sale and closing stock of minerals by 15th of next month to DM ,State tax officer and District mining Officer 	<p>03 Double Entry system of a accounting</p> <ol style="list-style-type: none"> 1. All accounts ledger in accrual accounting system 	<p>04 Payments</p> <ol style="list-style-type: none"> 1. Payment through cheque , draft ,RTGS of purchase and sale above two lac
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6.4.3. Monthly Statement Rules 12(2)

The holder of the license for storage of the minerals shall submit a copy of the correct account of minerals stored and transported by him correct account of mineral store of Directorate Mining and Geology and shall make payment to the Geology and shall make payment to the designated rectorate Mining and Geology shall make payment to designated authority by Director -General 15 days to the district officer, commercial tax department and senior mining officer/mining officer/mining inspector under whose jurisdiction the premises of storage is situated in Form I ,J and Form (I/S).

6.4.4. Penalty Rule 13(2)

Any illegality identified in the storage of mineral shall be charged a fine from the license holder on the basis of the quantity seized. A notice of fifteen days shall be served to the license holder to lay down his case. In case of failure to submit the explanation or in case the DG Mining or officer authorised by DG Mining or DM or person authorized by DM are not satisfied, the fine shall be impose in the following manner:

S.No.	Size	Amount of Fine
1	1 Ton-25000Ton	02 times of the royalty value
2	25k -50k Ton	03 times of the royalty value
3	50k -1L Ton	04 times of the royalty value
4	More than 01 Lac ton	05 times of the royalty value

In case excess stock is found at the storage place than the Stock register or stock less than reported in e-rawana or cases where there is no revenue loss to the Government a fine of 5Lac

- a. In addition to INR 2 lakhs prescribed by sub-section (1) of section 21 and sub-section (5) of section 21 of the Mining and Mining Development and Regulation Act. 1957, up-to ten times of royalty of quantity of illegal mining/illegal transportation/illegal storage shall be recovered.
- b. Alter the inquiry of storage, if the quantity of stored minerals is found more than 2% of the quantity from the document produced by the storage holder or if the quantity of stock if found more than 2% of the quantity as per records and actual calculation, then the proceeding shall be made according to rule 13 (2) (b) on the quantity which is excess of 2%. If the quantity of stock is found less than the records and quantity according to the actual calculation, then fine or penalty shall not be imposed.
- c. If due to un-avoidable circumstances, the store holder has stored more than granted quantity then he shall intimate in writing to the district magistrate and mining officer, geologist and mining department in writing mentioning the un-avoidable circumstances. if no intimation is given by the store holder as above and more than 2% storage quantity is found on the spot than the granted quantity, INR 2 lakhs shall be recovered as fine on the presentation of legal MM-form 11 and if

store holder fails to submit the legal form, then proceeding according to rule 13(2)(b) shall be made against him.

- d. The monthly details of purchase and sale of mining by the store holder shall be necessarily presented to the office of district magistrate, commercial tax department and every district office of geologist and mining directorate in a prescribed form. If the monthly statement is not presented, then fine of INR 2000 shall be imposed for every month to the mining store holder.
- e. The vehicles related to illegal mining/illegal storage will be ceased for imposition of fine by the mining officer, senior mining officer, deputy director mining, chief mining officer and joint director mining.
- f. If the store holder has expressed his dis-agreement in writing for inquiry/calculation to be conducted, in that case after the deposition of INR 50000 in the mining account head by the store holder, re-inquiry/counting of the stock may be conducted.
- g. Based on the type of vehicle, the illegal transport will be mitigated:

Sl. No.	Type of Vehicle	Fine to be imposed	Multiplier of royalty to be imposed
1	4-wheeler utility and small vehicle	5,000	Equal to the Market rate or value of quantity of mineral loaded in the Vehicle
2	6-wheeler utility	7,500	Equal to the Market rate or value of quantity of mineral loaded in the Vehicle
3	2-wheeler tractor trolley	10,000	of quantity of mineral loaded in the Vehicle
4	4-wheeler tractor trolley	15,000	Equal to the Market rate or value of quantity of mineral loaded in the Vehicle
5	6-wheeler truck	30,000	Equal to the Market rate or value of quantity of mineral loaded in the Vehicle
6	More than 6-wheeler truck, dumper, etc.	50,000	Equal to Market rate or value of quantity of mineral loaded in the vehicle
7	J.C.B	2,00,000	Self-assessment will be done separately
8	Pokland	4,00,000	Self-assessment will be done separately

6.5 The Uttarakhand Minor Mineral (Sand, Bajri, Boulder, Brick etc.) Policy 2015

Some sections of the Uttarakhand Minor Mineral (Sand, Bajri, Boulder, Brick etc.) Policy 2015 were amended:

- Office memo 1593/VII-1/2015/146-B/2010 dated 07 October 2015
- Office memo 1725/VII-I/2015/146-B/2010 dated 30 October 2015

REVENUE AUDIT MANUAL PART-II MANUAL -REFERENCE MATERIAL

Area	Hill Area:	Middle Hill Area	Plain Area
Zone	Zone A	Zone B	Zone C
District	District of Uttarkashi, Chamoli, Rudraprayag, Bageshwar and Pithoragarh	District Tehri Garhwal (except plains of the Tehsil Narendranagar), Pauri Garhwal (except plain areas of the Tehsil Kotdwar), Almora (all area), Champawat (except plain areas of the Tehsil Purnagiri), district Nainital (except plain areas of the Tehsil Haldwani, Kalauni and Ramnagar), district Dehradun (except plain areas of the Tehsil Rishikesh. Doiwala, Dehradun, Vikas Nagar and Kalsi).	District Tehri Garhwal (plain areas of the Tehsil Narendranagar), Pauri Garhwal (plain areas of the Tehsil Kotdwar), Champawat (plain areas of the Tehsil Purnagiri), district Nainital (plain areas of the Tehsil Haldwani, Kaladhungi and Ramnagar), district Dehradun (plain areas of the Tehsil Rishikesh. Doiwala, Dehradun, Vikas Nagar and Kalsi), all areas of district Haridwar and district Udham Singh Nagar.
Assess the quantity of minerals	50% of lottery basic price as prescribed at that time on the basis of lottery and the 75% of the prescribed royalty rate	75% of lottery basic price as prescribed at that time on the basis of lottery and the 50% of the prescribed royalty rate	100% of lottery basic price as prescribed at that time on the basis of lottery and the 100% of the prescribed royalty rate
River training royalty and development fee <i>(applicable even on leaseholders whose lease deeds were executed even before the issuance of the policy)</i>	-	-	15% and 10% of royalty
Compensation Fee <i>(Office Memorandum dated 10.10.2016)</i>	-	-	15% of Royalty

- a. The calculation of the minor minerals for issue from the mining lease area shall be made according to the weight and not volume.
- b. The maximum quantity of sub minerals Balu , Morgan shall be estimated by the DG Mining and Geology which have been determined for environmental approval The fees for the picketing lease shall be INR 01 Lac
- c. Minimum cost for the exit fee of sub material = Royalty fee+ Stamp duty + Development fee+ River Training fee + indemnification fee
- d. The picking work of the minor minerals from the minor minerals area of all river label of stat shall be made according to rule 34 of the Uttarakhand Minor Minerals Concession Rules 2001 (as amended from time to time) with the approved mining scheme by the director. For this the application fee shall be INR 50000.
- e. 7(1) Application for sanction/operation of brick Bhatta shall be produced with an **application fee of INR 2.5 lakh** (*amended via Office memo 1725/VII-I/2015/146-B/2010 dated 30 October 2015*) in the office of district magistrate in the prescribed Form MM-8.

District Minerals Foundation

In every district of the state, which is affected from mining proceedings, a no profit trust shall be established through a notification by the state government which shall be called District Minerals Foundation

The constitution of District Mineral Foundation shall be as follows:

- District Magistrate of concerned district – Chairman
- Chief Development Officer of concerned district – Member
- District Finance Officer of concerned district – Member
- District Mining Officer of concerned district – Member
- Senior Mining Officer/ Regional Deputy Director (Mining) – Member – Secretary

The amount of additional royalty of the deposited royalty/lease amount to the state government by the lease holder shall be deposited in the District Minerals Foundation which shall be utilised on works for the benefit of people/areas affected by mining related operations.

Lottery form and fee for maintaining of minerals lease to the river based minor minerals

Every lottery giver shall obtain a lottery form MM-17 Form I (lottery form), MM-17 Form II (Financial Lottery) with non-refundable lottery fee/lottery form price INR 5000 deposited in the treasury of concerning district through treasury challan with 13.5% VAT i.e. INR 675.

6.6 The Uttarakhand Secondary Mineral Policy 2015

Some sections of the Uttarakhand Secondary **Mineral Policy 2015** were amended via an *office memo 1457/VII-1/2017/68-B/15 dated 17 November 2017*.

The secondary minor mineral currently found in State of Uttarakhand are soapstone, dolomite, barytes and silica sand. These minerals are converted into minor minerals from major minerals vide notification no. 423A dated 10 February 2015 of Ministry of Mining, Government of India. They are governed by secondary mineral policy issued by the state government.

3 (one) Term for mining lease running prior to the notification dated 10 February 2015

- (i) up to 2 hectares to 5 hectares: 25 years sanction shall be provided by the government on request of lease holder and recommendation of the Director, Geologist and Mining
- (ii) more than 5 hectares: 50 years sanction shall be provided by the government on request of lease holder and recommendation of the Director, Geologist and Mining.

3 (five) Dead rent of mining lease area

The dead rent shall be paid as prescribed in the 2nd schedule of the Uttarakhand Minor Minerals Concession Rules 2001 which shall be deposited in the district treasury as an advance instalment on every 20 of the upcoming months except the months of rainy season (July, August, September)

3 (six) Rate of Royalty

The royalty shall be paid as prescribed in the 1st schedule of the Uttarakhand Minor Minerals Concession Rules 2001 which shall be on the basis of per tonne of the clearance. The adjustment of the monthly instalment of the advance dead rent shall be according to the royalty of the out coming minerals. Provided that the royalty or dead rent, whichever is higher, shall be admissible.

3 (seven) Stamp duty for mining lease deed

The mining lease shall be taken on stamp duty at the rate of 2% of the remaining period of mining lease at the rate of prescribed yearly dead rent.

3 (eight) Security amount

25% of dead rent in advance shall be mortgaged in favour of the Director.

3 (eleven) Bank Guarantee

Upto 5 hectares- INR 2 lakhs

More than 5 hectares- INR 5 lakhs

in favour of the Director by prior running mining leaseholders

6 (one) Fees for application/allotment for minor minerals declared by 10 February 2015

- Up to 2 hectares: INR 2 lakhs
- More than 2 hectares to 5 hectares: INR 4 lakhs
- More than 5 hectares: INR 5 lakhs

6.7 The Uttarakhand Stone Crusher, Screening Plant, Mobile Stone Crusher, Mobile Screening Plant, Hot Mix Plant, Ready Mix Plant Permit Policy 2016

6.7.1. Application Fees

Sl. No.	Plants	Application Fees for Hill Area	Application Fees for Plain Area
1	Stone Crusher	INR 5 Lakh (per hour capacity of 100 tonne)	INR 10 Lakh (per hour capacity of 100 tonne)
		INR 1 Lakh (each 100 additional tonne per hour or more on his part)	INR 2 Lakh (each 100 additional tonne per hour or more on his part)
2	Screening Plant	INR 1 Lakh (per hour capacity of 100 tonne)	INR 2 Lakh (per hour capacity of 100 tonne)
		INR 25000 (each 100 additional tonne per hour or more on his part)	INR 1 Lakh (each 100 additional tonne per hour or more on his part)
3	Mobile Stone Crusher Plant/Mobile Screening Plant	INR 25000 (capacity of 10 Tonne per hour or less)	
		INR 50000 (capacity of more than 10 Tonne per hour and less than 25 tonne per hour)	
		INR 1 Lakh (capacity of 25 to 50 tonne per hour)	
		INR 2 Lakh (capacity of more than 50 tonne per hour)	
4	Hot Mix Plant/Ready Mix Plant	INR 25000	

6.7.2. Renewal Fee (Annual)

- Stone Crusher, Screening Plant, Mobile Stone Crusher Plant, Mobile Screening Plant: 25% of the application fees
- Hot Mix Plant, Ready Mix Plant: Same as the application fees

6.7.3 Mobile Stone Crusher Plant/ Mobile Screen Plant

- The operator of the Mobile Stone Crusher Plant and Mobile Screening Plant will deposit an amount equivalent to Re. 1 per quintal on crushed material and 25 paise per quintal on the filtered minor mineral as environment and mining property fee in the prescribed account head 0853-non-iron metal mining and metal work industry.

6.7.4. Hot Mix Plant and Ready-mix-Plant

- The owner of the hot mix plant and ready-mix plant will send the monthly statement of the sale of the minerals to the office of the district magistrate, commercial department and geology and mining

directorate in the prescribed form every month. INR 50000 per month fine will be paid if the owner fails to produce the monthly detail.

- The operators of the hot mix plant and ready-mix plant will pay an amount equivalent to Re. 1 per quintal for the usage of sand, bajri, boulder, etc., in the prescribed account head 0853-non-iron metal mining and metal work industry.
- If the storekeeper of hot mix plant and ready-mix plant expresses his disagreement in written form for the conduct of inspection and demands the inspection to be done again then he will be required to deposit INR 5000 for the inspection. After the deposit of the amount in the prescribed head, the inspection will be conducted by the inspection officer.
- Fees for change of plant name, name of the plant owner, revision in name of partners, transfer of licence
 - Stone Crusher: INR 2 lakhs
 - Screening Plant: INR 1 lakh
 - Hot Mix Plant: INR 50,000
 - Ready Mix Plant: INR 50,000
 - Mobile Stone Crusher Plant: INR 50,000
 - Mobile Screening Plant: INR 25,000

Section 7: Forest Department

7.1 Important Definitions

1. **Authorised Officer:** means an officer authorised under sub section (1) of section 52-A of Indian Forest Act 1927.
2. **Cattle:** includes elephants, camels, buffaloes, horses, mares, geldings, ponies colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids.
3. **Forest-Officer:** means, any person whom the State Government or any office empowered by the State Government in this behalf, may appoint to carry out all any of the purposes of this Act or to do anything required by this Act or any rule made thereunder to be done by a Forest-officer.
4. **Forest Offence:** means an offence punishable under this Act or under any rule made thereunder.
5. **Forest Produce:** includes the following
 - whether found in, or brought from, a forest or not, that is to say timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, mahua flowers, mahua seeds, [Kuth] and myrabolams, and
 - whether found in, or brought from a forest, that is to say (i) trees and leaves, flowers and fruits, and all other parts or produce not herein before mentioned, of trees, (ii) plants not being trees (including grass, creepers, reeds and moss), and all parts or produce of such plants, (iii) wild animals and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and (iv) peat, surface soil, rock and minerals (including lime-stone, laterite, mineral oils, and all products of mines or quarries).
6. **Timber:** includes trees, when they have fallen or have been felled, and all wood whether cut up or fashioned or hollowed out for any purpose or not.
7. **Tree:** includes palms, bamboos, skimps, brush-wood and canes.

7.2 Formation of Reserve Forest

The State Government may constitute any forest-land or waste-land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a reserved forest in the manner hereinafter provided. Whenever, the State Government decided to constitute any land as Reserve Forest the government may do so by issuing a notification in the Official Gazette. [Section 3 & 4 of the Indian Forest Act, 1927].

7.3 Formation of Village Forest

The State Government may assign to any village-community the rights of Government to or over any land which has been constituted a reserved forest and may cancel such assignment. All forests so assigned shall be called village-forests. The State Government may make rules for regulating the management of village forests, prescribing the conditions under which the community to which any such assignment is made may be provided with timber or other forest-produce or pasture, and their duties for the protection

and improvement of such forest. All the provisions of this Act relating to reserved forests shall (as far as they are not inconsistent with the rules so made) apply to village-forests. [**Section 28 of the Indian Forest Act, 1927**].

7.4 Formation of Protected Forest

The State Government may, by notification in the Official Gazette, declare the provisions of this Chapter applicable to any forest-land or waste-land which, is not included in a reserved forest but which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest produce of which the Government is entitled.

The forest-land and waste-lands comprised in any such notification shall be called a “**Protected Forest**”. No such notification shall be made unless the nature and extent of the rights of Government and of private persons in or over the forest-land or waste-land comprised therein have been inquired into and recorded at a survey or settlement, or in such other manner as the State Government thinks sufficient. Every such record shall be presumed to be correct until the contrary is proved.

Provided that, if, in the case of any forest-land or waste land, the State Government thinks that such inquiry and record are necessary, but that they will occupy such length of time as in the meantime to endanger the rights of Government, the State Government may, pending such inquiry and record, declare such land to be a protected forest, but so as not to abridge or affect any existing rights of individuals or communities. [**Section 29 of the Indian Forest Act, 1927**].

7.5 Important Record Maintained in the Forest Department Related to Revenue

REVENUE AUDIT MANUAL PART-II MANUAL -REFERENCE MATERIAL

S. No.	Form No.	Name of Register or Records
1.	E-2	Cash Book
2.	E-3	Receipt Book
3.	E-6	Register of cheques drawn
4.	E-11	Classified Abstract of Revenue
5.	E-14	Schedule of Remittances
6.	C-1	Register of receipts, issue etc.in Depots.
7.	C-4(i)	Register showing the outturn of timber and fuel wood
8.	C-4(ii)	Register showing outturn of bamboos and other minor forest produce
9.	C-4(a)	Monthly return of timber and other forest produce
10.	C-5	Register of Timber Salved
11.	C-6	Rawanna for lump sum system
12.	C-6(b)	Rawanna for produce given free or at privileged rates
13.	C-8	Check Muharrir's Register of Rawanna
14.	C-9	Purchasers Ledger Account
15.	C-10	Permit
16.	C-12	List of Purchasers and Instalments of Revenue
17.	C-13	Register of Grazing Revenue
18.	C-14	Register of Petty Revenue Demands
19.	C-15	Register of Outstanding's
20.	C-16	Register of Special Free Grants
21.	C-17	Forests Produce, Tools etc. Seized and Disposed of.
22.	F-6	Register of files and cases
23.	H-1	Register of cases compounded
24.	-	Forest Rest House Register
25.	Local Form No. 1	Marking Register
26.	E-16 & E-17	Security Register of Contractors
27.	F.A.R 23	Register of Forest Deposits