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Compiled by:

S.B. GABHAWALLA & CO.
CHARTERED ACCOUNTANTS

802-803, Sunteck Grandeur, Opp. Andheri Subway, S. V. Road,

Andheri (West), Mumbai-400 058

Tel (Off) 6651 5100/6651 5151 Fax 66515150

E-Mail: sunil@sbgco.in | Website: www.sbgco.co.in

FOREWORD

Goods and Service Tax ("GST") is a landmark indirect tax reform knocking at our doors. The Government has released a set of model GST laws for public comments, thereby reinforcing its commitment to introduce GST at the earliest opportune time. The Finance Minister has indicated his willingness to implement this landmark reform with effect from 01.04.2017.

This booklet is compiled by CA Sunil Gabhawalla with able assistance from CA Parth Shah, CA Yash Parmar, CA Khyati Kalavadia and CA Himanshu Kakkad. This is an immediate understanding on first reading of the draft legislation and is subject to changes as may take place from time to time. In the meantime, hope you find this an interesting read.

We welcome comments and feedback. The information provided in this booklet is current as on 14 June 2016. We would also be conducting seminars to educate you on this landmark reform. We would endeavour to keep you updated as and when further developments take place in this regard.

Sunil Gabhawalla,

Leader SBGCO

About Us

S B Gabhawalla & Co. is a professional services firm practicing in the entire field of taxation with a specialization in Indirect Taxes. The firm has a distinct research orientation towards Service Tax & VAT related matters.



The basic philosophy of the firm revolves around the principles of integrity, knowledge & speed. Over the last two decades, the firm has created a niche for itself in the field of consultancy and evolved new paradigms in quality service to clients.

The firm serves a wide arena of clientele ranging across the spectrum of various industries.



The firm is headed by Sunil Gabhawalla who is a chartered accountant in practice with 3rd rank at the All-India Level. He also obtained the 9th position at All India Level in CA Intermediate and the 7th position at All India Level at ICWA Intermediate Examinations. Even during graduation, he had an excellent academic record with ranks throughout the career. He is also a cost accountant.

Sunil is a visiting faculty at Narsee Monjee Institute of Management Studies. He has authored books on topics relating to service tax, NRI Taxation & computers. His treatise on service tax is a popular book containing detailed commentary on the provisions of service tax law and runs in its' 21st edition.

Sunil is currently Hon. Secretary of the Bombay Chartered Accountants Society. He is also a member of the Study Group constituted by the Maharashtra State Government for implementing GST. Sunil has delivered numerous talks at various seminars and conferences. Some industry specific research papers include industries like construction & real estate, banking & finance, media & entertainment, travel & tourism, logistics & transportation, information technology, etc.



The firm is assisted by a team of 25 young and energetic human resources.

Prakash Dave, being the senior-most in the team, brings to the organization more than 30 years of experience in sales tax at the field level. He ably guides the entire organization towards increasing service levels.

Being qualified chartered accountants, Yash Parmar, Khyati Kalavadia, Parth Shah, Darshan Ranavat, Aman Haria and Himanshu Kakkad are all equipped with appropriate knowledge to handle client queries on a day to day basis. Other resources assist these managers in administrative and procedural compliance.



The firm is headquartered at a prime business area in Andheri, Mumbai and has adequate infrastructure in terms of library resources, office ambience, research software, internet connectivity, web and e-mail support, collaborative task management and monitoring tools, etc. The office is less than 10 minutes drive from the domestic/international airports.

The firm is geared to render diverse nature of services which include consultancy, retainership, compliance, litigation, training, audit, etc. It also undertakes detailed audit/investigation services to identify transaction inefficiencies and suggest due diligence.



The firm believes in an optimum mix of theory and practice and finds both of them complimentary to each other. Indeed, each practical advice further strengthens the theory related thereto. The firm encapsulates these practical advises into case studies and builds up a progressive knowledge base which helps in providing speedy solutions to future clients.

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1 Salient Features of the Proposed GST Design

1.1 Dual Model of GST

- 1.1.1 GST is proposed to be a comprehensive indirect tax levy on manufacture, sale and consumption of goods as well as on the services at a national level. In a utopian situation, the tax has to be a singular tax on all supplies with a uniform rate and seamless credits for taxes paid at the earlier stage. The current distinction between goods and services and between concepts of manufacture, sale, deemed sales, etc. are expected to be subsumed in such a utopian GST.
- 1.1.2 However, considering the federal structure of India, the Empowered Committee of State Finance Ministers have worked out a dual GST model for India. In this model, both the Central and the State Governments would levy Central GST ("CGST") and State GST ("SGST") respectively on the same comprehensive base of all supplies, thus eliminating the distinction between goods and services for the purpose of levy of tax

1.2 Destination Based Consumption Tax

- 1.2.1 Since the State Governments would also have jurisdiction to levy tax on supplies, the need for addressing issues related to interstate supplies arises. As a design, GST is proposed to be a destination based consumption tax and therefore in case of interstate supplies, the tax on the interstate supply must accrue to the Destination State. This would also enable seamless flow of credit in case of interstate supplies for business purposes.
- 1.2.2 Extending the principle of destination based consumption tax, supplies imported into the country would attract GST whereas supplies exported from the country need to be zero rated (i.e. not liable for payment of GST with unfettered input credit).

1.2.3 To enable a smooth implementation of the above propositions, it is suggested that interstate supplies, imports and exports be governed by an Integrated GST ("IGST"). The IGST rate is proposed to be determined by considering the CGST and SGST Rates. Effectively, in IGST, there would be two components i.e. CGST and SGST, out of which, the portion of CGST will be held by the Central Government and the portion of SGST will be transferred to the destination State Government. Thus, for IGST, the Central Government will work as a clearing house for the states where consumption takes place. IGST will also enable smooth flow of credits between the origin and the destination States.

1.3 Broad Roadmap Ahead

- 1.3.1 The Government of India has introduced the Constitution (122nd Amendment) Bill to enable the introduction of Goods and Service Tax (GST). The said Bill has been approved by the Lower House (Lok Sabha) on 6th May, 2015 and is awaiting approval from the Rajya Sabha and thereafter assent of the President.
- 1.3.2 Being a Constitutional Amendment Bill, the same will need to be endorsed by at least half of the State Assemblies
- 1.3.3 After endorsement by more than half of the State Assemblies, the GST Council can be formed which will finally consider the draft legislations and recommend the same for adoption by the Central and State Governments. Such draft legislations will then need to be approved by the Central and State Governments respectively
- 1.3.4 The GST Council will then proceed to define an effective date for implementation of GST in India

1.4 Salient Features of Constitution Amendment Bill

- 1.4.1 The term 'GST' is defined in Article 366(12A) of the Constitution of India to mean "any tax on supply of goods or services or both except taxes on supply of the alcoholic liquor for human consumption".
- 1.4.2 Article 366(26A) of the Constitution of India provides that "*services means anything other than goods*".
- 1.4.3 Various Central and State taxes will be subsumed in GST. All goods and services, except alcoholic liquor for human consumption, will be brought under the purview of GST. Petroleum and petroleum products (Crude Petroleum, Petrol, Diesel, and ATF) have also been brought under GST. However, it has also been specifically provided that petroleum and petroleum products shall not be subject to the levy of GST till a date to be notified. Till such time Petroleum products will continue to attract excise duty.
- 1.4.4 Article 246A of the Constitution is inserted in the main body of the Indian Constitution after Article 246 to empower both the Centre and State to legislate on a common matter i.e. Goods and Service Tax. The power to make laws on Inter-state transactions has been kept exclusively with the Central Government.
- 1.4.5 Article 279A of the Constitution has been introduced for creation of Goods and Service Tax Council, a constitutional body which will be a joint forum of the Central and the State Governments. This Council will make recommendations to both the Central and State Government on important issues like tax rates, exemptions, threshold limits and disputes resolution for GST. The GST Council is envisaged as a recommendatory body with the Union Finance Minister as Chairperson, Minister in charge of Finance or Taxation or any other Minister nominated by the each State Government as members and Union Minister of the State in charge of Revenue as Member of the GST Council.

1.5 Legislation

- 1.5.1 The dual GST model would be implemented through multiple statutes:
 - An enactment by the Centre to govern the collection and administration of CGST

- An enactment by each of the States to govern the collection and administration of SGST
- An enactment by the Centre to govern the collection and administration of IGST

1.5.2 The draft legislations for the above have been provided for public comments and the same are analysed later in this booklet.

1.5.3 While there would be multiple statutes for collection and administration of different variations/components of the GST, the basic features of law such as chargeability, definition of taxable event and taxable person, measure of levy including valuation provisions, basis of classification etc. would be uniform across these statutes. For the said purpose, the GST Council would finally recommend a draft legislation for adoption by the State Governments. However full autonomy would be available to the respective State Governments to deviate from the suggested draft legislations, if there is a need for the same.

1.6 Coverage

1.6.1 The Central GST and the State GST will apply to all 'Taxable Supplies' except exempted and excluded supplies which will be outside the purview of GST. Similarly, basic threshold limits for registration will be prescribed

1.6.2 It is proposed that the following supplies will not get subsumed under the GST regime:

- Alcohol for human consumption(State Excise plus VAT will continue to be levied)
- Electricity (Electricity Duty will be levied rather than GST)
- Real Estate Transactions (Stamp Duty plus Property Taxes as in present regime will continue)
- Petroleum Products (covered under GST but effective from the date as notified by GST Council)
- Tobacco products (GST plus Central Excise will be applicable)

1.6.3 The following Central level taxes and duties are proposed to be subsumed under CGST:

- Central Excise Duty
- Additional Excise Duties
- The Excise Duty levied under the Medicinal and Toiletries Preparation Act
- Service Tax
- Additional Custom Duty, commonly known as Countervailing Duty(CVD)
- Special Additional Duty of Customs (SAD)
- Cesses

1.6.4 The following State taxes and levies would be subsumed under SGST:

- VAT/Sales Tax
- Entertainment Tax (unless it is levied by the Local bodies),
- Luxury Tax,
- Taxes on lottery, betting and gambling,
- State Cesses and Surcharges in so far as they relate to supply of goods and services,
- Entry Tax not in lieu of Octroi

1.7 GST Rate

1.7.1 The proposed GST Rate would be determined based on the principle of Revenue Neutral Rates (RNR). 'Revenue Neutral Rates' (RNR) in layman terms, is the rate that allows the Central and States to sustain the current revenue from tax collections.

1.7.2 Based on various studies, it appears that four broad classifications of rates are proposed in upcoming regime of GST :

- Merit Rate for essential goods
- Standard Rate (RNR) for goods and services in general
- Special rate for precious metals
- NIL Rate

- 1.7.3 It is also likely that to start with, the RNR rate for services may be slightly lower than that for goods.
- 1.7.4 As proposed, for SGST, the States may be empowered to vary the SGST rates within a narrow band of variation
- 1.7.5 Under the proposed regime, exports will be zero rated. Similar benefits will be given to Special Economic Zone (SEZs).

1.8 Credits

- 1.8.1 Since CGST and SGST are to be paid to separate Governments, taxes paid against the CGST shall be allowed as Input Tax Credit (ITC) for the CGST and could be utilized only against the payment of CGST. Similarly the ITC of each SGST can be utilised only for the payment of output SGST of that particular State.
- 1.8.2 Cross utilization of ITC between the Central GST and State GST would, in general, not be allowed except in the case of Inter-state supply of goods and services under the IGST model
- 1.8.3 Credit of IGST would be first adjusted against the output IGST. After the said adjustment, the balance unutilised credit of IGST can be used for payment of output CGST and thereafter output SGST. As such, IGST would act as a bridge for smooth flow of credits
- 1.8.4 Credit accumulation may arise due to multiple reasons like inverted rate structure, timing mismatches, exports, zero rated supplies, erroneous payments, under protest payments, etc. An exhaustive and expeditious refund mechanism is being prescribed for such situations

1.9 Procedural Aspects

- 1.9.1 A uniform procedure for registration, payment of taxes and filing of returns would be prescribed in the respective legislations governing IGST, CGST and SGST
- 1.9.2 CGST and SGST are to be paid to the accounts of the Central and the State separately, though may be through a single Challan using the respective codes. A national level Information Technology Infrastructure under the name of GSTNET is proposed to be established
- 1.9.3 In the proposed GST regime, Composition/Compounding Scheme is proposed to be introduced whereby an assessee having a turnover of less than Rs. 50 lakhs may be eligible to pay GST at a lower rate (more than 1%) without having the facility of any Input Credit, i.e. no credit of IGST, CGST and SGST will be available or issuance of tax invoice.
- 1.9.4 The assessee in GST regime may be required to file periodic returns for all the three legislation namely IGST, CGST and SGST. Each taxpayer may be allotted a PAN-linked Taxpayers Identification Number (TIN).

2 Detailed Explanation of the Substantive Provisions of the Model GST Law

2.1 Preliminary Comments

- 2.1.1 The model GST Act placed for public comments appears to be drafted in a similar fashion for the central GST as well as the state GST. A separate draft of the IGST Act is also provided and draft Valuation Rules are also provided for comments.
- 2.1.2 The draft GST Act represents an amalgam of various provisions from the Excise, VAT and Service Tax legislations. In some respects, the model Act does provide relief but to a large extent, the obligations cast on the taxable person have increased manifold.
- 2.1.3 This presents doubts in the mind of the industry about the direction in which this landmark reform is headed. Will it turn out to be an opportunity missed?

2.2 Charging Provision

- 2.2.1 The levy of tax on intrastate supply of goods and/or services is defined u/s 7 of the CGST/ SGST Act. The said tax has to be paid at the rate specified in the Schedule.
- 2.2.2 The tax on intrastate supply of goods and services is to be paid by every taxable person. The Government is also authorized to notify goods and services which will be taxable on reverse charge basis. It may be noted that under the existing law, there is no provision for reverse charge on goods, which is being proposed in the new GST Law.
- 2.2.3 Similarly, Section 4 of the IGST Act levies tax on inter-state supply of goods and/or services. The said provision is similarly worded. It also prescribes a negative list of supplies on which no IGST would be payable.

2.3 Supply

2.3.1 The term "supply" is defined u/s 3 of the CGST/SGST Act. In view of section 2(f) of the IGST Act, the said definition also applies to the IGST Law. The said supply can be either taxable supply or an exempted supply.

2.3.2 U/s 3(1) of the Act, all forms of supply like sale, transfer, barter, exchange, license, rental, lease or disposal and importation of services are made liable for GST. However, it is important that such supplies should be for a consideration and that the supplies should be in the course of or furtherance of business or commerce.

2.3.3 For the said purposes, the term business is specifically defined u/s 2(17) in a very wide fashion. The term "consideration" is also defined u/s 2(28).

2.3.4 In addition to supplies for consideration, Section 3(1) also includes supplies mentioned in Schedule-I without a consideration. Notable inclusions in Schedule-I are as under:

- Permanent transfer/disposal of business assets.
- Temporary application of business assets to a private or non-business use.
- Services put to a private or non-business use.
- Assets retained after deregistration.
- Supply of goods and / or services by a taxable service to another taxable or non-taxable person in the course or furtherance of business.

- 2.3.5 Schedule-I also provides that supply of goods to a job worker in terms of Section 43(a) of the Act shall not be treated as a supply of goods and therefore such supply will not attract GST.
- 2.3.6 Section 3(2A) specifically states that a transaction between an agent and a principal shall be deemed to be a supply.
- 2.3.7 Similarly, Section 3(4) deems the supply of any branded service by an aggregator to be the supply by the said aggregator.
- 2.3.8 Exempted supplies are defined u/s 2(42) of the Act to mean supplies which are not taxable under the Act and include supplies which are exempted from tax. The power to grant such exemptions is provided u/s 10 of the Act. Accordingly, the Government may grant general or specific exemptions. Section 10(3) also authorizes the government to clarify regarding the scope of any exemption provided.

2.4 Taxable Person

- 2.4.1 Section 7, which is the charging provision, applies only to taxable persons. Therefore, it is important to understand the term taxable person which is defined u/s 9 of the CGST/ SGST Act. In view of Section 2(2) of the IGST Act, the same meaning will be attributed for IGST transactions as well.
- 2.4.2 Taxable Person means a person who carries on any business at any place in India or the State and who is registered or is required to be registered under Schedule-III of this Act for payment of tax. However, it excludes an agriculturist as well as persons whose turnover is less than Rs. 10 lacs (Rs. 5 lacs in case the person conducts his business in any of the North Eastern states including Sikkim) from its scope.
- 2.4.3 Schedule III of the Act obliges the following persons to be registered under the Act.
- Existing dealers under the existing service tax/ VAT/ excise laws. (point 2)
 - Persons crossing the taxable threshold limit as tabulated below: (point 1)

Description	Threshold
General Limit	Nine Lacs
North Eastern States	Four Lacs

- Successors of business (point 3)
- Persons making interstate supply irrespective of threshold (point 5(i))
- Casual taxable persons- as defined u/s 2(16) of the Act (point 5(ii))
- Persons liable under Reverse Charge Mechanism (point 5(iii))
- Non-resident taxable persons irrespective of threshold (point 5(iv))
- Persons required to deduct tax u/s 37 (point (5(v))
- Persons acting as agent/ otherwise for other registered taxable persons irrespective of threshold (Point 5(vi))
- Input Service Distributor (Point 5(vii))
- Persons operating in E-commerce irrespective of threshold (Point 5(viii))
- E-commerce operators irrespective of threshold (Point 5(ix))
- Service aggregator irrespective of threshold (Point 5(x))
- Any other notified person (Point 5(xi))

2.4.4 Section 9(2) provides that Government departments also would be considered as taxable persons for all activities other than those listed under Schedule IV of the Act.

2.4.5 Section 9(3) excludes the following persons from the definition of taxable person:

- An employee providing services in the course of employment from the scope of taxable person and therefore GST is not applicable on employment contracts
- A person exclusively engaged in non-taxable supplies of goods or services

- A service recipient receiving services for a personal use upto a particular limit to be specified

2.5 Nature of Supply

2.5.1 Though the legislation is comprehensive to cover both taxation of goods as well as services, various provisions relating to place of supply, time of supply, etc. are different for goods and services. The distinction between goods and services is therefore still important under the GST law as well.

2.5.2 The term "goods" is defined u/s 2 (48) of the CGST/ SGST Act as under:

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

Explanation.– For the purpose of this clause, the term 'moveable property' shall not include any intangible property.

2.5.3 Article 366 (12) of the Constitution defines the term "goods" as under:

(12) "goods" includes all materials, commodities, and articles;

2.5.4 The term "services" is defined u/s 2(88) of the CGST/SGST Act as under:

(88) "services" means anything other than goods;

Explanation: Services include intangible property and actionable claim but does not include money.

2.5.5 It may be interesting to note that there is a difference in the definition of goods under the GST law and under the constitution. This could result in avoidable litigation especially since some of the provisions pertaining to goods and services are different.

2.5.6 Through various examples, Section 3(2) lists down certain transactions as mentioned in Schedule-II as bearing the character of either goods or services.

The same is tabulated below:

Nature of the transaction	Nature of Supply	Point
Transfer of title in goods	Goods	1(1)
Transfer of right to use goods	Service	1(2)
Transfer of future goods	Goods	1(3)
Lease of land	Service	2(1)
Lease of building	Service	2(2)
Job work on others goods	Service	3
Transfer of assets on sale of business	Goods	4(1)
Making available of goods for private use	Service	4(2)
Recovery of pledged assets	Goods	4(3)
Closure of business	Goods	4(4)
Renting of immovable property	Service	5(a)
Sale of under construction units	Service	5(b)
Transfer of IPR	Service	5(c)
Development of IT software	Service	5(d)

Nature of the transaction	Nature of Supply	Point
Agreeing to the obligation to do an act or refrain from doing an act	Service	5(e)
Works Contract	Service	5(f)
Transfer of right to use	Service	5(g)
Supply of food as a part of service	Service	5(h)
Supply of goods by an unincorporated association to its members	Goods	6(a)

2.5.7 Further, section 3(3) empowers the Government to define transactions that would be supply of goods or services or neither goods or services.

2.5.8 Having defined the nature of supply into goods or services is not enough since the legislations for interstate and intrastate supply are different. It is also important to classify the supply as either interstate or intrastate supply. The said classification is provided under the IGST Act and the provisions are tabulated below for ready reference:

Nature of supply	Interstate	Intra state
Goods	Location of the supplier and the place of supply are in different state ¹	Location of the supplier and the place of supply are in the same state ²
Services	Location of supplier and place of supply in different state ³	Location of supplier and place of supply in same state ⁴

¹ Section 3(1) of the IGST Act

² Section 3A(1) of the IGST Act

³ Section 3(2) of the IGST Act

⁴ Section 3A(2) of the IGST Act

2.5.9 As can be seen from the above table, the classification for supply of goods and services is similar. The essential benchmark is the combination of the location of supplier and the place of supply. Section 2(65) of the local Act defines the term “location of supplier of service”. There is no definition for “location of supplier of goods”. However, the place of supply is to be determined under sections 5 and 6 of the IGST Act. This dichotomy can create difficulties in implementation of the law.

2.6 Time of Supply

2.6.1 The liability to pay tax arises at the time of supply. The following provisions are relevant in this regards.

Section	Provisions
12	Time of supply of goods
13	Time of supply of services
14	Change in rate of tax for services

2.6.2 Further, in view of section 27 of the IGST Act, the above provisions apply to the IGST law as well. From the above table, it is evident that no provision is made in relation to the change in rate of tax for goods.

2.6.3 Section 12 states that the liability to pay GST on goods shall arise as per time of supply mentioned therein. The provisions are tabulated below:

Situation	Earliest
General	<ul style="list-style-type: none">Removal of goods

	<ul style="list-style-type: none"> • Make available of goods to recipient • Raising of invoice • Receipt of payment (Entry in books or credit in bank account, whichever is earlier) • Recipient declaration of receipt of goods
Continuous Supply of Goods as may be notified	<ul style="list-style-type: none"> • Date of expiry of statement • Date of issue of invoice • Date of receipt of payment
Reverse charge basis	<ul style="list-style-type: none"> • Receipt of goods • Date of payment (Entry in books or debit in bank account, whichever is earlier) • Date of receipt of invoice • Date of debiting books of accounts
Removal of goods before supply	<ul style="list-style-type: none"> • Knowledge of supply • 6 months from date of removal

- 2.6.4 It may be noted that these provisions are very onerous as compared to the existing provisions where there is a singular point of taxation. For example, Excise duty is currently payable only at the time of removal of goods whereas VAT is payable only at the time of delivery of goods. Providing for multiple points of taxation for goods and defining the earliest point of taxation as the basis is likely to create substantial difficulty to manufacturers and traders of goods.
- 2.6.5 Under the GST regime, even the receipt of an advance against sale of goods would trigger a liability for payment of tax. What is worrying is the provision for deeming certain extraneous events like booking of goods by buyer or expiry of 6 months from the removal of goods as deemed taxable events.
- 2.6.6 Section 13 of the Act deals with the time of supply of services. The provisions are tabulated below:

Situation	Earliest
General	<ul style="list-style-type: none"> • Invoice date • Receipt of payment (Entry in books or credit in bank account, whichever is earlier) • Completion of service in case of delayed invoices
Continuous supply of services as may be notified	<ul style="list-style-type: none"> • Contract • Payment/ Invoice • Event
Reverse Charge	<ul style="list-style-type: none"> • Service received • Payment (Entry in books or debit in bank account, whichever is earlier) • Invoice • Debit in books

- 2.6.7 While the provisions in relation to general services and continuous services are more or less synchronized with the existing Point of Taxation Rules, in case of reverse charge mechanism, certain additional taxing points have been introduced. Importantly, a mere debit in the books of accounts (at times for month end/ year end provisions) would also trigger an exposure towards payment of GST.
- 2.6.8 Section 14 deals with a scenario where there is an intermediary change in the rate of tax in respect of services and appears to be similarly worded to the existing Rule 4 of the Point of Taxation Rules, 2011.
- 2.6.9 It may be important to note that unlike the current legislations where the time of supply is generally prescribed through the rules, the draft GST regime integrates the time of supply within the Act itself, thereby reducing the flexibility available to the government to modify or relax the rigours of the said provisions.

2.7 Place of Supply

- 2.7.1 Since GST is a destination based consumption tax, it is also important to define the place of supply so that the appropriate State Government may receive the tax revenue in case of interstate supplies. The following table summarizes the rules in this regards:

Section of the IGST Act	Provisions
5	Place of supply of goods
6	Place of supply of services

2.7.2 Section 5 of the IGST Act defines the place of supply of goods. The said provisions are fundamentally different from the current provisions since they are based on the destination principles rather than the origin principles.

2.7.3 The following table summarizes the place of supply of goods as defined under the GST Act and under the IGST Act:

Situation	Location as per Section 5 of IGST Act
Supply involving movement of goods	Location of termination of movement for delivery
Supply by way of transfer of documents of title	Principal place of business of the buyer
Supply not involving movement of goods	Location of goods
Goods assembled or installed at site	Place of installation or assembly
Goods supplied on board of conveyance	Location at which goods are taken on board

2.7.4 Section 6 defines the place of supply of service. The basic principle under the said section deal with a general rule as tabulated below:

Section	Test	Location
6(2) of the IGST Act	Supplied to a registered person	Location of service receiver
6(3) of the IGST Act	Supplied to any other person	<ol style="list-style-type: none"> 1. Location of service recipient where address on record exists 2. Location of service provider in other cases

2.7.5 The above rule is subject to various exceptions depending on the situations which are listed below:

Sub-section of Section 6	Examples	Location as per IGST law
4(a)	Services in relation to Immovable property	Location of immovable property
4(b)	Services of hotels	Location of immovable property
4(c)	Mandap-keeper services	Location of immovable property
4(d)	Ancillary services related to the above	Location of immovable property
Explanation to section 4	Services in relation to accommodation on boats and vessels	Place where the boat/ vessel is located or intended to be located, if intended to be located in more than one state, on a proportionate reasonable basis
5	Services in relation to restaurant, catering, personal grooming, fitness, beauty treatment, health services, cosmetic and plastic surgery	Place of performance of service
6	Services in relation to training and performance appraisal	1. Provided to registered person- Location of service recipient 2. Provided to others- place of performance
7	Services in relation to admission to an event	Place of the event, if held in more than one state, proportionate basis
8	Organization of events, ancillary services and sponsorship	1. Provided to registered person- Location of service recipient 2. Provided to others- place of event

Sub-section of Section 6	Examples	Location as per IGST law
9(a)	Services in relation to transportation of goods (including mail or courier) provided to a registered person	Location of service receiver
9(b)	Services in relation to transportation of goods (including mail or courier) provided to any other person	Location of handing over of goods
10(a)	Services in relation to passenger transportation to a registered person	Location of service receiver
10(b)	Services to others in relation to passenger transportation where embarkation place is known	Place of embarkation
Proviso to 10(b)	Services to others in relation to passenger transportation where embarkation place is not known	As per sub-section (2) and (3)
11	Services supplied on board of a conveyance	First scheduled point of departure
12(a)	Telecommunication services including data, broadcasting, cable and	Location of installation of fixed communication line, leased circuits, cable or dish antenna

Sub-section of Section 6	Examples	Location as per IGST law
	DTH through fixed communication line, leased circuits, cable or dish antenna	
12(b)	Telecommunication services by way of a postpaid mobile connection	Location of service receiver on record
12(c)	Telecommunication services by way of a prepaid mobile connection	Location of receipt of pre-payment or where the voucher is sold. In case of payment through internet banking, location of receiver on record
13	Banking, Financial and stock broking service where service is linked to the account	Location of service receiver
Proviso to 13	Banking, Financial and stock broking service where service is not linked to the account	Location of service provider
14(a)	Insurance service provided to a registered person	Location of service receiver
14(b)	Insurance service provided to any other person	Location of service provider
15	Advertisement service provided to Central Government, State	Respective state in specified proportions

Sub-section of Section 6	Examples	Location as per IGST law
	Government, Statutory body or local authority	

2.8 Value of Supply

2.8.1 In general, GST would be payable on the value of supply. In stark departure to the expectations of the trade and industry, it is found that the excise concept of valuation is sought to be continued and further strengthened. While the general provision under Section 15 states that the value of supply shall be the transaction value, the same is subject to the following conditions:

- Supplier and recipient of supply not related
- Price is the sole consideration

2.8.2 Section 15 thereafter also provides for the inclusion of the following amounts in the transaction value if the same are not already included therein:

- The amounts paid by recipient which were actually payable by supplier.
- The value of goods or services supplied free of charge or at a concession by the recipient.
- Royalties and licence fees paid or payable by recipient
- All taxes other than SGST, CGST and IGST
- Incidental expenses such as commission or packing
- Subsidies
- Reimbursable expenditure
- Discounts after supply

2.8.3 Separate Valuation Rules have also been prescribed to cover specific instances where:

- Consideration is not entirely in money
- Supplier and recipient are related
- Reimbursements are claimed in the nature of pure agent
- Transactions pertaining to money changer, insurer, air travel agent, lottery agent services
- Where accuracy and truthfulness of value is doubtful

2.8.4 The draft Valuation Rules have been provided. The said Rules define the following methods of valuation

- Transaction Value: As per this method the value of goods and/or services shall be the transaction value.
- Transaction value of goods or services of like kind: Where value of supply cannot be determined under previous method, the value shall be determined on the basis of transaction value of goods and/or services of like kind and quality supplied at or about the same time to customers.
- Computed Value Method: Where value cannot be determined under previous method, it shall be based on computed value which shall include cost of production, manufacture or processing of the goods or, the cost of the provision of services, the charges, if any, for design and brand and amount towards profit and general expenses.
- Residual Method: Where the value cannot be determined under the computed value method, the value shall be determined using reasonable means consistent with the principles and general provisions of these Rules.

2.9 Input Tax Credit

2.9.1 Input Tax Credit mechanism is the core of the GST Regime. However on a perusal of the draft provisions in this regard, it is found that the hopes of the industry are totally belied. The draft provisions cast onerous and impossible obligations on the taxable person claiming the credit. They also lend a lot of subjectivity as regards eligibility since there are various exclusions from credit.

2.9.2 The provisions of input tax credit are contained in Section 16 of the Act. The salient features thereof are as under:

- Input Tax credit will be allowed only to registered persons
- On registration, credit would also be available for inputs and finished goods lying in stock on the date of registration.
- Credit has to be claimed within a period of one year from the date of tax invoice
- Credit to be calculated based on generally accepted accounting principles as may be prescribed.
- Proportionate credit in case certain goods are used for business as well as non-business purposes
- Certain cases of ineligible input tax credit are also prescribed.

2.9.3 Ineligible credits: As stated earlier, various credits are denied. Important ones are listed below for ready reference

- Motor vehicles
- Employee related goods/ services
- Goods/ services resulting in construction of immovable property for self-consumption
- GST paid under the composition scheme
- Goods for personal consumption

2.9.4 Fungibility of credit

- Section 35(5) deals with the provisions relating to fungibility of credits and priority of adjustment. The rules are as under
- The input tax credit on account of IGST during a tax period shall first be utilised towards payment of IGST; the amount remaining, if any, shall be utilized towards the payment of CGST and SGST, in that order.
- The input tax credit on account of CGST during a tax period shall first be utilised towards payment of CGST; the amount remaining, if any, shall be utilized towards the payment of IGST.
- The input tax credit on account of SGST during a tax period shall first be utilised towards payment of SGST; the amount remaining, if any, shall be utilized towards the payment of IGST.
- No input tax credit on account of CGST shall be utilized towards payment of SGST.
- No input tax credit on account of SGST shall be utilized towards payment of CGST.
- The above rules are summarised in the table below for easy understanding:

Tax	For SGST	For IGST	For CGST
CGST	No	2 nd	1 st
SGST	1 st	2 nd	No
IGST	3 rd	1 st	2 nd

2.9.5 Job Work Provisions

- As per Section 16A, the principal shall be eligible to claim credit of input tax of inputs sent to the job-worker.

2.9.6 Input Service Distributor

- Section 17 of the Act prescribes the manner of distribution of credit by the input service distributor.

- Section 18 of the Act determines the manner for recovery of credit distributed in excess by an ISD.

2.9.7 Documentation

- Section 16(11) of the Act also prescribes for certain documentation before the credit can be claimed, such as possession of tax invoice, goods/ service should have been received, tax has been actually paid by the supplier and return has been furnished under the applicable section.
- Similarly, it is also stated that the payment of tax by cash or credit by the supplier is necessary to claim credit.

2.10 Electronic Commerce

2.10.1 Under the model Act, it has been provided that all E-Commerce transactions will attract GST. Section 43C states that every electronic commerce operator shall collect an amount (out of the amount payable or paid to the supplier) representing as consideration towards the supply of goods or services made through it. For the said purpose, the term 'electronic commerce operator' is defined under section 43B (e). Following are the salient features of the provisions concerning e-commerce:

- The tax amount shall be collected by the operator at the time when credit of any amount to the account of the supplier of goods/services is made or at the time of payment of any amount in cash or any other mode whichever is earlier.
- The tax collected by the operator shall be paid to the credit of the appropriate Government within 10 days after the end of the month in which such collection is made.
- The statement showing amount collected towards outward supplies of goods or service shall be furnished electronically within ten days after the end of calendar year by the operator.
- The supplier shall be eligible to claim credit of the payment of tax made by the operator.

- The details of the supplies, amount collected etc. as furnished by the operator in the return shall be matched with the details of the outward supplies furnished by the concerned supplier in his return for the respective calendar month.
- In case of discrepancy or mismatch of the details furnished by the supplier and the operator, the same shall be communicated. Further, if not rectified, it shall be added to the output liability of the supplier for the calendar month in which the discrepancy is communicated. The said amount so added to the output liability of the supplier shall be paid along with interest.
- The Joint Commissioner may ask the operator to furnish the requisite details. Failure to furnish the requisite details within 5 working days of the date of service of notice may result into imposition of penalty which can extend to Rs. 25,000.

2.11 Territorial Nexus

2.11.1 Section 2(53) of CGST Act defines the term "India" as under:

(53) India means,-

(a) the territory of the Union as referred to in clauses (2) and (3) of Article 1 of the Constitution;

(b) its territorial waters, continental shelf, exclusive economic zone or any other maritime zone as defined in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976);

(c) the seabed and the subsoil underlying the territorial waters;

(d) the air space above its territory and territorial waters; and

(e) the installations, structures and vessels located in the continental shelf of India and the exclusive economic zone of India, for the purposes of prospecting or extraction or production of mineral oil and natural gas and supply thereof;

2.11.2 While the above definition is akin to the one adopted under the Finance Act, 1994 for the purpose of levy of service tax, the said definition is now being made applicable on transaction relating to goods as well. It is important to note that under the current scheme prevalent in VAT regime, the term "India" has not been defined.

2.11.3 While the definition of India is very wide, there is no specific definition provided for the State. Therefore, the GST Law does not address the situation of State Taxation for sale outside the territories of the States.

2.12 Composition Provisions

2.12.1 Section 8 of the Act provides an option to a registered taxable person to opt for composition. The same is subject to following conditions:

- The turnover in a financial year does not exceed Rs. 50 lacs.
- There is no interstate supply of goods and/or services.
- The person is not liable to pay any tax under reverse charge mechanism for services.
- The compounded tax shall not be charged on the invoice.
- No input tax credit shall be granted to such person.

3 Detailed Explanation of the transition provisions to the Model GST Law

3.1 Transition under CGST/SGST Law

3.1.1 Chapter XXV of the CGST/ SGST Act deals with the transitional provisions. At the outset, Section 141 provides that all persons appointed by the respective governments shall continue to function under the new law. Section 142 provides for the procedure for migration of existing tax payers as under:

- A provisional registration shall be issued on the appointed date to all existing assesseees for a period of six months
- The persons shall submit information as prescribed, on the basis of which final certificate of registration shall be issued by the government
- If the information is not submitted, the registration may be cancelled

3.1.2 The law thereafter provides for different situations requiring a transition. Since the treatment under the current Central and State legislations are fundamentally different, the transitional provisions in such situations are also differently worded. They are tabulated as under for ready reference:

Section	Description	CGST Law	SGST Law
143	Amount of CENVAT Credit carried forward in a return to be allowed as input tax credit	CENVAT Credit carried forward in a return shall be allowed as input tax credit provided that the same is admissible as input credit under the GST Law	Credit of the amount of VAT Carried forward in a return shall be allowed provided that the same is admissible as input credit under the GST Law
144	Un-availed CENVAT Credit on capital goods, not carried forward in a return to be	The amount that remains after subtracting the amount of CENVAT Credit already availed on capital goods shall be allowed subject to the	The amount that remains after subtracting the amount of CENVAT Credit already availed on capital goods shall be allowed subject to the

	allowed in certain situations	condition that it is also admissible as input tax credit under the GST Act	condition that it is also admissible as input tax credit under the GST Act.
145	Credit of eligible duties and taxes in respect of inputs held in stock to be allowed in certain situations	A taxable person who was engaged in manufacturing of exempt goods or was not liable to be registered under the old law and are made taxable under the GST law shall be allowed to take credit of the inputs/semi-finished goods/finished goods held in stock subject to the conditions mentioned under Section 145	A taxable person who was engaged in sale of exempt goods or was not liable to be registered under the old law and are made taxable under the GST law shall be allowed to take credit of the inputs/semi-finished goods/finished goods held in stock subject to the conditions mentioned under Section 145.
146	Credit of eligible duties and taxes on inputs held in stock to be allowed to a taxable person switching over from composition scheme	The taxable person who was paying tax at a fixed rate i.e. composition scheme in the earlier law shall be allowed to take credit of inputs/semi-finished goods/finished goods held in stock subject to the conditions mentioned under Section 146	The taxable person who was paying tax at a fixed rate i.e. composition scheme in the earlier law shall be allowed to take credit of the inputs/semi-finished goods held in stock to the conditions mentioned under Section 146
147	Amount payable in the event of a taxable person	The taxable person who has opted for composition scheme under the GST Act and who carried forward	The taxable person who has opted for composition scheme under the GST Act and who carried forward

	switching over to composition scheme	the credit in a return under the earlier law shall pay the amount equivalent to the credit of input tax of inputs/semi-finished goods/finished goods held in stock on the day preceding the date of switch over. Also, balance input tax credit shall be lapse.	the credit of VAT in a return under the earlier law shall pay the amount equivalent to the credit of input tax of inputs/semi-finished goods/finished goods held in stock on the day preceding the date of switch over. Also, balance input tax credit shall be lapse.
148	Exempted goods returned to the place of business on or after the appointed day	No tax shall be payable if the goods which are exempt at the time of removal under the earlier law are returned to the place of business within the period of six months. However, tax shall be payable by person returning the goods if the said goods are liable to tax under the GST Act and are returned after the period of six months.	No tax shall be payable if the goods which are exempt at the time of sale under the earlier law are returned to the place of business within the period of six months. However, tax shall be payable by the person returning the goods if the said goods are liable to tax under the GST Act and are returned after the period of six months.
149	Duty paid goods returned to the place of business on or after the appointed day	No tax shall be payable in case where the goods on which duty had been paid under the earlier law at the time of removal are returned to the place of	No tax shall be payable in case where the goods on which duty had been paid under the earlier law at the time of removal are returned to the place of

		<p>business within the period of six months.</p> <p>The person who receives such goods shall be eligible to take credit of the duty paid earlier.</p> <p>However, tax shall be payable by person returning the goods if the said goods are liable to tax under the GST Act and are returned after the period of six months.</p>	<p>business within the period of six months.</p> <p>The person who receives such goods shall be eligible to take credit of the duty paid earlier.</p> <p>However, tax shall be payable by person returning the goods if the said goods are liable to tax under the GST Act and are returned after the period of six months.</p>
150	Inputs removed for job work and returned on or after the appointed day	<p>No tax shall be payable in case where the inputs are removed for job-work and are returned to the factory within the period of six months provided that the manufacturer and job-worker declare the inputs held in stock on the appointed day.</p> <p>However, tax shall be payable by the job-worker and manufacturer if such inputs are liable to tax under the GST Act and are returned after the period of six months.</p>	<p>No tax shall be payable in case where the inputs are dispatched for job-work and are returned to the factory within the period of six months provided that the manufacturer and job-worker declare the inputs held in stock on the appointed day.</p> <p>However, tax shall be payable by the job-worker and the person dispatching the inputs if such inputs are liable to tax under the GST Act and are returned after the period of six months.</p>

151	Semi-finished goods removed for job work and returned on or after the appointed day	<p>No tax shall be payable in case where the semi-finished goods are removed for job-work and are returned to the factory within the period of six months provided that the manufacturer and job-worker declare the inputs held in stock on the appointed day.</p> <p>However, tax shall be payable by the job-worker and manufacturer if such semi-finished goods are liable to tax under the GST Act and are returned after the period of six months.</p>	<p>No tax shall be payable in case where the semi-finished goods are dispatched for job-work and are returned to the factory within the period of six months provided that the manufacturer and job-worker declare the inputs held in stock on the appointed day.</p> <p>However, tax shall be payable by the job-worker and manufacturer if such semi-finished goods are liable to tax under the GST Act and are returned after the period of six months.</p>
152	Finished goods removed for carrying out certain processes and returned on or after the appointed day	<p>No tax shall be payable in case where the finished goods are removed for any process not amounting to manufacture and are returned to the factory within the period of six months.</p> <p>However, tax shall be payable by the job-worker if such goods are liable to tax under the GST Act and</p>	<p>No tax shall be payable in case where the finished goods are dispatched for any process and are returned to the factory within the period of six months.</p> <p>However, tax shall be payable by the job-worker if such goods are liable to tax under the GST Act and are returned after the period of six months.</p>

		are returned after the period of six months.	
153	Issue of supplementary invoices, debit or credit notes where price is revised in pursuance of a contract	<p>In case where the price has been revised upward for the contract entered prior the GST law, the taxable person shall issue a supplementary invoice or debit note within the period of 30 days of such price revision.</p> <p>In case where the price has been revised downward for the contract entered prior the GST law, the taxable person shall issue the supplementary invoice or debit note within the period of 30 days of such price revision. The taxable person shall be eligible to reduce tax liability only if the receiver has not availed CENVAT Credit.</p>	<p>In case where the price has been revised upward for the contract entered prior the GST law, the taxable person shall issue a supplementary invoice or debit note within the period of 30 days of such price revision.</p> <p>In case where the price has been revised downward for the contract entered prior the GST law, the taxable person shall issue the supplementary invoice or debit note within the period of 30 days of such price revision. The taxable person shall be eligible to reduce tax liability only if the receiver has not availed CENVAT Credit.</p>
154	Pending refund claims to be disposed of under earlier law	All the pending refund claims shall be disposed as per the earlier law provided where any claims for refund is fully or partially rejected the	All the pending refund claims shall be disposed as per the earlier law provided where any claims for refund is fully or partially rejected the

		amount so rejected shall lapse.	amount so rejected shall lapse.
155	Claim of CENVAT credit to be disposed of under the earlier law	All the proceeding in relation to CENVAT Credit shall be disposed of as per the provisions of earlier law. Based on the said disposal the amount will be recovered or refunded	All the proceeding in relation to Input Tax Credit shall be disposed of as per the provisions of earlier law. Based on the said disposal the amount will be recovered or refunded
156	Finalization of proceedings relating to output duty liability	All the proceeding in relation to output tax shall be disposed of as per the provisions of earlier law.	All the proceeding in relation to output tax shall be disposed of as per the provisions of earlier law.
157	Treatment of the amount recovered or refunded in pursuance of assessment or adjudication proceedings	The amount recovered on account of adjudicating proceeding or assessment shall be recovered as arrears of tax The amount if becomes refundable shall be refunded in cash.	The amount recovered on account of adjudicating proceeding or assessment shall be recovered as arrears of tax The amount if becomes refundable shall be refunded in cash.
158	Treatment of the amount recovered or refunded pursuant to revision of returns	Where any amount becomes recoverable on account of revision of return under the earlier law same shall be recovered as arrears of tax.	Where any amount becomes recoverable on account of revision of return under the earlier law same shall be recovered as arrears of tax.

		If the amounts becomes refundable it shall be refunded in cash	If the amounts becomes refundable it shall be refunded in cash
159	Treatment of long term construction / works contracts	The goods/services supplied after the appointed day on account of contract entered prior to appointed date shall be liable to tax under this Act	The goods/services supplied after the appointed day on account of contract entered prior to appointed date shall be liable to tax under this Act.
160	Progressive or periodic supply of goods or services	No tax shall be payable on the supply of goods or services made after the appointed day if consideration is received prior to the appointed day and duty or tax is paid under the earlier law.	No tax shall be payable on the supply of goods or services made after the appointed day if consideration is received prior to the appointed day and duty or tax is paid under the earlier law.
161	Treatment of retention payments	No tax shall be payable on the supply of goods or services made before the appointed day and full duty or tax is paid under earlier law.	No tax shall be payable on the supply of goods or services made before the appointed day and duty or tax is paid under the earlier law.
162	Credit distribution of service tax by ISD	ISD shall be eligible for the credit of the services received prior to the appointed day even though invoices are	NA

		received after the appointed day.	
162A	Tax paid on goods lying with agents to be allowed as credit	NA	The agent shall be eligible to take credit of the tax paid on goods lying at his premises which are belonging to the principal subject to the conditions mentioned in Section 162A.
162B	Tax paid on capital goods lying with agents to be allowed as credit	NA	The agent shall be eligible to take credit of the tax paid on capital goods lying at his premises which are belonging to the principal subject to the conditions mentioned in Section 162B.
162C	Treatment of branch transfers	NA	Any amount of input tax credit reversed prior to the appointed day shall be admissible as credit in case of branch transfers
162D	Goods sent on approval basis returned on or after the appointed day	NA	No tax shall be payable in case where any goods are rejected or not approved by the buyer and are returned within the period of six months. Tax shall be payable by the person returning the

			goods and sending the goods if the goods are returned after the period of six months and such goods are liable to tax under the GST Law
162E	Deduction of tax source	No deduction of tax at source shall be made by deductor where a supplier has made sale of goods and issued invoice before appointed day.	No deduction of tax at source shall be made by deductor where a supplier has made sale of goods and issued invoice before appointed day.

3.2 Transition under IGST Law

3.2.1 Under the IGST Act, Section 31 provides transitional provision in case of import of service or interstate supply of goods or services made after the appointed day. The same is reproduced hereunder:

Section	Description	IGST Law
31	Import of service or interstate supply of goods or services after the appointed day	<ul style="list-style-type: none"> • Liable to IGST tax irrespective of the fact that the transaction for such import of services or inter-state supply had been initiated before the appointed day. (Transaction for import of service or inter-state supply initiated before means if invoice relating to such supply or either payment [full or part] has been received before the appointed day. • No tax on such import or inter-state supply shall be payable if full tax under the earlier law has been paid • If part tax has been paid in earlier law balance shall be paid in the IGST Act.

4 Summary of the Procedural Provisions under the Model GST Law

4.1 Registration Procedures

- 4.1.1 Section 19 deals with the basic provisions relating to register and provides the dealer to either obtain registration voluntarily or compulsorily on turnover crossing the threshold limit specified. Multiple business verticals in a State to obtain a separate registration for each business
- 4.1.2 Any specialized agency of the United Nations Organization or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries and any other person or class of persons as may be notified by the Board / Commissioner will be required to obtain a Unique Identity Number
- 4.1.3 Section 19A deals with the provision relating to a Casual Dealer/ Non-resident taxable registration which provides for a registration for a limited period of 90 days. Such dealers shall be required to make payment in advance by demand drafts separately for SGST and CGST
- 4.1.4 Section 20 deals with the procedure to be followed for amendment in registration. The provisions require that a proper officer shall not reject the request for amendment in the registration particulars without giving a notice to show cause and without giving the person a reasonable opportunity of being heard. However, the procedure for amendment of registration is yet to be prescribed.
- 4.1.5 Section 21 deals with the provisions relating to cancellation of registration, either
- Voluntary in case of specific events, such as
 - closure of business,

- transfer of business including death of proprietor,
- amalgamation/ demerger,
- change in constitution of the business,
- the person ceases to exist under Schedule III of the Act or
- By Department, after giving a proper opportunity of being heard in case of
 - contravention of specific provision of GST Law,
 - non-furnishing of returns for three consecutive tax periods by assessee opting for composition scheme,
 - non-furnishing of return by other assesseees for a continuous period of six months,
 - Non-commencement of business within 6 months from the date of registration (in case of voluntary registration), or
 - Registration obtained by means of fraud, wilful misstatement or suppression of facts.

4.1.6 Section 22 deals with the provisions relating to revocation of cancellation of registration. Any registered taxable person whose registration is cancelled by the officer or by his own motion, can apply for revocation of cancellation of the registration in the manner to be prescribed. The officer may either revoke or cancel the registration within the period to be prescribed after giving a show cause and reasonable opportunity of being heard

4.2 Payment Procedures

4.2.1 Section 35 deals with the provisions relating to payment of tax, interest, penalty and other amounts. The said provisions provide as under:

- The amount can be paid by internet banking, debit cards, credit cards, National Electronic Fund Transfer, Real Time Gross Settlement, etc. Explanation to Section

35(1) states that the date of credit to the account of the appropriate Government in the authorized bank shall be deemed to be the date of deposit.

- Input tax credit as self-assessed has to be credited to electronic credit ledger to be maintained in the manner to be prescribed
- Electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of the Act
- All liabilities of a taxable person shall be recorded and maintained in an electronic register as may be prescribed

4.2.2 Section 36 deals with the provisions relating to interest on delayed payment of tax. The rate of interest is yet to be notified. The said provision further provides that interest shall be payable in case of an undue or excess claim of credit, the assessee shall be liable to pay credit on such amount for a period to be computed in the prescribed manner.

4.2.3 Section 37 deals with the provisions relating to deduction of tax at source. The provisions as prescribed under the said section are as under:

- TDS rate is 1% where the total value of supply, under a contract, exceeds Rs. 10 lacs
- The amount of TDS has to be paid within a period of 10 days from the end of month in which tax is deducted
- The deductor shall issue certificate to deductee within a period of 5 days from payment of tax to appropriate Government, failing which, late fees of Rs. 100 per day after the expiry of five days period will be payable, subject to maximum of Rs. 5,000/-
- The deductee has to be claim credit in electronic cash ledger
- Interest is payable on delay in payment of amount deducted but not deposited with appropriate Government
- Excess deduction shall result in refund of amount to deductee, provided he has not taken credit in the electronic cash ledger

4.3 Filing of Periodic Returns

4.3.1 Due date of furnishing returns/ details in certain cases:

Section	Particulars	Due Date
25	Furnishing details of outward supplies of goods and/or services effected during a tax period	On or before 10 th of month succeeding the said tax period
26	Furnishing details of inward supplies of goods and/or services including inward supplies of services on which tax is payable on reverse charge basis under GST/IGST effected during a tax period	On or before 15 th of month succeeding the said tax period
27	Return of inward and outwards supplies of goods and/ or service, input tax credit availed, tax payable, tax paid and other particular	20 days after the end of such month
1 st proviso to section 27	Registered taxable person covered under the provisions of section 8 of this Act, shall furnish return for each quarter or part thereof	18 days after the end of such quarter
27 (5)	Every registered taxable person required to deduct tax at source shall furnish a return monthly	10 days after the end of such month
27 (6)	Every Input Service Distributor for every calendar month	Within 13 days after the end of such month

4.3.2 Further, section 27 (7) provides that in case any taxable person after furnishing return discovers any omission or incorrect particulars, other than as a result of scrutiny, audit, inspection or enforcement activity by tax authorities, he shall rectify the same in the return during which such omission or incorrect particulars noticed, subject to interest where applicable.

4.3.3 However, proviso to Section 27 (7) provides that no such rectification of any omission or incorrect particulars shall be allowed after the due date for filing of return for the month of September or second quarter, as the case may be, following the end of the financial year, or the actual date of filing of relevant annual return, whichever is earlier.

4.3.4 Section 27A First Return provides that every registered taxable person paying tax under section 7 shall furnish first return containing the details of followings:

- outward supplies under section 25 from the date on which he became liable to registration till the end of the month in which the registration has been granted;

- inward supplies under section 26 from the effective date of registration till the end of the month in which the registration has been granted.
- 4.3.5 However, person paying tax under provision of section 8 shall furnish first return for period starting from date on which he becomes a registered taxable person till end of quarter in which the registration has been granted.
- 4.3.6 Section 28 provides that every taxable person may be entitled to take credit of input tax, as self-assessed, on a provisional basis. However, registered person shall not utilize such credit where a valid return has not been furnished.
- 4.3.7 Section 29 provides that details of every inward supply furnished by a taxable person shall be matched with the corresponding details of outward supply furnished by the corresponding taxable person in his valid return for the same tax period or any preceding tax period, with the additional duty of customs paid under section 3 of the Customs Tariff Act, 1975 (51 of 1975) in respect of goods imported by him, and for duplication of claims of input tax credit
- 4.3.8 It is also provided that in case of any discrepancy, the same shall be communicated to both the persons, who will be permitted to rectify the discrepancy. In case the discrepancy is not rectified, then the same will be added to output liability of the recipient in succeeding return. The said amount shall be reduced from output tax liability if valid return is filed by supplier within time specified under section 27 (7) of the Act.
- 4.3.9 Where any reduction in output liability is accepted, interest so paid shall be refunded by crediting amount in corresponding head of his electronic cash ledger in the manner prescribed. However, the said refund shall not exceed the amount so paid by the supplier.
- 4.3.10 Similar provisions are made for matching reversal and reclaim of reversal in output liability by issuance of debit/credit notes.

4.4 Filing of Annual Return

- 4.4.1 Section 30 provides that an annual return has to be furnished before 31st December following the end of such financial year.
- 4.4.2 Assessee who is required to get his accounts audited under section 42(4) shall furnish the annual return along with the audited copy of the annual accounts and a reconciliation statement (reconciling the value of supplies declared in the return viz-a-viz amounts as per audited annual financial statements).

4.5 Filing of Final Return

- 4.5.1 Assessee applying for cancellation of his registration shall furnish a final return within 3 months of the date of cancellation or date of cancellation order whichever is earlier

4.6 Levy of late fee

- 4.6.1 Any registered taxable person who fails to furnish the details of outward or inward supplies or returns required by the due date shall be liable to pay late fee of Rs. 100/- per day for the period for which such failure continues subject to maximum of Rs. 5,000/-
- 4.6.2 Any registered taxable person who fails to furnish annual return shall be liable to pay late fee of Rs. 100/- per day for the period for which such failure continues subject to maximum of an amount calculated at a quarter percent of his aggregate turnover.

4.7 Refund Procedures

- 4.7.1 Section 38 deals with the provisions relating to claim of refund. The said section provides for claim of refund of unutilized input tax credit at the end of any tax period. The refund will be granted only in cases of exports or where input is more than output on account of inverted rate structure.
- 4.7.2 Provisional refund to the extent of 80% of refund claimed may be granted by the proper officer and balance 20% of refund should be granted after due verification of documents furnished by the applicant.

- 4.7.3 An application for refund should be made in the prescribed form, either through GSTN portal or respective State/ Central portal within a period of two years from the relevant date. The period of limitation will not be applicable in case of tax/ interest paid under protest. The proper officer shall process the refund application within 90 days of receipt of application.
- 4.7.4 It is further provided that in case where refund amount is less than five lacs rupees, it shall not be necessary to furnish any documentary or other evidence as prescribed under section 23A of the Act.
- 4.7.5 Relevant date shall be different on case to case basis, as under:

Sr. No.	Cases	Relevant date
1	Goods exported out of India by sea or air	Date on which ship or aircraft in which goods are loaded, leaves India
2	Goods exported out of India by land	Date on which such goods pass frontier
3	Goods exported out of India by post	Date of despatch of goods by Post Office concerned to a place outside India
4	Deemed export of goods	Date on which the return relating to such is filed
5	Goods returned for being remade, refined, reconditioned or subjected to any other similar process in any place of business	Date of entry into the place of business
6	Service exported out of India	Date of i. Receipt of payment in convertible foreign exchange, where supply of service had

		<p>been completed prior to receipt of such payment.</p> <p>i. Issue of invoice, where payment for service had been received in advance.</p>
7	Tax become refundable as a consequence of judgement, decree, order or direction of Appellate Authority, Authority, Tribunal or any Court	Date of communication of such judgement, decree, order or direction.
8	Refund of unutilised input tax credit	End of financial year in which such claim arises
9	Where tax is paid provisionally under this Act	Date of adjustment of tax after the final assessment

4.8 Appeal Procedures

4.8.1 Section 79 deals with the provisions relating to filing of an appeal before the first appellate authority. The brief outline of the provisions relating to filing of an before the first appellate authority is as under:

- Appeals has to be filed within a period of 3 months from the date of which order is communicated
- For any sufficient cause in delay of filing the appeal, the same shall be allowed to be presented within a period of one month
- 10% pre-deposit to be paid which includes amount determined u/s. 46, 47, 48 or 51 and also amount of fee levied or penalty imposed
- Department authorities in "serious cases " can apply to First Appellate Authority for ordering a higher pre-deposit not exceeding 50% of the amount in dispute
- Not more than 3 adjournments will be granted for personal hearing
- Order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless a SCN is issued

- In possible cases, the appellate authority should hear and decide every appeal within a period of 1 year from the date on which appeal is filed
- 4.8.2 Powers to revise orders have been granted to Commissioner u/s 81 which provides for revision of order, unless an appeal has been filed either u/s 79, 82, 87 or 88 or a period of 3 years has expired after passing of the order.
- 4.8.3 Section 81 of the Act deals with the constitution of National Appellate Tribunal. The Appellate Tribunal shall have one branch for each state which shall be called as the State GST Tribunal.
- 4.8.4 Section 82 & 83 deals with the provisions relating to filing of an appeal before the Appellate Tribunal. The brief outline of the provisions relating to filing of an appeal before the first appellate authority is as under:
- The Tribunal may refuse to admit an appeal where the amount of dispute does not exceed Rs. 1 lacs
 - Appeal has to be filed within a period of 3 month from the date of communication of order against which appeal is sought to be filed
 - Cross objection has to be filed by the respondent within a period of 45 days of receipt of notice
 - 10% pre-deposit to be paid which includes amount determined u/s. 46, 47, 48 or 51 and also amount of fee levied or penalty imposed
 - Department authorities in "serious cases" can apply to Appellate Tribunal for ordering a higher pre-deposit not exceeding 50% of the amount in dispute
 - Not more than 3 adjournments will be granted for personal hearing
 - Appellate Tribunal can rectify the order if there mistake apparent on records within a period of 3 months from the date of the order
 - In case of enhancement of demand or reducing refund, opportunity of hearing has to be granted
 - In possible cases, the Appellate Tribunal should hear and decide every appeal within a period of 1 year from the date on which appeal is filed

4.8.5 Section 85 deals with the provisions relating to interest payable to assessee in case of delay in refunding of pre-deposit made at the time of filing of an appeal before the Tribunal. The said section provides for payment of interest from the date of making the pre-deposit till the date of refund of such amount at a rate to be notified in this regards by the Central or State Government on the recommendation of the Council.

4.8.6 Section 87 deals with the provisions relating to appeal to be filed before High Court. Appeal has to be filed within a period of 180 days from date of communication of order against which appeal is sought to be filed. The said provision provides that no appeal shall lie to High Court against an order passed by the Appellate Tribunal in case of following:

- A matter where two or more states, or a State and Centre, have a difference of views regarding the treatment of a transaction being intra-state or inter-state
- A matter where two or more states, or a State and Centre, have a difference of views regarding place of supply

4.8.7 Section 88 deals with the provisions relating to appeal to be filed before Supreme Court. The said provisions provide that an appeal shall lie to the Supreme Court directly from any Order passed by the Appellate Tribunal in case of following:

- A matter where two or more states, or a State and Centre, have a difference of views regarding the treatment of a transaction being intra-state or inter-state
- A matter where two or more states, or a State and Centre, have a difference of views regarding place of supply

4.8.8 Section 86 of the CGST/ SGST Act deals with provisions relating to appearance by an authorized representative on behalf of an assessee for any proceedings under the said act. Authorised Representative includes following:

- Relative or regular employee
- Advocate in practice
- Chartered Accountant, Cost Accountant or Company Secretary holding COP

4.8.9 The above appellate provisions have been made applicable to IGST Act also vide Section 27 of the said Act.

4.9 Settlement of Cases

4.9.1 Chapter VIII of the IGST Act, 2016 deals with Settlement of cases. The said provisions provide for constitution of a National Goods and Service Tax Settlement Commission (Settlement Commission) by Central Government on recommendation of the Council. Settlement Commission shall have one bench for one or more states which will be called as State Settlement Commission.

4.9.2 The jurisdiction and power of Settlement Commission are prescribed under section 13 of the IGST Act, 2016. The decisions shall be decided by majority in case of difference of opinion.

4.9.3 The provisions provide for a taxable person, may, in respect of identical cases, involving periodic show cause notice and matter pending before adjudicating authority or first appellate authority, make an application, in such form and in such manner as may prescribed, containing full and true disclosure of his tax liability which has not been disclosed before jurisdictional IGST officer and such other particulars as may be prescribed under section 15 of IGST Act, 2016. Further, no person shall be allowed to avail such settlement of case more than twice under this Act.

4.9.4 The Settlement Commission may amend any order passed by it to rectify any mistake apparent from records within a period of 3 months from the date of the order.

4.10 Advance Ruling

4.10.1 The provisions relating to applying for advance ruling are covered under chapter XIX of the Act.

4.10.2 Any person registered or desirous of obtaining registration under the Act may make an application to Authority in such form and in such manner as may be prescribed accompanied by a fee as may be prescribed.

4.10.3 The Authority for Advance Ruling shall be located in each state. The Authority shall consist of one member of CGST appointed by Central Government and one member of SGST appointed by State Government.

4.10.4 The application for advance ruling shall be in respect of,

- classification of any goods and/or services under the Act;
- applicability of a notification issued under provisions of the Act having a bearing on the rate of tax;
- the principles to be adopted for the purposes of determination of value of the goods and/or services under the provisions of the Act;
- admissibility of input tax credit of tax paid or deemed to have been paid;
- determination of the liability to pay tax on any goods and/or services under the Act;
- whether applicant is required to be registered under the Act;
- whether any particular thing done by the applicant with respect to any goods and/or services amounts to or results in a supply of goods and/or services, within the meaning of that term.

4.10.5 No application for advance ruling shall be entertained by authority, if the question raised in the application is

- already pending in the applicant's case before any First Appellate Authority, the Appellate Tribunal or any Court;
- the same as in a matter already decided by the First Appellate Authority, the Appellate Tribunal or any Court;
- the same as in a matter already pending in any proceedings in the applicant's case under any of the provisions of the Act;

- the same as in a matter in the applicant's case already decided by the adjudicating authority or assessing authority, whichever is applicable

4.10.6 An application for advance ruling shall not be rejected without giving the applicant an opportunity of being heard and recording the reasons in writing.

4.10.7 An appeal against a ruling passed by an authority may be made to Appellate Authority within 30 days from the date of communication to applicant. The Appellate Authority shall pass an order within a period of ninety days from the date of filing an appeal.

4.10.8 The order passed by Authority or Appellate Authority can be rectify if any mistake is apparent from records within a period of six months from the date of order under section 101 of the Act.

4.10.9 The Advance Ruling shall be binding only on the applicant who has sought the ruling from the Authority/ Appellate Authority and the jurisdictional tax authorities in respect of the applicant.

4.11 Miscellaneous Provisions

Section	Provisions
4	Classes of officers under the Central Goods and Services Tax Act
4	Classes of officers under the State Goods and Services Tax Act
5	Appointment of officers under the Central Goods and Services Tax Act
6	Powers of officers under the Central Goods and Services Tax Act
10	Power to grant exemption from tax
11	Remission of tax on supplies found deficient in quantity
23	Tax invoice
23 A	Amount of tax to be indicated in tax invoice and other documents
24	Credit and debit notes
32	Notice to return defaulters
34	Tax Return Preparers
37A	Transfer of input tax credit
39	Interest on delayed refunds
40	Consumer Welfare Fund
41	Utilization of the Fund
42	Accounts and other records
43	Period of retention of accounts

44	Self-assessment
44A	Provisional assessment
45	Scrutiny of returns
46	Assessment of non-filers of returns
47	Assessment of unregistered persons
48	Summary assessment in certain special cases
49	Audit by tax authorities
50	Special audit
51	Determination of tax not paid or short paid or erroneously refunded
52	Tax collected but not deposited with the Central or a State Government
53	Tax wrongfully collected and deposited with the Central or a State Government
54	Recovery of tax
55	Payment of tax and other amount in installments
56	Transfer of property to be void in certain cases
57	Tax to be first charge on property
58	Provisional attachment to protect revenue in certain cases
59	Continuation of certain recovery proceedings
60	Power of inspection, search and seizure
61	Inspection of goods in movement
62	Power to arrest
63	Power to summon persons to give evidence and produce documents
64	Access to business premises
65	Officers required assisting CGST/SGST Officers
66	Offences and penalties
67	General penalty
68	General disciplines related to penalty
69	Detention of goods and conveyances, and levy of penalty
70	Confiscation of goods and levy of penalty
71	Confiscation of conveyances
72	Confiscation or penalty not to interfere with other punishments
73	Prosecution
74	Cognizance of offences
75	Presumption of culpable mental state
76	Relevancy of statements under certain circumstances
77	Offences by companies and certain other persons
78	Compounding of offences
80	Left Blank
80	Revisional powers of Commissioner

84	Procedure of Appellate Tribunal
89	Hearing before Supreme Court
90	Sums due to be paid notwithstanding appeal etc
91	Exclusion of time taken for copy
92	Appeal not to be filed in certain cases
93	Non appealable decisions and orders
102	Applicability of advance ruling
103	Advance ruling to be void in certain circumstances
104	Powers of the Authority and Appellate Authority
105	Procedure of the Authority and Appellate Authority
106	Presumption as to documents in certain cases
107	Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence
108	Liability in case of transfer of business
109	Liability in case of amalgamation/merger of companies
110	Liability in case of company in liquidation
111	Liability of partners of firm to pay tax
112	Liability of guardians, trustees etc
113	Liability of Court of Wards etc.
114	Special provision regarding liability to pay tax in certain cases
115	Liability in other cases
116	GST compliance rating
117	Obligation to furnish information return
118	Penalty for failure to furnish information return
119	Power to collect statistics
120	Disclosure of information required under section 119
121	Test purchase of goods and/or services
122	Drawal of samples
123	Burden of Proof
124	Persons discharging functions under the Act shall be deemed to be public servants
125	Indemnity
126	Disclosure of information by a public servant
127	Publication of information respecting persons in certain cases
128	Assessment proceedings, etc. not to be invalid on certain grounds
129	Rectification of mistakes or errors apparent from record
130	Bar of jurisdiction of civil courts
131	Levy of fees
132	Power of Central (or State) Government to make rules

132A	General power to make Regulations
133	Delegation of powers
134	Instructions to GST Officers
135	Removal of difficulties
136	Service of Notice in certain circumstances
137	Rounding off of tax etc
138	Effect of amendments, etc., of rules, notifications or orders
139	Publication of rules and notifications and laying of rules before Parliament / State Legislature
140	Repeal and saving

EXECUTIVE INFORMATION			
NAME	DESIGNATION	MOBILE NO	E-MAIL ID
CA Sunil B. Gabhawalla	Proprietor	9821323921	sunil@sbgco.in
Prakash J. Dave	Sr. Manager	9820278922	prakash@sbgco.in
CA Khyati Kalavadia	Sr. Manager	9619249190	khyati@sbgco.in
CA Yash Parmar	Sr. Manager	9833254512	yash@sbgco.in
CA Parth Shah	Manager	9167285429	parth@sbgco.in
CA Darshan Ranavat	Manager	9967704753	darshan@sbgco.in
CA Aman Haria	Manager	9022534974	aman@sbgco.in
CA Himanshu Kakkad	Manager	9920193295	himanshu@sbgco.in
Charmi Shah	Executive	9870061880	charmi@sbgco.in
Vaibhav Thakkar	Executive	9870581728	vaibhav@sbgco.in
Ritika Shah	Article Assistant	9619907094	ritika@sbgco.in
Aparna Shah	Article Assistant	9022567197	aparna@sbgco.in
Shraddha Kothari	Article Assistant	9833186256	shraddha@sbgco.in
Riya Jain	Article Assistant	9167684068	riya@sbgco.in
Swati Vaddepalli	Article Assistant	9664255249	swati@sbgco.in
Unnati Gabhawala	Article Assistant	9619537482	unnati@sbgco.in
Nishi Shah	Article Assistant	8097004472	nishi@sbgco.in
Ujjwal Sanghi	Article Assistant	7715959240	ujjwal@sbgco.in
Siddhesh Tated	Article Assistant	9594161709	siddhesh@sbgco.in
Vaishnavi V. Shirsat	Support Staff	9029708771	vaishnavi@sbgco.in
Sayli Kambli	Support Staff	9004789328	sayli@sbgco.in
Chandrakant K. Dhumal	Support Staff	9819305862	
Vimal Katapra	Support Staff	9167738007	
Vivek Patel	Support Staff	8689934336	

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