



Overview of Goods and Services Tax(GST)

**STATE TAX DEPARTMENT
GOVERNMENT OF UTTARAKHAND**

Goods and Services Tax (GST): An introduction.



- All taxes may be broadly classified into :
 1. Direct tax and
 2. Indirect tax.
- A direct tax is one in which the responsibility of payment of tax and final burden of tax is on the same individuals. For example Income tax, corporate tax, wealth tax, etc.
- Whereas, an indirect tax is one in which the responsibility of payment of tax and final burden of tax is on different individuals. For example Gst, customs duty, stamp duty.
- Gst is a destination-based indirect tax on the supply of goods and services.



Goods and Services Tax (GST): An introduction.



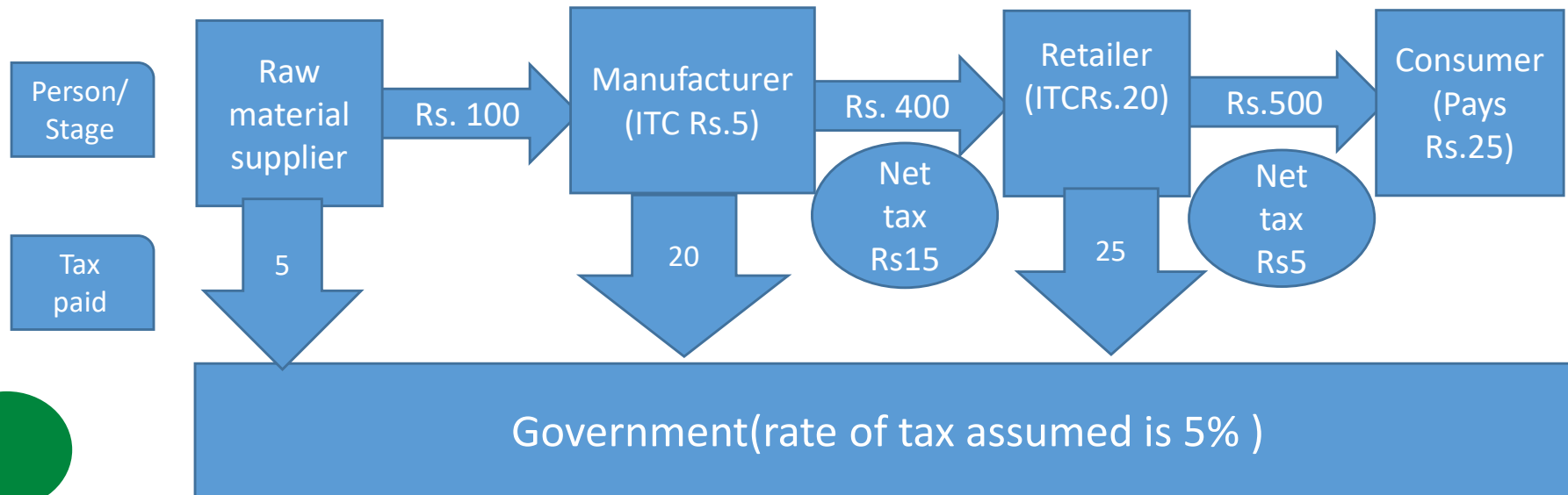
- The GST replaces the following:



Goods and Services Tax (GST): Concept of value addition.



- Gst is a value-added tax , ie. only value addition is taxed . It is levied at all stages right from the raw materials supplier up to final consumer with credit of taxes paid(itc) at previous stages available as set-off.



Goods and Services Tax (GST): Administrative structure



- Administrative structure of the Gst regime is as follows:
- As per Article 279A of the Constitution, the GST Council has been setup as a joint forum of the Centre and the States, to implement Gst.
- The vote of the Central Government in the council's decisions has a weight-age of 1/3rd of the votes cast and the votes of all the State Governments taken together has a weight-age of 2/3rd of the total votes cast.
- Each decision of the Council is taken by a majority of not less than 3/4th of the weighted votes of the Members present and voting.
- The respective governments issue notifications on the basis of council recommendations to administer the Gst regime.

Goods and Services Tax (GST): Administrative structure



- Gst system in India is a dual system with each of the States and the Center having jurisdiction over about half of the taxpayers in the particular state/UT.
- The GST to be levied by the Centre on intra-State supply of goods and / or services is called the Central GST (CGST) and that to be levied by the States/ Union territory is called the State GST (SGST)/ UTGST.
- Both CGST and SGST are charged on intra-state supplies and Integrated GST (IGST) is charged on inter-state supplies, irrespective of jurisdiction.

Goods and Services Tax (GST): Important legal provisions and definitions.



- Article 265 of the Constitution states that “no tax shall be levied or collected except by authority of law”.
- Section 2(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;
- 2(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;
“*Explanation.- For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities;”
- 2(43) “electronic cash ledger” means the electronic cash ledger referred to in subsection (1) of section 49; 2(46) “electronic credit ledger” means the electronic credit ledger referred to in sub-section (2) of section 49;
- 2(107) “taxable person” means a person who is registered or liable to be registered under section 22 or section 24; 2(108) “taxable supply” means a supply of goods or services or both which is leviable to tax under this Act;

Goods and Services Tax (GST): Meaning and Scope of Supply

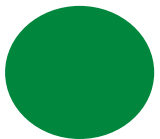


- In order to constitute a 'supply', the following elements are required to be satisfied, i.e.-
 - (i) the activity involves supply of goods or services or both;
 - (ii) the supply is for a consideration unless otherwise specifically provided for;
 - (iii) the supply is made in the course or furtherance of business;
 - (iv) the supply is made in taxable territory;
 - (v) the supply is a taxable supply; and
 - (vi) the supply is made by a taxable person.

Goods and Services Tax (GST): Types of supply under GST



- (i) Inter-State and Intra-State supplies. CGST+SGST and IGST is charged on such supplied , respectively.
- (ii) Taxable and exempt supplies. Tax can only be charged on taxable supplies.
- (iii) Zero rated supplies. Zero rated supply means export of goods and/or services or supply of goods and/or services to a SEZ developer or a SEZ Unit(deemed export). No tax is charged on such supplies, but itc can be claimed.
- (iv) Composite and mixed supplies. P.T.O.



Goods and Services Tax (GST): Composite and mixed supply



- Composite Supply means a supply made by a taxable person comprising two or more supplies of goods or services, 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. For example, 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 the principal supply. A composite supply is treated as a supply of the principal supply.
- Mixed Supply means a supply of 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 naturally bundled supply. For example, a supply of package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juice when supplied for a single price is a mixed supply. Each of these items can be supplied separately and it is not dependent on any other. It shall not be a mixed supply if these items are supplied separately. A mixed supply is treated as a supply of that particular supply which attracts the highest rate of tax.

Goods and Services Tax (GST): Levy and collection of Gst.

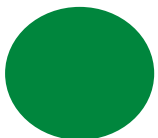


- Section 9 of the Gst Act, 2017 – Levy and collection of Gst.

(1) GST to be levied on all supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption.

(2) Five petroleum products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel have been kept out temporarily and the government shall decide the date from which they shall be included in GST.

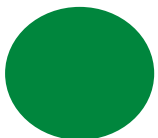
(3) Government may specify categories of supply of goods or services, the tax on which shall be paid on reverse charge basis by the recipient of such supply as if he is the person liable for paying tax in relation to the supply.



Goods and Services Tax (GST): Reverse charge in GST



- As per Section 2(98) of the CGST Act, 2017 “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) of section 9 of the CGST Act, 2017 , or under subsection (3) of section 5 of the IGST Act, 2017.
- The recipient issues a self invoice.
- The recipient pays tax in cash under rcm and may claim the input tax credit on the amount of tax paid under reverse charge mechanism to be credited to his electronic credit ledger.
- We shall discuss about Reverse charge in Government services in a later section of this ppt.



Goods and Services Tax (GST): RCM on notified services.



S.N	Supply of Services	Supplier	Recipient
1	Insurance Agent Services	An insurance agent	Person carrying on insurance business
2	Legal services, directly or indirectly	An individual advocate including a senior advocate or firm of advocates	Any business entity
3	Arbitral Services	An Arbitral Tribunal	Any business entity
4	Sponsorship Services	Any person	Any body corporate or partnership firm
5	Reserve Bank Services	Members of Overseeing Committee	Reserve Bank of India
6	Government Services, excluding: (i) Department of Posts (ii) 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 (iv) renting of immovable property	Central Government, State Government, Union territory or Local authority	Any business entity
7	Renting of residential dwelling	Any person	Registered Person
8	Services of development rights or Floor Space Index (FSI) or Long term lease of land (30 years or more) for construction of a project	Any person	Promoter
9	DSA (Direct Selling Agent) Service	Individual DSAs except a body corporate, partnership/ LLP firm	Bank or NBFCs
10	Recovery services	Recovery Agent	Bank, NBFCs or financial institution
11	Government Services	Central Government, State Government, Union territory or Local authority	Any business entity
12	Business Facilitator	Business facilitator	Bank
13	Copyright service	Authors, Music composer, photographer, artist, etc	Music company, producer etc
14	Security Services	Security Personnel	Registered person

Goods and Services Tax (GST): RCM on notified goods

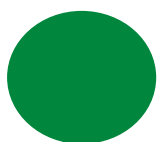


S.N	Supply of Goods	Supplier of Goods	Recipient of Goods
1	Cashew nuts (not shelled or peeled)	Agriculturist	Registered person
2	Bidi Wrapper Leaves (tendu), Tobacco Leaves	Agriculturist	Registered person
3	Silk Yarn	Manufacturer of silk yarn from raw silk or silk worm cocoons	Registered person
4	Lottery	State Government, Union Territory or local authority	Lottery distributor or selling agent
5	Raw Cotton	Agriculturist	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	Registered person
7	Purchase of priority sector lending certificate	Registered person	Registered person
8	Essential oils of peppermint (Mentha piperita), Spearmint oil (ex-mentha spicata), Water mint-oil (ex-mentha aquatic), Horsemint oil (ex-mentha sylvestries), Bergament oil (ex-mentha citrate), Mentha arvensis, other than those of	Unregistered person	Registered person

Activities which are treated as neither a supply of goods nor a supply of services



- Schedule-III of the GST law lists such activities such as:
 - services by an employee to the employer in the course of or in relation to his employment,
 - services by any Court or Tribunal established under any law,
 - functions performed by members of Parliament, State Legislatures, members of the local authorities, Constitutional functionaries
 - services of funeral, burial, crematorium or mortuary and
 - sale of land .





Goods and Services Tax (GST):

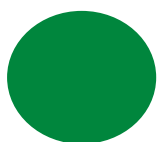
Classification/Rate of goods and services.

- HSN (Harmonised System of Nomenclature) code is used for classifying the goods under the GST regime. it is based on World Customs Organization's (WCO) nomenclature code utilised for uniformly classifying goods worldwide.
- Services will be classified as per the Services Accounting Code (SAC).It is based on the United Nations Central Product Classification (UNCPC).
- Under the GST regime, goods and services, as classified under the HSN/ SAC code, respectively, are taxed under five different tax slabs, which are 0%, 5%, 12%, 18%, and 28%.
- For example, 9966 is the SAC code for Rental services of transport Vehicles.
 - (i)Rate of tax on Renting of motor-cab where the cost of fuel is included in the consideration charged from the service recipient is 2.5%+2.5%.
 - (ii)Rate of tax on Rental services of transport vehicles with or without operators, other than (i) above is 9%+9%.

Goods and Services Tax (GST): Sequence of reading Rate notification of goods and services.



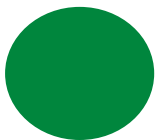
- 1(a) Receipt of services which are exempted are listed by notification No.12/2017 – Central Tax (Rate) dated 28/06/2017 as amended from time to time.
- (b) Receipt of services which are under RCM are listed by notification No.13/2017 – Central Tax (Rate) dated 28/06/2017 .
- (c) Receipt of services which are taxable at notified rate are listed by notification No.11/2017 – Central Tax (Rate) dated 28/06/2017 .
- 2(a) Receipt of goods which are exempted are listed by notification No.2/2017 – Central Tax (Rate) dated 28/06/2017 .
- 2(b) Receipt of goods which are under RCM are listed by notification No.4/2017 – Central Tax (Rate) dated 28/06/2017 .
- 2(c) Receipt of goods which are taxable at notified rate are listed by notification No.1/2017 – Central Tax (Rate) dated 28/06/2017 .



Goods and Services Tax (GST): Concept of Aggregate Turnover/registration eligibility.



- (1) Turnover, in common parlance, is the total volume of a business. The term 'aggregate turnover' has been defined in GST law as under:
- "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 PAN Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess.



Goods and Services Tax (GST): Concept of Aggregate Turnover/registration eligibility.



- (2) The aggregate turnover is a crucial parameter for deciding the eligibility of a supplier to avail the benefit of exemption from registration under section 22.



- Composition scheme is a facility for small taxpayers, with lesser compliance requirements. The threshold limit for composition levy is an aggregate turnover for Rs. 1.5 crore in all states other than Uttarakhand and North east states (other than Assam), where it is Rs. 75 lakhs .

Goods and Services Tax

(GST):Registration-Composition Scheme.

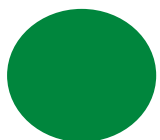


- The Composition Levy is an alternative scheme for small taxpayers whose turnover is up to prescribed limit, as discussed previously.
- Such taxpayer does not have to maintain elaborate records and has to furnish a quarterly statement containing the details of payment of tax in FORM GST CMP-08, till the 18th day of the month succeeding such quarter and file a simple annual return in FORM GSTR04.
- However, upon opting for this scheme, he can't collect GST from his customers and can't claim Input Tax Credit on his purchases.
- There are different rates prescribed for three different category of suppliers.
 - (a) An eligible manufacturer has to pay 1% (0.5% CGST + 0.5% SGST/ UTGST) of turnover in a state or Union Territory.
 - (b)(1) All eligible service providers (or goods and service suppliers) have to pay 6% (3% CGST + 3% SGST / UTGST) of turnover in a State or Union Territory.
 - (b)(2) An eligible provider of restaurant Service has to pay 5% (2.5% CGST + 2.5% SGST/UTGST) of turnover in a state or Union Territory.
 - (c) All other eligible suppliers (i.e. traders) have to pay 1% (0.5% CGST + 0.5% SGST/UTGST) of the taxable turnover in a State or Union Territory.

Goods and Services Tax (GST): Compulsory registration cases.



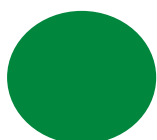
- Section 24 : Compulsory registration
- (i) persons making any inter-State taxable supply;
- (ii) casual taxable persons making taxable supply;
- (iii) persons who are required to pay tax under reverse charge;
- (iv) non-resident taxable persons making taxable supply;
- (v) persons who are required to deduct tax under section 51.
- (vi) every electronic commerce operator [who is required to collect tax at source under section 52];





Goods and Services Tax (GST): Casual Taxable Person .

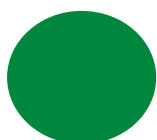
- “Casual taxable person” means a person who :
- occasionally under takes transactions involving supply of goods and / or services
- in the course or furtherance of business whether as principal, agent or in any other capacity,
- in a taxable territory
- where he has no fixed place of business.
- CTP shall apply for registration at least five days prior to the commencement of business and pay advance tax on estimated liability.
- Such registration shall be valid for 90days;extendable for 90days.





Goods and Services Tax (GST): Non-resident Taxable Person .

- “Non-resident taxable person ” means a person who :
- occasionally under takes transactions involving supply of goods and / or services
- in the course or furtherance of business whether as principal, agent or in any other capacity,
- in a taxable territory
- and he has no fixed place of business in India.
- NRTP shall apply for registration at least five days prior to the commencement of business and pay advance tax on estimated liability.
- Such registration shall be valid for 90days;extendable for 90days.



Goods and Services Tax (GST): Persons not liable for Registration.

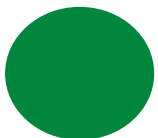


- Section 22: Those persons whose turnover is below the threshold for registration in the particular state, may not take a Gst registration.
- Section 23: Persons not liable for Registration
- (i) Persons engaged exclusively in the business of of Goods/Services not liable to tax or Wholly exempt from tax.
- (ii) An agriculturist (defined in Sec. 2(7)) to the extent of supply of produce out of cultivation of land.
- As per Section 2(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;

Goods and Services Tax (GST): Voluntary Registration



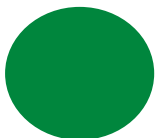
- Voluntary Registration
- A person, though not liable to be registered under Section 22 or section 24, may get himself registered voluntarily.
- All provisions of the Gst Act, 2017 as are applicable to a registered taxable person, shall apply to such person.
- It is helpful in claiming ITC and registering for government tendering / bidding processes .



Goods and Services Tax (GST): Deemed Registration



- Section 26: Deemed Registration
- Once registration is granted under SGST Act, it is deemed as registered under CGST Act, unless application is not rejected within specified time.
- Once registration is rejected under SGST Act, it is deemed as rejected under CGST Act.



Goods and Services Tax (GST): Taxation of imports and exports

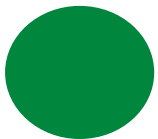


- Imports of Goods and Services are treated as inter-state supplies and IGST is levied on import of goods and services into the country.
- Exports are treated as zero rated supplies. No tax will be payable on exports of goods or services, however input tax credit will be available and same will be available as refund to the exporters. The Exporter will have an option to either pay tax on the output and claim refund of IGST or export under Bond/LUT without payment of IGST.

Goods and Services Tax (GST): E-way bill



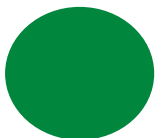
- A e-Way Bill is a document required for movement of goods where the value of the consignment exceeds Rs. 50,000 and it includes details such as name of consignor, consignee, transporter, the point of origin of the movement of goods and its destination.
- The e-Way Bill provisions in respect of inter-state supplies of goods were implemented PAN India w.e.f 1st April, 2018.
- No e-Way Bill is required to be generated in respect of exempt goods.
- It helps to provide an electronic trail of goods movement.





Goods and Services Tax (GST): Return filing and QRMP scheme

- A person registered as a normal taxpayer has to file return Gstr3b for the payment of tax on a monthly basis by 20th of the month succeeding the month.
- Qrmp scheme - registered persons having Aggregate Annual Turnover up to 5 Cr are allowed to furnish return Gstr3b on a quarterly basis along with monthly payment of tax.
- Annual return Gstr9 has to be mandatorily filed by taxpayers whose AATO is above 2 crores, while it is optional for other taxpayers.
- GSTR-7 has to be filed by tax deductors under section 51 of the Gst Act, 2017.





Goods and Services Tax (GST): TDS

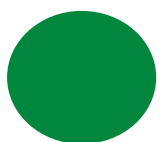
- **Tax Deduction at Source (TDS)** is one of the modes/methods to collect tax, under which, (1%SGST+1%CGST or 2%IGST)of amount is deducted by a recipient of supply at the time of making payment to the supplier.
- It acts as a powerful instrument to prevent tax evasion and expands the tax net, as it provides for the creation of an audit trail.
- **Notification No. 50/2018-Central Tax, dated 13.09.2018 brought into force the provisions of section 51 of the CGST Act, 2017 with effect from 1.10.2018.**
- The provision pertaining to TDS under GST is given under Section 51 of the GST Act read with Rule 66.



Goods and Services Tax (GST): TDS

As per Section 51 (1) The Government may mandate TDS provisions for,—

- (a) a department or establishment of the Central Government or State Government; or
- (b) local authority; (Section 2 (69) of the CGST Act, 2017: Definition of “local Authority”) or
- (c) Governmental agencies; or
- (d) Such persons or category of persons as may be notified by the Government on the recommendations of the Council,





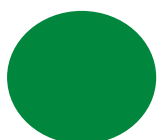
Goods and Services Tax (GST): TDS

Note - As per Notification No. 33/2017, 18th September 2017 and Notification No. 50, dated 13th September 2018 the government notified the entities mentioned in section 51(1)a-c and also notified following persons U/s 51(1)(d) as liable for TDS-

(a) An authority or a board or any other body which has been set up by Parliament or a State Legislature or by a government, with 51% equity (control) owned by the government.

(b) A society established by the Central/State Government or a Local Authority & the society is registered under the Societies Registration Act, 1860. (c) Public sector undertakings (PSUs).

Note - Notification No.61/2018 Central Tax dated 05.11.2018 retrospectively exempting applicability of TDS provision on supply of goods & service form one PSU to other PSU.





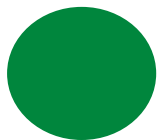
Goods and Services Tax (GST): TDS

- As per section 24 (vi) of the GST Act, 2017, the persons required to deduct Tax at Source (TDS) are compulsorily required to take registration under 25 of the GST Act, 2017.
- To obtain a normal Registration under GST, the registrant is required to have a PAN Number.
- However, GST registrant under TDS category obtain GST registration on the basis of Tax Deduction and Collection Account Number [Section 25(6)] .
- The deductors are required to deduct tax at the rate of one per cent SGST+ one per cent CGST from the payment made or credited to the supplier (hereafter in this section referred to as “the deductee ”) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees:

Goods and Services Tax (GST): Conditions for & amount of TDS deduction:



- Tax deduction is required if all the following conditions are satisfied –
- Total value of taxable supply > Rs.2.5 Lakh under a single contract. This value shall exclude the taxes leviable under GST.
- If the contract is made for both taxable supply and exempted supply, deduction will be made if the total value of taxable supply in the contract > Rs.2.5Lakh.

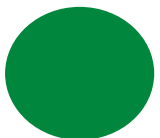


Goods and Services Tax (GST): Conditions for & amount of TDS deduction:



Tax deduction is not required in following situations:

- Total value of taxable supply \leq Rs.2.5 Lakh under a contract.
- Where the tax is to be paid on reverse charge by the recipient i.e. the deductee.
- Where the payment is made to an unregistered supplier.
- Receipt of services which are exempted. For example services exempted under notification No.12/2017 – Central Tax (Rate) dated 28/06/2017 as amended from time to time.
- Receipt of goods which are exempted. For example goods exempted under notification No.2/2017 – Central Tax (Rate) dated 28/06/2017 as amended from time to time.
- Non-Gst goods. For example petrol, diesel, petroleum crude, natural gas, aviation turbine fuel (ATF) and alcohol for human consumption.





Goods and Services Tax (GST): TDS

Section 51 (2) The amount deducted as tax under this section shall be paid to the Government by the deductor(via GSTR7) within ten days after the end of the month in which such deduction is made.

S.51(4) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of 100 rupees per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees(file GSTR7).

S.51(5) The deductee shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor furnished under sub-section (3) of section 39, in such manner as may be prescribed



Goods and Services Tax (GST): TDS

- S.51(6) If any deductor fails to pay to the Government the amount deducted as tax under sub-section (1), interest is also required to be paid at the rate @ 18% per annum as notified under Section 50 (1) of the CGST Act, 2017. In case of failure to furnish monthly return in time, late fee @ Rs. 100/day for the period of failure subject to maximum amount of Rs. 5000/- is required to be paid [Ref: Section 47(1)].
- S.51(7) The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74.

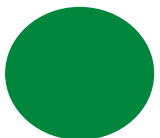
Penalty prescribed Section 122 (1) (v) is as follows:

- If a taxable persons fails to deduct the tax in accordance with the provisions of sub-section (1) of section 51, or deducts an amount which is less than the amount required to be deducted under the said sub-section, or fails to pay to the Government the amount deducted as tax;
- Then he shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax not deducted under section 51 or short deducted or deducted but not paid to the Government, whichever is higher.

Goods and Services Tax (GST): Government services - Types of Government bodies.



- As per section 2(53) of the U.K. GST/ CGST Act, 2017, 'Government' means the Government of Uttarakhand/ Central Government, respectively.
- State Government means the Governor or the officers subordinate to him who exercise the executive powers of the State vested in the Governor and in the name of the Governor.
- Similarly, the Central Government means the President or the officers subordinate to him who exercise the executive powers of the State vested in the President and in the name of the president .
- The corporations formed under the Central or a State Act or various companies registered under the Companies Act, 1956/2013 or autonomous institutions set up by the State Acts will not be covered under the definition of 'Government' and therefore, services provided by them will be taxable unless exempted by a notification.



Goods and Services Tax (GST): Government services - Types of Government bodies.

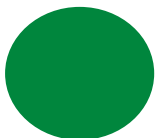


- A regulatory body, is a public authority or a governmental body which exercises functions assigned to them in a regulatory or supervisory capacity. These bodies do not fall under the definition of Government. Examples of regulatory bodies are – Central Pollution Control Board, Securities and Exchange Board of India, etc.
- Local authority is defined in clause (69) of section 2 of the CGST Act, 2017 and means the following:
 - a “Panchayat” as defined in clause (d) of article 243 of the Constitution;
 - a “Municipality” as defined in clause (e) of article 243P of the Constitution;
 - 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;
 - a Cantonment Board as defined in section 3 of the Cantonments Act, 2006;

Goods and Services Tax (GST): Government services



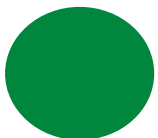
- Services provided by one department of the Central Government / State Government to another department of the Central Government/ State Government are exempt under notification No.12/2017-Central Tax (Rate), dated 28.06.2017 .
- However, this exemption is not applicable to:
- (a) services provided by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, the State Government and Union Territory;
- (b) services in relation to a vessel or an aircraft inside or outside the precincts of a port or an airport;
- (c) services of transport of goods and/or passengers.



Goods and Services Tax (GST): RCM on notified goods supply by government



- Important point to remember- Sale of used vehicles supplied by Government– In case of used vehicles, supplied by Central Government, State Government, Union territory or a local authority, the registered person receiving the supply is liable to pay tax under reverse charge – Notification No. 4/2017-CT (Rate) dated 28-6-2017 amended w.e.f. 13-10-2017.
- In case of sale of used vehicles supplied by Government to unregistered person, respective department of Central Government, State Government, Union territory or a local authority should obtain GST registration and pay GST-para 1 of CBI&C circular No. 76/50/2018-GST dated 31-12-2018.
- It is held by AAR Maharashtra in re (2018) CMS Info Systems Ltd. GST is payable on supply of old motor vehicles as scrap.



Goods and Services Tax (GST): RCM on notified government services.

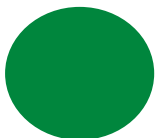


- Important Point to remember: GST on the rent charged for immovable properties by the government or local authority to a registered person are under Reverse Charge Mechanism.
- However, when the property is rented to an Unregistered person, the government has to themselves deduct GST (Forward charge mechanism).

Goods and Services Tax (GST): Government services



- The following services are exempt under notification No.12/2017-Central Tax (Rate), dated 28.06.2017 - Services by way of:
- (a) health care services by a clinical establishment, an authorised medical practitioner or para-medics.
- [Provided that nothing in this entry shall apply to the services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having room charges exceeding Rs. 5000 per day to a person receiving health care services. ;
- (b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.



GST Implications on Healthcare Sector



12/2017
Amended by
4/2022

Exemption
Notification

Entry No. 74 of Notification No.
12/2017

74

Heading 9993

Services by way of—

Nil

Nil

- (a) health care services by a clinical establishment, an authorised medical practitioner or para-medics: ^{59c} **[Provided that nothing in this entry shall apply to the services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having room charges exceeding Rs. 5000 per day to a person receiving health care services.]**
- (b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above.

GST Implications on Healthcare Sector



Clinical Establishment

As per definition 2(s) of notification No. 12/2017- Ct Rate

"clinical establishment" means

- a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called,
- that offers services or facilities requiring diagnosis **OR** treatment **OR** care for illness, injury, deformity, abnormality **OR** pregnancy in any recognized system of medicines in India,
- or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases;

Covers diagnostic centers

2(k) "Authorised medical practitioner" means

- a medical practitioner registered with any of the councils of the recognized system of medicines established or recognised by law in India **and**
- includes a medical professional having the requisite qualification to practice in any recognised system of medicines in India as per any law for the time being in force;

Para medics is not defined in GST Law. But as per general meaning para medics are trained health care professionals. Eg. Nursing staff, physiotherapists, technicians, lab assistants etc.

GST Implications on Charitable Institutions including Healthcare Sector



Entry no. 1 of Notification No. 12/2017- Ct Rate

Services **by an entity** registered under **section 12AA or 12AB** of the Income-tax Act, 1961 (43 of 1961) by way of **charitable activities**



"Charitable activities" means activities relating to—

- i. public health by way of,—
 - A. care or **counselling** of
 - I. terminally ill persons or persons with severe physical or mental disability;
 - II. persons afflicted with HIV or AIDS;
 - III. persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or
 - B. **public awareness** of preventive health, family planning or prevention of HIV infection;
- ii. advancement of **religion, spirituality or yoga**;
- iii. **advancement of educational programmes or skill development relating to,—**
 - A. **abandoned, orphaned or homeless children**
 - B. **physically or mentally abused and traumatized persons;**
 - C. **prisoners; or**
 - D. **persons over the age of 65 years residing in a rural area;**

GST Implications on Charitable Institutions including Healthcare Sector



Exemption to Charitable organisations

Pursuant to Notification No. 12/2017 CT dated 28th June 2017, the Govt. has exempted services **by way of charitable activities** provided by charitable organisations from levy of GST. Thus charitable organisations engaged exclusively in charitable activities are exempted from obtaining registration.

However, charitable organisations are compelled to register where they have receipts on account of ancillary activities like providing shop on rent to outsider(so that the visitors get tea and food), charitable hospitals running pharmacy and providing medicines at concessional rate etc.(Donations Excluded & Advertisement, Sponsorship, Consultancy, Sales included)

Acharya Shree Mahashraman Chaturmas Pravas Vyavastha Samiti Trust, In re vs. (AAR)(2019] 110 taxmann.com 282 (AAR - KARNATAKA)/[2019] 31 GSTL 138

Rajiv Gandhi Centre For Aquaculture, In re vs. AAR([2019] 108 taxmann.com 465 (AAAR - TAMILNADU)/[2019] 76 GST 71

GST Implications on Healthcare Sector



S.No	Activities	Exempt/ Taxable
1	Medicines, Consumables & implants to <u>in-patients</u>	Exempt
2	Food Supplied to patients	Exempt
3	Room rent upto Rs. 5000/- per day	Exempt
4	Diagnostic & pre or post consulting	Exempt
5	Diagnosis Centers	Exempt
6	Retention Money Hospital	Exempt
7	Sale of medicines	Taxable
8	Food supply to attendents & visitors	Taxable
9	Hospital having Rental Income of premises	Taxable
10	Hospital having Income of ROOMS provided to Attendants	Taxable

CA Aanchal Kapoor

20

GST Implications on Healthcare Sector



Rate of GST on health care services

SAC Code	Description	Rate
99931	999311 Inpatient services 999312 Medical and dental services 999313 Childbirth and related services 999314 Nursing and Physiotherapeutic services 999315 Ambulance services 999316 Medical Laboratory and Diagnostic-imaging services 999317 Blood, sperm and organ bank services 999319 Other human health services including homeopathy, unani, ayurveda, naturopathy, acupuncture and the like	18% but exempted via notification 12/2017
99932	999321 Residential health-care services other than by hospitals. 999322 Residential care services for the elderly and person with disabilities.	18%
99933	999331 Residential care services for children suffering from mental retardation, mental health illnesses or substance abuse 999332 Other social services with accommodation for children 999333 Residential care services for adults suffering from mental retardation, mental health illnesses or substance abuse 999334 Other social services with accommodation for adults	Nil Nil Nil 18%
99934	999341 Vocational rehabilitation services 999349 Other social services without accommodation for the elderly and disabled n.e.c	Nil Nil

GST Implications on Healthcare Sector: Case laws



[2021] 128 taxmann.com 310 (Gujarat)/[2021] 87 GST 3 (Gujarat)/[2021] 54 GSTL 11 (Gujarat)[09-07-2021]

GST : Where Charitable Trust was running a medical store, even though Charitable Trust was giving medicines to patients at a lower rate, with no profit, sale of medicines by Trust would be a taxable supply of goods, hence, aggregate turnover exceeding threshold limit as mentioned in section 22(1), Trust would have to obtain registration.

Section 22, read with sections 2(17) and 7, of the Central Goods and Services Tax Act, 2017/Section 22, read with section 2(17) and 7, of the Gujarat Goods and Services Tax Act, 2017 - Registration - Persons liable for - Whether where Charitable Trust was running a medical store, even though Charitable Trust was selling medicines to patients at a lower rate with no profit, sale of medicines for consideration by Trust in course of their business would amount to a taxable supply of goods - Held, yes - Whether therefore, where aggregate turnover of Trust in a financial year exceeded threshold limit mentioned in section 22(1), Trust would have to obtain registration - Held, yes [Paras 7, 9 and 10]

GST Implications on Healthcare Sector: Case laws



Ernakulam Medical Centre (P.) Ltd., In re vs.([2019] 103 taxmann.com 182 (AAAR-KERALA)/[2019] 74 GST 49 (AAAR-KERALA)(MAG)/[2019] 23 GSTL 418 (AAAR-KERALA))

Classification of services - Kerala State Goods and Services Tax Act, 2017 - Healthcare services -

Supply of Medicines to In Patients & Out Patients

•**Heading No. 9993 [Healthcare services by clinical establishment]** - Section 2(30) of the Central Goods and Services Tax Act, 2017/Section 2(30) of the Kerala State Goods and Services Tax Act, 2017 - Supply - Composite supply

QUESTION:

•Whether **since invoice/bill raised for treatment as an in patient is a single bill charging for all facilities/services utilized for treatment** in hospital including room rent, nursing care charges, laboratory, consumables, medicines, equipment charges, doctor's fee, etc., in case of an inpatient, **hospital has provided a bundle of supplies which is classifiable under health care services and is exempt from tax?**

Answer

•Held, yes – **Exemption available**. Composite Supply for In patients.

QUESTION:

• Whether however, **in case of out patients health care service provided by hospital is restricted to consultation of doctor and medicines bought by outpatients from pharmacy owned by hospital is billed separately** and cannot be considered as composite supply to extend exemption and, hence, **supply of medicines and allied items to outpatients is liable to GST being a taxable supply**

Answer

•Held, yes [Para's 10, 14 and 15] [In favour of revenue]

•GST: **Supply of medicines and allied items to out patients by Hospital is not bundled with doctor's consultation and is liable to GST being a taxable supply.**

GST Implications on Healthcare Sector: Case laws



Dabur India Ltd. vs. Commissioner of CGST ([2020] 113 taxmann.com 423 (Allahabad)/[2020] 34 GSTL 9 (Allahabad)/[2020] 78 GST 219)

- Classification of goods - HSN 38089191 - Mosquito repellent
- Assessee was engaged in manufacturing a product named 'odomos' - Assessee claimed that said product had to be classified as medicine under Heading No. 3004 @12% - Authority for Advance Ruling, however, classified odomos, under HSN 38089191-18% Appellate Authority upheld said ruling –
- It was noted that **assessee's product was not normally prescribed as a medicine** by Medical Practitioner as a drug
- Moreover, **product was being sold on demand at counters in shops and establishments and sales were not restricted to chemists/druggists alone**
- Whether in view of aforesaid, impugned order passed by authorities below did not require any interference
- Held, yes [Paras 31 and 38] [In favour of revenue]
- GST : **Where applicant was engaged in manufacturing a product named 'odomos' since said product was being sold as mosquito repellent on demand at counters in shops and establishments and sales were not restricted to chemists/druggists alone, same had to be classified under HSN 38089191.**

CMC Vellore Association, In re vs. ([2020] 113 taxmann.com 55 (AAR-TAMILNADU)/[2020] 32 GSTL 601 (AAR - TAMILNADU)/[2020] 78 GST 66 (AAR - TAMILNADU)

- Classification of service - Tamil Nadu Goods and Services Tax Act, 2017 - Supply of in-patient healthcare services - Heading No. 9993 [Human health and social care services]
- Section 2(30) of the Central Goods and Services Tax Act, 2017/Section 2(30) of the Tamil Nadu Goods and Services Tax Act, 2017 - Supply - Composite supply –
- Applicant is engaged in provision of health care services to both in-patients and out-patients –
- **Whether medicines, drugs, stents, consumables and implants used in course of providing health care services to in-patients admitted to hospital for diagnosis, or medical treatment or procedures is a composite supply of in-patient healthcare service ?**
- Held, yes - Whether **supply of in-patient healthcare services by applicant** as defined in para 2(zg) of Notification No. 12/2017-CT (Rate), dated **28-6-2017 is exempt from CGST and SGST as per Sl. No. 74**
- Held, yes [Para 7(1)] **GST: Medicines, drugs, stents, consumables and implants used in course of providing health care services to in-patients admitted to hospital for diagnosis, or medical treatment or procedures is a composite supply of in-patient healthcare service.**

GST Implications on Healthcare Sector: Classification

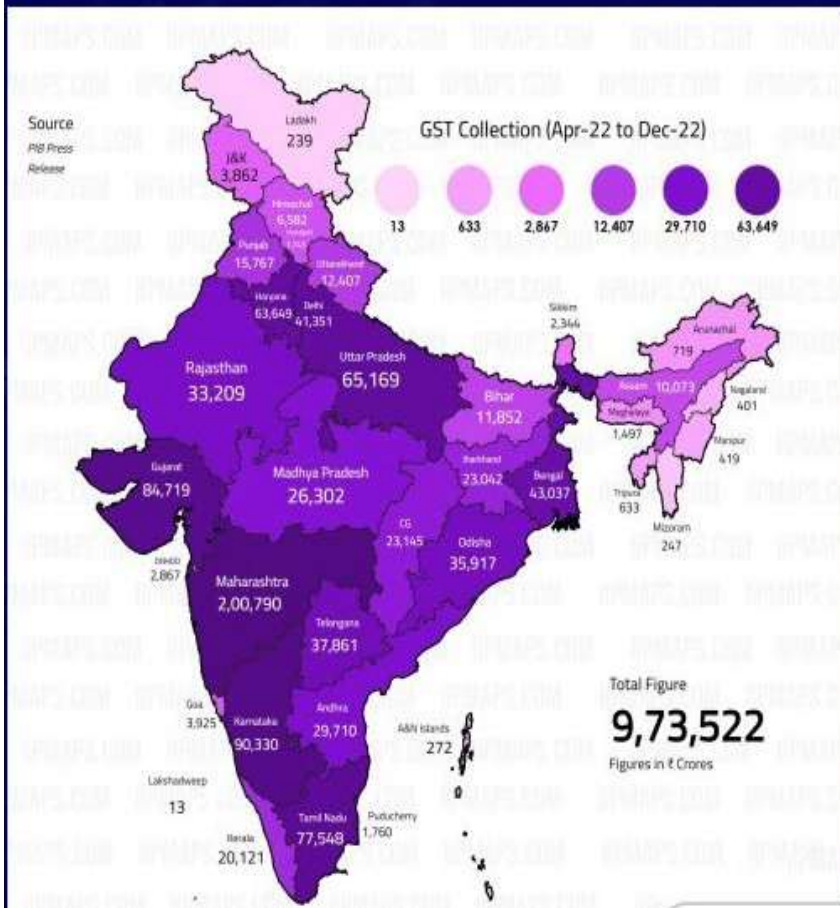


Medicament vs Cosmetic – Judicial Interpretation

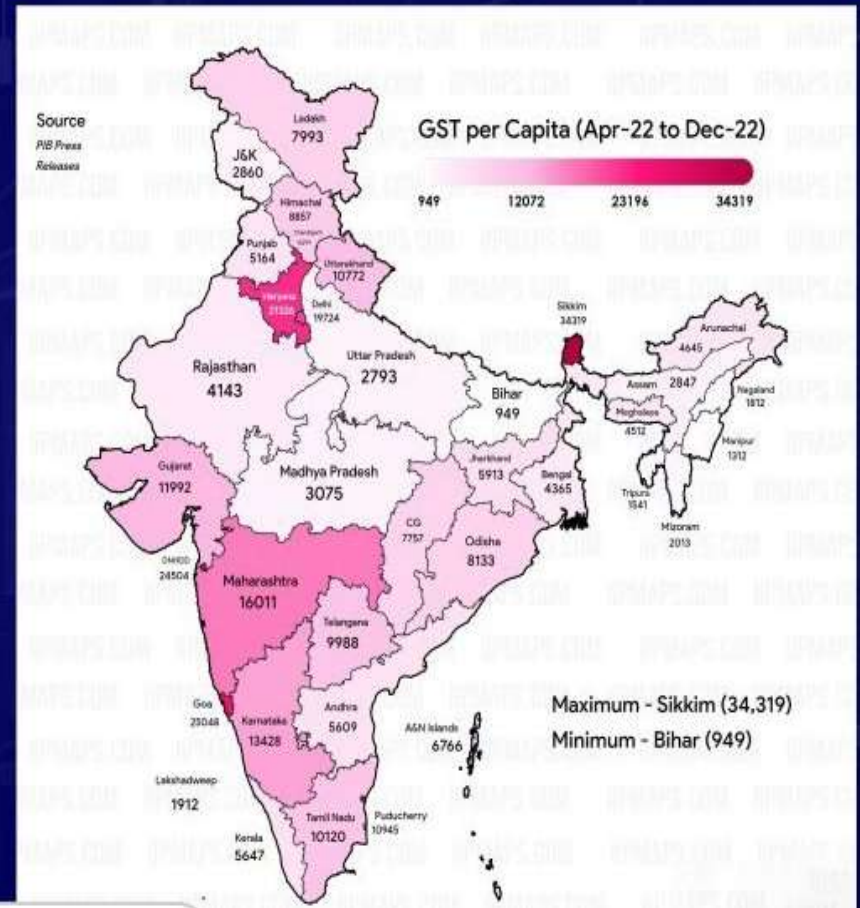
- 3003 90 – Medicine [12%] Vs Entry 3305 - Preparations for hair [18%]
- • **Khandelwal Drug Agencies (Raj HC) (STR Case No. 358 of 1999 [2007] RD-RJ 3199 (6 July 2007))**: Swad having therapeutic value is medicine though it is sold in tea stall or betel shop.
- **Global Tele Mall–MP HC-Hair (CEA No.102/2017)** wash/shampoo made from ayurvedic ingredients having therapeutic quality classifiable as Ayurvedic Medicine.
- • **Marico Industries Ltd. -SC – Mediker (W. P. No.21702/2017 & others)** used for anti-lice treatment is a drug because of its medicinal effect. Once it is a drug, it cannot be shampoo
- • **Ciens Laboratories SC (CIVIL APPEAL NO. 6988 OF 2003)** : The product having therapeutic value sold without prescription is medicine. If a product's primary function is "care" and not "cure", it is not a medicament.
- • **Plethico Pharmaceutical Ltd (Excise Appeal No. E/766/2010- Ex (DB))**: Percentage of active ingredient is not material. Plethico byte' tablet contains 'mulethi' which acts as a therapeutic agent, it is medicament irrespective of small value of ingredient.

Thank You!

State-wise GST Collection for FY 2022-23



Per Capita GST collection for FY 2022-23



State Tax Department
Uttarakhand.

