

Compliances of GST in Banking Sector



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Foreword

Banking and other Financial Services were first time brought under the scope of Indirect Taxes i.e. Service Tax from 16.07.2001. Post implementation of Goods and Services Tax (GST) from 1st July 2017, few banking and financial services such as commission, bank charges etc. have been continued to tax with higher rate of tax of 18%, however partial credit on goods have also been made available to the industry.

Considering that no significant material was available for providing guidance to the members to check the compliance of Service tax/GST in banking sector, a publication titled “**Compliance of GST in Banking Sector**” has been earlier brought out by the GST & Indirect Taxes Committee of ICAI. The publication is assisting members to verify GST compliance by banks specially while doing the Bank Branch/Central Statutory and Concurrent Audit. I am happy to note that the publication has been now revised by the Committee by incorporating the latest amendments. This publication also analyse the provisions of the law in respect of Income earned by banks, expenses incurred by banks, input tax credit under GST, routine procedural checks, questionnaire for GST Tax Audit of banks etc.

I congratulate the GST & Indirect Taxes Committee for this contribution in particular CA. Sushil K Goyal, Chairman and CA. Rajendra Kumar P, Vice-Chairman for getting the material updated in a timely manner.

I am sure that the members would find this publication immensely useful while providing services to the Banking Sector as auditors or otherwise.

Date: 18th April 2019
Place: New Delhi

CA. Prafulla P. Chhajed
President

Preface

Banking Sector plays a key role in Indian Economy. For safe and sound banking sector, one of the most crucial factors is reliable financial information supported by quality bank audits. By conducting audits of financial statements of banks, the auditors play a key role in building a resilient banking sector. Bank audit involves huge volumes and complexity of transactions, wide geographical spread of banks' network, enormous range of products and services offered by banks, extensive use of technology in banks etc. All these factors make the task of the bank auditors quite challenging in doing the audits and especially when there is a change in taxation law i.e. GST. The shift from centralised registration to state wise registration, place of supply provisions, restrictive credit of 50%, ISD Compliance under GST regime, reverse charge transactions and especially transitional credits & its compliance is area of review during the audit.

Considering the intricacies involved, the GST & Indirect Taxes Committee has revised its e-publication titled "*Compliances of GST in Banking Sector*". The revised booklet has been updated with the GST provisions applicable to Banking Sector for the financial year 2018-19.

We extend our gratitude to CA. Prafulla P. Chhajed, President and CA. Atul Gupta, Vice-President, ICAI for their encouragement to the initiatives of the GST & Indirect Taxes Committee. We would like to thank Secretariat for updating this publication and CA. Jatin Christopher for reviewing it.

We trust this publication will be of practical use to members while conducting the bank audit assignments. We look forward to feedback from members for further improvement in this publication in subsequent years. Suggestions may be sent at gst@icai.in.

Date: 18th April 2019

Place: New Delhi

CA. Rajendra Kumar P.
Vice-Chairman
GST & Indirect Taxes Committee

CA. Sushil Kumar Goyal
Chairman
GST & Indirect Taxes Committee

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Chapter 1

Banking Sector – An Overview

SERVICE TAX APPLICABILITY ON BANKS

Service Tax was introduced in India on 01.07.1994. However, Banking and Other Financial Services had been brought within the ambit of Service Tax w.e.f. 16.07.2001.

Services mentioned in section 65(12)(a) of the Finance Act, 1994 were made taxable, if provided by:

- (a) Banking company and financial institution including NBFCs from July 16, 2001; or
- (b) Any other body corporate from August 16, 2002; or
- (c) Any other commercial concern from September 10, 2004.

Services mentioned in section 65(12)(b) of the Finance Act, 1994 are taxable, if provided by:

- (a) Banking companies, financial institutions including NBFCs and other body corporates from July 1, 2003; or
- (b) Commercial Concerns from September 10, 2004.

Further, with effect from May 16, 2008, section 65(12) has been amended to levy service tax on foreign exchange broking and purchase or sale of foreign currency, including money changing, provided by a foreign exchange broker or an authorised dealer in foreign exchange or an authorised money changer also.

Banking Services under Negative List of Services w.e.f July 1, 2012

After the **introduction of Negative List i.e. with effect from July 1, 2012**, Service Tax is applicable on all services provided by banks except followings:

- Services by the Reserve Bank of India;
- Services by way of—

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- (i) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount;
- (ii) *inter se* sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.

Rate of Service Tax

Period	Service Tax			EC	SHEC	SBC	KKC	Total Rate
16.07.2001 to 13.05.2003	5%	-	-	-	-	-	-	5%
14.05.2003 to 09.09.2004	8%	-	-	-	-	-	-	8%
10-09-2004 to 17-04-2006	10%	2%	-	-	-	-	-	10.20%
18-04-2006 to 10-05-2007	12%	2%	-	-	-	-	-	12.24%
11-05-2007 to 23-02-2009	12%	2%	1%	-	-	-	-	12.36%
24-02-2009 to 31-03-2012	10%	2%	1%	-	-	-	-	10.30%
01-04-2012 to 31-05-2015	12%	2%	1%	-	-	-	-	12.36%
01.06.2015 to 14-11-2015	14%	-	-	-	-	-	-	14%
15.11.2015 to 31.05.2016	14%	-	-	0.5%	-	-	-	14.5%
With effect from 01.06.2016 upto 30.6.2017	14%	-	-	0.5%	0.5%	-	-	15%

BANKING SERVICES UNDER GST W.E.F JULY 1, 2017

GST is applicable on Banking services as far as it qualifies the taxable event i.e Supply of Services. However, following Supplies made without consideration as

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specified in Schedule I of the CGST Act, 2017 are subject to tax, which is a paradigm shift from the earlier regime :

- Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
- Inter Unit Supply: Supply of goods/ services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business.

Therefore, any supply of goods or services or both supplied or received by one branch bank to another or by Head office bank to branch bank or *vice versa* without consideration, shall be considered as supply under GST for payment of tax.

- Activity performed by employer to employee without consideration will be taxable under GST, except where the value such supply does not exceed ₹ 50,000 in a financial year.

Although no consideration is involved yet, payment of tax needs to be done on value determined in terms of section 15 of the CGST Act read with Rule 28 of the CGST Rules.

Since, such transactions are generally not captured in books of accounts therefore, auditor should apply substantial audit procedure to check compliances.

Tax Framework

Service Tax under earlier regime was levied and collected by the Central Government, however, with the implementation of GST, CGST/SGST is levied by Central / State Government respectively on all Intra state supply and IGST is levied by the Central Government on all inter state supplies Central Government.

Relevant Exemptions under GST

GST is applicable on all services provided by the banks except followings:

- Services by the Reserve Bank of India;
- Services by way of—
 - (i) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services);

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(ii) *inter se* sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.

- Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY). [*inserted w.e.f. 01-01-2019 vide Notification No. 28/2018-Central Tax (Rate), dated 31-12-2018 in CGST and vide Notification No. 29/2018-Integrated Tax (Rate), dated 31-12-2018 in IGST.*]
- Services by an acquiring bank, to any person in relation to settlement of an amount upto two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service.

Explanation. — For the purposes of this entry, “acquiring bank” means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card.

- Services supplied by Central Government, State Government, Union territory to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions. [*Initially this exemption was inserted w.e.f. 27-07-2018 vide Notification No. 14/2018-Central Tax (Rate), dated 26-07-2018 in CGST and vide Notification No. 15/2018-Integrated Tax (Rate), dated 26-07-2018 in IGST. Latter, the words "banking companies and" were inserted w.e.f. 01-01-2019 vide Notification No. 28/2018-Central Tax (Rate), dated 31-12-2018 in CGST and vide Notification No. 29/2018-Integrated Tax (Rate), dt.31-12-2018.*]
- Services by way of collection of contribution under the Atal Pension Yojana
- Services by way of collection of contribution under any pension scheme of the State Governments
- Services by the following persons in respective capacities — (a) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch; (b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or (c) business facilitator or a business correspondent to an insurance company in a rural area.

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- Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR).

Where-

The intermediary of financial services in IFSC is a person,-

- (i) who is permitted or recognised as such by the Government of India or any Regulator appointed for regulation of IFSC; or
- (ii) who is treated as a person resident outside India under the Foreign Exchange Management (International Financial Services Centre) Regulations, 2015; or
- (iii) who is registered under the Insurance Regulatory and Development Authority of India (international Financial Service Centre) Guidelines, 2015 as IFSC Insurance Office; or
- (iv) who is permitted as such by Securities and Exchange Board of India (SEBI) under the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015.

[inserted w.e.f. 25-01-2018 vide Notification No. 2/2018-Central Tax (Rate), dated 25-01-2018 in CGST and vide Notification No. 2/2018-Integrated Tax (Rate), dated 25-01-2018 in IGST]

- Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government and Union territory.

The above service has been exempted intra/ inter-state supply of services from the payment of GST *vide Notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017 and Notification No. 09/2017-Integrated Tax (Rate) dated 28-6-2017 as amended from time to time.*

Further, relevant additional exemption under IGST are:

- services are received by RBI from outside India in relation to management of foreign reserves. [Notification No. 09/2017-Integrated Tax (Rate) dated 28-6-2017]
- services imported by a unit or a developer in the Special Economic Zone for authorised operations [Notification No. 18/2017-Integrated Tax (Rate) dated 5-7-2017]

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RATE OF GST ON BANKING & OTHER FINANCIAL SERVICES

There is an increase in the tax rate from 15% in service tax (erstwhile indirect tax) to 18% under GST on the transaction charges levied on the financial services provided by the banks in relation to credit card, fund transfer, ATM transactions, processing fees on loans etc.

Note- It is essential to note that Service Tax was applicable in India excluding the State of Jammu & Kashmir. While GST is applicable in India w.e.f 01.07.2017 including sea water upto 12 nautical miles and in Jammu & Kashmir w.e.f. 08.07.2017.

TIME OF SUPPLY UNDER GST

The time of supply of services provided by the banks shall be determined in reference to section 13 of the CGST Act, 2017 shall be the earliest of the following dates, namely: —

- (a) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under ~~sub-section (2) of~~¹ section 31 or the date of receipt of payment, whichever is earlier; or
- (b) the date of provision of service, if the invoice is not issued within the period prescribed under ~~sub-section (2) of~~² section 31 or the date of receipt of payment, whichever is earlier; or
- (c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply

Explanation: -

- The date of receipt of payment: The date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier
- Date of issue of invoice: If the supplier of services is an insurer or banking company or financial institution including NBFC, invoice is to be issued within 45 days from the date of supply of service.

¹ Omitted vide *The Central Goods and Services Tax Amendment Act, 2018 w.e.f. 01.02.2019*

² Omitted vide *The Central Goods and Services Tax Amendment Act, 2018 w.e.f. 01.02.2019*

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It is pertinent to mention that where the supplier of taxable service receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice relating to such excess amount.

Time of supply in case of reverse charge

1. In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be, earlier of the following dates, namely: -
 - (a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
 - (b) the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier;

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b), the time of supply shall be the date of entry in the books of account of the recipient of supply

Provided further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.

VALUE OF TAXABLE SUPPLY UNDER GST

The value of a supply of goods or services or both shall be: Transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related, and the price is the sole consideration for the supply

Where Explanation to Section 15 of the CGST Act deems the persons below to be “related persons”:

- Officers / Directors of one another’s business
- Partners in business
- Employer – employee
- A person directly / indirectly owns / controls / holds 25% of shares of both the persons

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- One directly / indirectly controls the other
- Both are directly / indirectly controlled by a third person
- Together, they directly / indirectly control a third person
- Members of the same family
- Sole agent / distributor / concessionaire of the other

S-15(2) Transaction Value INCLUDES:	Transaction Value EXCLUDES discount
<p>(i) Amounts charged by supplier to recipient in respect of any taxes, duties, cesses, fees and charges levied under any statute, other than taxes paid under GST regime;</p> <p>(ii) Amount incurred by Recipient which is liable to be paid by the Supplier;</p> <p>(iii) Charges by Supplier to Recipient being: Incidental expenses (e.g.: packing, commission) Charges for anything done by the Supplier at the time or before the supply, in respect thereof Interest/ late fee/ penalty for delayed payment of consideration Subsidies directly linked to price – for supplier receiving the subsidy (excluding Central and State Govt subsidies; i.e., Government subsidies will not be included in transaction value)</p>	<p>(iv) Before / at the time of supply Single condition: Such discount is duly recorded in the invoice</p> <ul style="list-style-type: none"> ▪ After the supply: Cumulative conditions: Agreement establishing discount entered into before / at the time of supply Discount specifically linked to relevant invoices ITC reversed by the recipient to the extent of tax on discount

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To determine value of certain specific transactions, Determination of Value of Supply rules have been prescribed in CGST Rules, 2017 (Rule 27-35). The Rules pertaining to banking Sector are:

Banking sector provides services of purchase and sale of foreign currency to its customers, the value of which can be ascertained in terms of Rule 32(2) of the CGST Rules as:		
OPTION –I	OPTION -II	
When exchanged from or/ to INR: (v) Difference of Buying rate / Selling rate and RBI reference rate X Total units of currency (If RBI reference rate is not available, value shall be 1% of gross amount of INR received or provided) (vi) If neither of two currencies exchanged in INR, (vii) the value shall be equal to 1% of the lesser of the two amounts (viii) the person changing the money would have received by converting any of the two currencies into INR (ix) on that day at the reference rate provided by RBI.	Where Amount of currency exchanged	
	Upto ₹ 1 lakh	1% of the gross amount of currency exchanged or ₹ 250/-, <i>whichever is higher</i>
	₹ 1 lakh and up to ₹ 10 lakhs	₹ 1,000/- plus 0.5% of the gross amount of currency exchanged above ₹ 100,000/-
	exceeding ₹ 10 lakhs	₹ 5,500/- plus 0.10% of the gross amount of currency exchanged above ₹ 10 lakhs or ₹ 60,000/-, <i>whichever is lower</i>

Further, it is pertinent to mention here Rule 34 of the CGST Rules which provides the Rate of exchange of currency, other than Indian rupees, for determination of Value as under:

Transactions undertaken in foreign currency must be translated into Indian Rupees. The rate of exchange for the determination of the value of taxable goods shall be the applicable rate of exchange as notified by the Board under section 14 of the Customs Act, 1962 and for the determination of the value of taxable services shall be the applicable rate of exchange determined

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as per the generally accepted accounting principles for the date of time of supply in respect of such supply in terms of section 12 or, as the case may be, section 13 of the Act.

Valuation of services between the distinct and related persons (excluding agents)

Generally, banks would have lot of common/ shared services being supported from Head Office such as call centre, security software etc. Further, many times one branch would internally provide service to other branches for example: resolving issue of a customer having PAN India accounts, providing local information etc. to other branches etc.

The value will be determined in terms of Rule 28 of the CGST Rules,2017

(a) The open market value of such supply	
(b) If open market value is not available	Value of supply of goods or services of like kind and quality
(c) If value of supply is not determinable under clause (a) or (b)	Value as determined by application of Rule 30 or Rule 31, in that order
<i>Provided that where goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person</i>	
<i>Where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of goods or services</i>	

Value of supply based on cost i.e. cost of supply plus 10% mark-up. (Rule 30 of the CGST Rules 2017)

Value of supply determined by using reasonable means should consistent with principles and general provisions of GST law. (Rule 31 of the CGST Rules 2017)

PLACE OF SUPPLY

WHERE THE LOCATION OF SUPPLIER OF SERVICES AND THE LOCATION OF THE RECIPIENT OF SERVICES IS IN INDIA		
Default Rule for the services other than the 12 specified services		
S. No.	Description of Supply	Place of Supply
(1)	B2B	Location of such Registered Person
(2)	B2C	(i) Location of the recipient where the address on record exists, and (ii) Location of the supplier of services in other cases
Rule for the 12 specified services		
1.	Immovable property related to services, including hotel accommodation	Location at which the immovable property or boat or vessel is located or intended to be located If located outside India: Location of the recipient.
2.	Restaurant and catering services, personal grooming, fitness, beauty treatment and health service	Location where the services are actually performed.
3.	Training and performance appraisal	B2B: Location of such Registered Person B2C: Location where the services are actually performed
4.	Admission to an event or amusement park	Place where the event is actually held or where the park or the other place is located
5.	Organisation of an event	B2B: Location of such Registered person B2C: Location where the event is actually held If the event is held outside India:

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		Location of the recipient
6.	Transportation of goods, including mails	B2B: Location of such Registered Person B2C: Location at which such goods are handed over for their transportation Further, ³ (where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods)
7.	Passenger transportation	B2B: Location of such Registered Person B2C: Place where the passenger embarks on the conveyance for a continuous journey
8.	Services on board a conveyance	Location of the first scheduled point of departure of that conveyance for the journey
9.	Banking and other financial services including stock broking services	Location of the recipient of services on the records of the supplier Location of the supplier of services if the location of the recipient of services is not available
10.	Insurance services	B2B: Location of such Registered Person B2C: Location of the recipient of services on the records of the supplier
11.	Advertisement services to the Government	The place of supply shall be taken as located in each of such States Proportionate value in case of

³ Inserted vide *The Integrated Goods and Services Tax Amendment Act, 2018 w.e.f. 01.02.2019*

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		multiple States
12.	Telecommunication services	Services involving fixed line, circuits, dish etc., and place of supply is the location of such fixed equipment. In case of mobile/ Internet post-paid services, it is the location of billing address of the recipient. In case of sale of pre-paid voucher, the place of supply is the place of sale of such vouchers. In other cases, it is the address of the recipient in records

WHERE THE LOCATION OF THE SUPPLIER OF SERVICES OR THE LOCATION OF THE RECIPIENT OF SERVICES IS OUTSIDE INDIA		
Default Rule for the cross-border supply of services other than nine specified services		
S. No.	Description of Supply	Place of Supply
(1)	Any	Location of the recipient of service; If not available in the ordinary course of business, the location of the supplier of service
Rule for the 9 specified services		
1.	Services supplied for goods that are required to be made physically available from a remote location by way of electronic means (Not applicable in case of goods that are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India,	The location where the services are actually performed. The location where the goods are situated

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	other than that which is required for such repairs or treatment or process.) ⁴	
2.	Services supplied to an individual and requiring the physical presence of the receiver	The location where the services are actually performed.
3.	Immovable property-related services, including hotel accommodation	Location at which the immovable property is located.
4.	Admission to or organisation of an event	The place where the event is actually held
5.	If the said three services are supplied at more than one location. i.e. (i) Goods & individual related (ii) Immovable property-related (iii) Event related	
5.1	At more than one location, including a location in the taxable territory	Its place of supply shall be the location in the taxable territory where the greatest proportion of the service is provided.
5.2	In more than one State	Its place of supply shall be each such State in proportion to the value of services provided in each State
6.	Services of transportation of goods, other than by way of mail or courier	Its place of supply shall be place of destination of such goods
7.	Passenger transportation services	Its place of supply shall be where, the passenger embarks on the conveyance for a continuous journey
8.	Online information and	Its place of supply is location of

⁴ Inserted vide *The Integrated Goods and Services Tax Amendment Act, 2018 w.e.f. 01.02.2019*

	database access or retrieval services	the recipient of services
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Place of supply for banking sector

- In case, where the location of the banks or location of the recipient of service is in India, section 12(12) of the IGST Act, 2017, provides for the place of supply of services -

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

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

- In case, where the location of the banks or location of the recipient of service is outside India, section 13(8) of the IGST Act, 2017, provides that-

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

- services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders;*
- intermediary services;*
- services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month*

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

- “account” means an account bearing interest to the depositor, and includes a non-resident external account and a non-resident ordinary account;*
- “banking company” shall have the same meaning as assigned to it 2 of 1934. under clause (a) of section 45A of the Reserve Bank of India Act, 1934;*
- “financial institution” shall have the same meaning as assigned to it 2 of 1934. in clause (c) of section 45-I of the Reserve Bank of India Act, 1934*
- “non-banking financial company” means, —*

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- (i) a financial institution which is a company;*
- (ii) a non-banking institution which is a company, and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner; or*
- (iii) such other non-banking institution or class of such institutions, as the Reserve Bank of India may, with the previous approval of the Central Government and by notification in the Official Gazette, specify.*

Chapter 2

Incomes Earned By Banks

Incomes are earned by banks from various sources other than interest. The interest income forms the major part of the incomes but in recent years due to globalisation such a scenario has been changed and accordingly the banking sector has involved themselves into numerous activities resulting into variety of incomes. All such incomes are recorded in the books of accounts under various heads which we have to analyse and decide taxability on the same. The income so earned, and their taxability are as under:

1. Interest income

The income earned by way of grant of loans, deposits etc is a taxable supply. However, by virtue of entry 27(a) of Notification 12/2017 dated 28.06.2017 and entry 28(a) of Notification No. 09/2017-Integrated Tax (Rate) dated 28.06.2017, no GST is payable on income earned by way of interest **except interest income earned through credit card**. The relevant extract of the said entry is as under:

Sl No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of services	Rate (%)	Condition
27	Heading 9971	(a) Services by way of— (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount <u>(other than interest involved in credit card services)</u> ;	NIL	NIL

Therefore, audit from the perspective of GST into the same may be restricted to the fundamental question as to whether the income is rightly characterized

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as 'interest' to enjoy the exemption under GST and especially the income earned from credit card services.

2. Commission income

The instant income is classified as a supply of service transaction and accordingly would be classified in terms of chapter heading as specified in the relevant notifications issued under GST.

Commission earned (on accrual) is liable to Service tax/GST. For e.g.:

- (a) M/s. A Ltd. wants to invest in fixed securities / bonds which can be only routed through ICICI bank as they have exclusive rights for subscribing the same. ICICI bank gets 2% commission on the amounts so subscribed. For the period 2017-18, the bank earns ₹ 250 crores of commission from such subscription which is recorded as 'Other Income'. The auditor has to check whether service tax/GST is appropriately disbursed on the said amount. Whether payments are made by complying with the due date for payment of service tax/GST. Also, verify returns filed reveals the correct amount of liability. If the tax is not discharge, then appropriate disclosure would be required. Discrepancy in the returns filed (after any revision) and liability as determined may be disclosed. Interest being mandatory may be suitably included in the disclosure. Suitable disclosure as to whether any contingency exists in respect of applicable penalty may also be provided.

Further, review of agreements where commission is earned must be carried out thoroughly and if any milestone incentives, performance bonus, time bonus etc is provided then appropriate tax treatment should be suggested.

- (b) ICICI bank gets 1% commission from private companies for providing them investment exposure in foreign markets. The same is liable for payment of service tax \ GST and appropriate tax treatment should be followed and suggested. Disclosures as discussed above may be considered, if any tax liability is found to be unpaid

Author's views: Where the investment activity is undertaken in another group company, but the banking entity provides leads to such investment activity for which it receives some (smaller) percent as commission, such transactions should be thoroughly analysed, and proper movement of funds tracked.

3. Brokerage income

The instant income is classified as a supply of service transaction and accordingly would be classified in terms of chapter heading as specified in the relevant notifications issued under GST.

4. Agency charges

Generally, such income is earned by way of being appointed as an agency either by RBI, State Governments, Central Governments or by some corporates. Under such arrangements, banks act as a facilitator/collection centre and in lieu of provision of such services such banks collect certain fees as “Agency charges”. Such charges are liable for payment of GST. Very often, the underlying arrangement will be of agency, but it may be described in a contemporary terminology like ‘enablement charge’ or ‘facilitation fee’ or simple ‘management fee’ which may appear misleading.

The auditor needs to analyse the relevant agreements entered and has to study the flow of consideration and thereafter decide taxability and the amount on which GST is applicable. The same has to be communicated to the management if no GST is being paid till date.

5. Portfolio management service:

Generally, the said services are being provided by different entities within the banking sector. Due to stiff competition and one-stop window for priority customer's (i.e. customers who are depositing amount beyond a certain limits) only one person provides all such services and thereafter relevant commissions are split between entities or costs are shared. In fact, inter-branch sharing of portfolio management services in lieu of the skill set available in selected branches between different states is taxable and a fair value has to assigned to such transaction and applicable GST is payable on such transaction. Further, appropriate classification has to be made for such supply of services under relevant chapter heading as per the notifications issued under GST.

6. Account maintenance charges:

It is a common practice that in most of the banks certain charges are recovered towards maintenance. The said charges are nominal but the same is liable for payment of service tax. Accordingly, the concerned concurrent /internal /statutory auditor would do well to check on this aspect of taxability and ensure compliance.

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Further, even locker charges are being recovered from the customers on an annual basis which is liable for payment of GST. There can be different modes of arrangement for availing such income, but such income is taxable under GST. The provisions relating to place of supply will become imperative while determining the correct nature of the transaction and thereafter taxability has to be decided. Further, appropriate classification has to be made for such supply of services under relevant chapter heading as per the notifications issued under GST.

For e.g.: Mr A wants to open a locker at IVY bank wherein the bank has provided. Mr. A (the Customer) following options for opening a locker:

- A. Make an FD of ₹ 25,000/- and pay an annual charge of ₹ 5000/-.
- B. Make an FD of ₹ 50,000/- and pay an annual charge of ₹ 2500/-.
- C. Make an FD of ₹ 1,50,000/- and do not pay any annual charge

In case A, Service tax/GST will be on annual charges = ₹ 5,000 -

However, in other cases, depending upon the documents the auditor has to analyse the tax position and thereafter decide taxability on the same i.e. under all the options whether GST is payable on annual charge or there is some different mechanism of determining taxability for the said transactions. If the documents substantiate or established clear barter against the waiver of annual fees, then GST is payable at a value either ₹ 5,000/- or the interest portion. If the issue is complicated, then the payment should be backed by an expert opinion and should be appropriately documented.

7. Credit/Debit card charges

Income earned by way of issuing and maintaining such transactions were liable for payment of GST. Therefore, auditor should carefully examine such transactions and appropriate disclosures be made in case of non-compliance with relevant tax provisions.

8. Digital payment facilities

Banks charges some convenience fees from the person who accepts payment through debit card, credit card or through other some other card service. The charges earned by the bank are chargeable under GST. And no GST will be payable in respect to services provided by bank, to any person in relation to settlement of an amount up to ₹ 2000 in a single transaction transacted through credit card, debit card or charge card or other payment card service.

9. Sale and purchase of foreign currency:

Banking companies receiving consideration for providing services by way of securities and foreign exchange broking and purchase or sale of foreign currency, including money changing is chargeable to GST on special value calculated as per option availed in terms of Rule 32 of CGST Rules, 2017.

However, pursuant to entry no. 27(b) of Notification No. 12/2017-Central tax (Rate) and entry no.28(b) of Notification no 9/2017-Integrated Tax (Rate) both dated 28.06.2018, inter-bank transactions of sale or purchase of foreign currency or transactions with authorized dealers of money changing are exemption under GST regime.

10. Other income

- Income earned by banks by way of penalties, retention charges etc are liable for payment of GST.

For e.g.:

- (a) IVY Bank charges ₹ 2500/- to all those customers who maintains an average quarterly balance below ₹ 25000/-. Accordingly, the total collection of income from such source is ₹ 5,00,00,000/- and thereafter IVY bank has to discharge GST on the same at appropriate rate.
 - (b) IVY Bank penalises ₹ 500/- to all such customers whose cheques are bounced and the income collection for the period 15-16 is ₹ 50,00,000/-. IVY bank has to discharge GST on the same at appropriate rate.
 - (c) IVY Bank charges ₹ 50/- for issuing DD. Such income is liable for payment of GST and the auditor has to carefully scrutinise whether appropriate tax rate has been disbursed.
- Realisation of payment (NPA) by way of disposal of NPA to an asset reconstruction company [ARC] or to any other buyer is a debatable issue. However, as per the author's opinion the taxability depends upon the structuring of the transaction. As per authors view this transaction may be considered as actionable claim and being that both service tax / VAT were not applicable. Keeping that ideology of actionable claim under consideration, GST will also not apply as definition of supply [Clause 6 Schedule III read with Section 7] under CGST Act exclude actionable claim. When there is outright sale the service tax/ GST

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applicability will depend on the nature of underlying asset sold and is to be paid by borrower. e.g. IVY Bank sells one of its NPA as a going concern to Company ABC then the instant transaction is taxable under GST but the same is classified as a supply of service and accordingly the rate of tax payable is NIL in terms of Entry 2 classified under Chapter 99 as specified under Exemption Notification 12/2017 dated 28.06.2017.

To summarise all the income sources of the banks, have to be thoroughly scrutinised specifically interest income from credit cards and thereafter the auditor has to comment on its taxability, compliance with tax payment along with interest, applicable penalty and transparency in disclosure in the returns filed.

Chapter 3

Expenses Incurred By Banks

Generally, obligation to discharge GST lies on the supplier of supply. But there exist certain cases on which Reverse charge is applicable. Even various expenses incurred by the banks are exigible to tax under on Reverse Charge Mechanism (“RCM”).

Under RCM, the duty to discharge tax is casted on recipient of supply. RCM under GST depends on the nature of supply and/or nature of supplier. All taxpayers required to pay tax under reverse charge have to mandatorily obtain registration and the threshold exemption is not applicable on them. Payment of taxes under Reverse Charge cannot be made with utilisation of Input Tax Credit and has to be made in Cash. Unlike, service tax where both full and partial reverse charge exists, in GST only full charge subsists.

Section 9(3) of CGST/ Section 5(3) of the IGST Act specify categories of supply of goods or services or both as notified by Government on recommendations of the Council on which RCM is applicable. In this regard, Govt. vide *Notification No. 13/2017- Central Tax (Rate) dated 28.06.2017/ Notification No. 10/2017- Integrated Tax (Rate) dated 28.06.2017* as amended from time to time specify the category of services on which RCM is applicable.

[Till 1.02.2019 Notification No. 13/2017-Central Tax (Rate), dated 28.06.2017, 2017 has been amended vide

- *Corrigendum dated 25-09-2017 issued in F. No. 336/20/2017-TRU*
- *Notification No. 22/2017-Central Tax (Rate), dated 22-08-2017*
- *Notification No. 33/2017-Central Tax (Rate), dated 13-10-2017*
- *Notification No. 3/2018-Central Tax (Rate), dated 25-01-2018*
- *Notification No. 15/2018-Central Tax (Rate), dated 26-07-2018*
- *Notification No. 29/2018-Central Tax (Rate), dated 31-12-2018*
- *Notification No. 05/2019-Central Tax (Rate), dated 29-03-2019]*

[Till 1.02.2019 Notification No. 10/2017-Integrated Tax (Rate), dated 28.06.2017 has been amended vide

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- Notification No. 22/2017-Integrated Tax (Rate), dated 22-08-2017
- Notification No. 34/2017-Integrated Tax (Rate), dated 13-10-2017
- Notification No. 03/2018-Integrated Tax (Rate), dated 25-01-2018
- Notification No. 16/2018-Integrated Tax (Rate), dated 26-07-2018
- Notification No. 30/2018-Integrated Tax (Rate), dated 31-12-2018
- Notification No. 05/2019-Integrated Tax (Rate), dated 29-03-2019

The list of such services where reverse charge mechanism under Notification 13/2017- Central Tax (Rate) dated 28.06.2018 (“**Notification 13/2017**”) is applicable is as under:

S.No.	Category of Supply of Services	Supplier of service	Recipient of Service
(1)	(2)	(3)	(4)
1.	Supply of Services by a goods transport agency (GTA) [, who has not paid central tax at the rate of 6%,] ⁵ in respect of transportation of goods by road to- (a) any factory registered under or governed by the Factories Act, 1948(63 of 1948); or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the	Goods Transport Agency (GTA)	(a) Any factory registered under or governed by the Factories Act, 1948 (63 of 1948); or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated

⁵ The words and figure “, who has not paid central tax at the rate of 6%,” were inserted w.e.f. 22-08-2017 vide Notification No. 22/2017-Central Tax (Rate), dated 2-08-2017.

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	<p>Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or</p> <p>(e) any body corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person.</p> <p>⁶[Provided that nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to, -</p> <p>(a) a Department or Establishment of the Central Government or State Government or Union territory; or</p> <p>(b) local authority; or</p> <p>(c) Governmental agencies, which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.]</p>		<p>Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or</p> <p>(e) any body corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person; located in the taxable territory.</p>
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⁶ Proviso was inserted w.e.f. 01-01-2019 vide Notification No. 29/2018-Central Tax (Rate), dated 31-12-2018.

Compliances of GST in Banking Sector

2.	⁷ [Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly. Explanation. - "legal service" means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.]	An individual advocate including a senior advocate or firm of advocates.	Any business entity located in the taxable territory.
3.	Services supplied by an arbitral tribunal to a business entity.	An arbitral tribunal.	Any business entity located in the taxable territory.
4.	Services provided by way of sponsorship to any body corporate or partnership firm.	Any person	Any body corporate or partnership firm located in the taxable territory.
5.	Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, - (1) renting of immovable property, and (2) services specified below- (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory.

⁷ Column (2) against Sl.No. 2 was corrected vide Corrigendum dated 25-09-2017 issued in F.No. 336/20/2017-TRU. Before correction, it read as -

"Services supplied by an individual advocate including a senior advocate by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a business entity."

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	territory or local authority; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers.		
[5A]	Services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017 (12 of 2017).	Central Government, State Government, Union territory or local authority	Any person registered under the Central Goods and Services Tax Act, 2017.] ⁸
5B	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person	Promoter.
5C	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.	Any person	Promoter.] ⁹
6.	Services supplied by a director of a company or a body corporate to the said company or the body corporate.	A director of a company or a body corporate	The company or a body corporate located in the taxable territory.
7.	Services supplied by an insurance agent to any person	An insurance agent	Any person carrying on insurance business,

⁸ Sl.No. 5A was inserted w.e.f. 25-01-2018 vide Notification No. 3/2018-Central Tax (Rate), dated 25-01-2018.

⁹ Sl.No. 5B and C was inserted w.e.f. 01-04-2019 vide Notification No. 05/2019- Central Tax (Rate), dated 29-03-2019.

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	carrying on insurance business.		located in the taxable territory.
8.	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company.	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory.
9.	Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.	Author or music composer, photographer, artist, or the like	Publisher, music company, producer or the like, located in the taxable territory.
10.	Supply of services by the members of Overseeing Committee to Reserve Bank of India	Members of Overseeing Committee constituted by the Reserve Bank of India	Reserve Bank of India.] ¹⁰
11.	Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm to bank or non-banking financial company (NBFCs).	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm.	A banking company or a non-banking financial company, located in the taxable territory.] ¹¹
12.	Services provided by business	Business	A banking company,

¹⁰ *Sl.No. 10 was inserted w.e.f. 13-10-2017 vide Notification No. 33/2017-Central Tax (Rate), dated 13-10-2017.*

¹¹ *Sl.No. 11 was inserted w.e.f. 27-07-2018 vide Notification No. 15/2018-Central Tax (Rate), dated 26-07-2018.*

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	facilitator (BF) to a banking company	facilitator (BF)	located in the taxable territory
13.	Services provided by an agent of business correspondent (BC) to business correspondent (BC).	An agent of business correspondent (BC)	A business correspondent, located in the taxable territory.
14.	Security services (services provided by way of supply of security personnel) provided to a registered person: Provided that nothing contained in this entry shall apply to, - (i) (a) a Department or Establishment of the Central Government or State Government or Union territory; or (b) local authority; or (c) Governmental agencies; which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or (ii) a registered person paying tax under section 10 of the said Act.	Any person other than a body corporate	A registered person, located in the taxable territory.] ¹²

In addition to the above list given under Central Tax- Rate, following additional category of supply of services is listed under Notification No. 10/2017- Integrated Tax (Rate) dated 28.06.2017 on which GST shall be paid by the recipient on reverse charge basis: -

¹² Sl.Nos. 12, 13 and 14 the entries relating thereto were inserted w.e.f. 01-01-2019 vide Notification No. 29/2018-Central Tax (Rate), dt. 31-12-2018.

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Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
(1)	(2)	(3)	(4)
1	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient	Any person located in a non-taxable territory	Any person located in the taxable territory other than non-taxable online recipient.
2	Services supplied by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India	A person located in non-taxable territory	Importer, as defined in clause (26) of section 2 of the Customs Act, 1962(52 of 1962), located in the taxable territory.

RCM as per section 9(4) of the CGST Act or section 5(4) of the IGST Act

Prior to 1.02.2019, RCM as per section 9(4) of the CGST Act or section 5(4) of the IGST Act would include supply of taxable goods or services or both by an unregistered supplier to a registered person.

To avoid leakage of tax and to encourage the business community to pay GST, RCM under section 9(4) was been introduced on any expenditure incurred by the registered person over ₹ 5000/- per day [vide Notification No.8/2017-Central Tax (Rate) dated 28.06.2017], under the situation where the supplier does not pay tax. However, this limit of ₹ 5,000/- vide Notification no. 38/2017- Central Tax (Rate)dated 13.10.2017 has been withdrawn and hence, payment of tax under section 9(4) of the CGST Act, 2017 was exempted till 31.03.2018. Moreover, payment of tax under section 5(4) of the CGST Act, 2017 was exempted till 31.03.2018 vide Notification No. 32/2017 – Integrated Tax (Rate) dated 13.10.2017. Thereafter, this provision of reverse charge was deferred till 30.09.2019, the relevant notifications numbers are:

Exempted From	Notification under CGST	Notification under IGST
From 1.04.2018 to 30.06.2018	Notification No. 10/2018 – Central Tax (Rate) dated 23.03.2018	Notification No. 11/2018 – Integrated Tax (Rate) dated 23.03.2018
From 1.07.2018 to 30.09.2018	Notification No. 12/2018 – Central Tax (Rate) dated 29.06.2018	Notification No. 13/2018 – Integrated Tax (Rate) dated 29.06.2018

Expenses Incurred By Banks

From 01.10.2018 to 30.09.2019	to Notification No. 22/2018 – Central Tax (Rate) dated 06.08.2018	Notification No. 23/2018 – Integrated Tax (Rate) dated 06.08.2018
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Subsequently, in view of bringing into effect the amendments (regarding RCM on supplies by unregistered persons) in the GST Acts, reverse charge exemption *Notification No.8/2017-Central Tax (Rate) dated 28.06.2017* and *Notification No. 32/2017 – Integrated Tax (Rate) dated 13.10.2017* has been rescinded with effect from 1.02.2019 *vide Notification No 01/2019-Central/ Integrated Tax (Rate) ,dated 29-01-2019* .

Further, with effect from 1st February 2019, The Central Goods and Services Tax (Amendment) Act, 2018 has substituted section 9(4) of the CGST Act, as:

“(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.”

Hence, it is required for reverse charge on inward supplies from unregistered persons to be applicable, ‘*categories of registered persons*’ and ‘*categories of goods or services*’ are to be notified. However, no such notification has been issued (yet) making banking companies liable to reverse charge.

Some of the services which are relevant with respect to the Banking sector are explained in detailed below:

Services provided by recovery agent

Generally, loans are the areas wherein the banks earn major portion of their income. It is the most organized form of extending credit to customers and interest is earned as an income in respect of such credits extended. Majority of banks spend great time and effort in recovering credits so granted.

Further, many banks sell their loans to third parties or hire third party agents to initiate recovery on their behalf.

Loans sold to factoring agents are not liable for payment of GST. Please examine that these transactions would be ‘*exempt supply*’ depending on whether these are with or without recourse.

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Further, another type of transaction third parties is hired to initiate recovery on behalf of the banks which is purely a service transaction and liable to payment of GST. Further, RCM is applicable on such transactions and therefore the banks who hire such third-party agents are liable for payment of GST on the fees so paid to these recovery agents/third party agents. Banks also provide infrastructure, phone facilities and such other benefits to these third-party agents in order to perform their services. Even such value is required to be taken into consideration while determining the value of supply for the purpose of payment of GST.

As an auditor, one should check the agreements between the bank and the recovery agent. Under GST regime, the bank should raise a self-invoice and thereafter appropriate GST @ 18% should be paid on the same. The income so earned should be disclosed in the relevant chapter heading as classified under the GST regime.

Services provided by insurance agent

If the banks are also engaged in business of insurance, then the services provided by such insurance agent who sell insurance products of the banks is liable for payment of GST. Further, the amount on which tax is payable is commission so paid to the insurance agent. Such commission also includes reimbursement by any mode.

The insurance division of the banks so receiving the services from those insurance agents are liable for payment of GST under reverse charge mechanism.

As an auditor, one should check the agreements between the bank and the insurance agent. Under GST regime, the bank should raise a self-invoice and thereafter appropriate GST @ 18% should be paid on the same. The income so earned should be disclosed in the relevant chapter heading as classified under the GST regime.

Services provided by goods transport agency service:

W.e.f. July 1,2017 vide Entry No.1 of Notification 13/2017 Central Tax (Rate) date 28.06.2017, if any services in respect of transportation of goods by road are provided by goods transport agency (GTA) to the following recipient located in the taxable territory then recipient of service is liable to pay tax under reverse charge:

- (a) Any factory registered under or governed by the Factories Act, 1948 (63 of 1948); or

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- (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or
- (c) any co-operative society established by or under any law; or
- (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or
- (e) any body corporate established, by or under any law; or
- (f) any partnership firm whether registered or not under any law including association of persons; or
- (g) any casual taxable person.

However, w.e.f from August 22,2017 vide Notification No. 22/2017 dated August 22, 2017 which amended Notification 13/2017, the GTA was given an option to pay to GST @ 5% (2.5 CGST+2.5 SGST/ 5% IGST) if no input tax credit is availed subject to RCM. Further, if GTA has availed ITC, GST is to be paid by GTA @12%.

Further, w.e.f. 01-01-2019 vide Notification No. 29/2018-Central Tax (Rate), dated 31-12-2018, nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to, -

- (a) a Department or Establishment of the Central Government or State Government or Union territory; or
- (b) local authority; or
- (c) Governmental agencies,

which has taken registration under the CGST Goods and Services Tax Act, 2017 (only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.

Therefore, auditor has to check that correct ITC is taken, and appropriate person has discharged the tax. Carriage of Goods by Road Act, 2007 requires that no motor vehicle undertake transport of goods by road except with a proper registration of such motor vehicle. And every consignment be accompanied by a forward note or receiving note. Merely because goods are not of substantial value or not involving supply or involving inter-branch movement, it is not appropriate to avoid issuing such a 'note'. When such

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'note' is issued, the transporter will be a GTA. Under the GST notification, GTA is one who issues a consignment note 'by whatever name called'.

Services provided by advocates:

W.e.f July 1, 2017 In terms of *entry no. 2 of vide Notification 13/2017*, RCM was applicable on Services supplied by an individual advocate including a senior advocate by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a business entity

Thereafter a *Corrigendum to Notification No. 13/2017* was issued [M.F. (D.R.) *Corrigendum F. No. 336/20/2017-TRU, dated 25-9-2017*], subsequently RCM is applicable on Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly.

Where - "*legal service*" means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.

Very often, legal services are availed banks 'on account of' their customers. Here, auditors to ensure that banks do not withhold themselves from payment of RCM on legal fee paid on the premise that these services are availed 'on account of' their customers, especially when the legal fee is debited to customer's account. It is more appropriate that banks discharge RCM as fee from advocate will be issued to bank. Very often, it is observed that where expenses are incurred but debited to customer's account, RCM liability thereon, is somehow omitted. Customer's being unaware of the various components of costs that are embedded in the amounts debited to the account, RCM liability cannot possibly be discharged by them. Hence, banks may be advised to suitably ensure RCM is complied with.

Service provided by way of import of services

Many banks do spend a lot of funds on procuring services from abroad. Where the supply of goods or services or both are taxable in nature, GST is payable by the recipient bank. Some important areas are summarised as under:

1. Bond floating expenditure:

Generally, bond floating expenditure is an expenditure which though

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appropriately recorded in the books of accounts, skips the attention and the applicable taxes are not discharged often in respect of the same. Therefore, the concerned auditor should thoroughly inspect the books of accounts and identify all payments in foreign currency for compliance with these provisions.

For e.g.: IVY Bank wants to issue bonds in NYSE and for the said purpose has appointed WYE bank a leading bank of America for floating the said bonds and acting as a lead merchant banker. The fee for the same is generally some fixed % of the ticket size which is recorded appropriately in the books of accounts. The instant transaction is taxable in terms of Section 13 (2) of the IGST Act, 2017.

Under the GST regime, the same requires through analysis of the transaction, these are generally taxable as per Section 13 of the IGST Act, 2017. However, the actual answer may vary depending upon the structuring of the transaction.

2. Underwriting charges:

If underwriting charges are paid in foreign currency to an underwriter who is located outside India, then GST is payable on such transactions. Appropriate ledgers, contracts etc should be scrutinised in great detail and thereafter relevant disclosures should be made regarding taxability on the same.

3. I.T infrastructure cost:

Generally, I.T infrastructure is a common cost which the banks bears on all-India basis and executes one common contract for the same. If the vendor is based outside India or the technicians are outside India and payment is being disbursed in foreign currency. Though, such cost requires careful apportionment in terms of appropriate provisions including rules and depending upon the nature of the transaction appropriate GST (generally @ 18%) is payable on such transaction. Further, credit for the GST so paid is available.

NOTE-It is pertinent to mention here that, the certain services exigible to service tax under RCM has been discontinued under GST like rent-a-cab, Manpower Supply, Security services, works contract service etc.

Chapter 4

Input Tax Credit

Under the GST regime, a banking company or a financial institution including a non-banking financial company engaged in supplying services by way of accepting deposits, extending loans or advances shall have following two options to avail Input tax credit in terms of Section 17(4) of the CGST Act 2017. And the option once exercised shall not be withdrawn during the remaining part of the financial year.

OPTION I

Reverse the credit pertaining to exempted services as per the method stated in Section 17(2) of the CGST Act, 2017 read with the relevant State Act and Rules thereof

OR

OPTION II

Avail 50% of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse. And accordingly follow the following procedure in accordance with Rule 38 of the CGST Rules, 2017:

1. Such banking company or financial institution shall not avail credit of:
 - the tax paid on inputs and input services that are used for non-business purposes and
 - the credit attributable to the supplies specified in Section 17(5), in FORM GSTR-2
2. Further, the condition of 50% restriction would not be applicable in case of the tax paid on supplies made by one registered person to another registered person having the same PAN. Hence, banking company or financial institution shall avail the credit of tax paid on inputs and input services in case of supplies made to its own branches i.e. inter branch i.e., by one registered person to another registered person having different GSTIN.
3. 50% of the remaining amount of input tax shall be admissible and shall be furnished in FORM GSTR-2

Input Tax Credit

4. The amount referred in point 2. and 3 above shall subject to the provisions of Section 41,42 and 43, be credited to the electronic credit ledger of the said banking company or financial institution.

Clarification on reversal of credits for banks and financial institutions including NBFCs:

Relevant provisions have been amended to exclude banks and financial institutions including NBFCs engaged in providing services by way of extending deposits, loans or advances from its ambit. It has been provided in the said explanation that value for reversal of common input tax credit taken on inputs and input services used in providing taxable and exempted services, shall not include the value of service by way of extending deposits, loans or advances against consideration in the form of interest or discount.

Apportionment of credit

Section 17 (2) of the CGST Act stipulates that, where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the IGST Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

Credit attributable to exempt supplies is not available to a registered person. Exempt Supplies' for this purpose mean all supplies other than taxable and zero-rated supplies and specifically include the following:

- Supplies liable to tax under reverse charge mechanism;
- Transactions in securities;
- Sale of land; and
- Subject to Para 5(b) of Schedule II, sale of building.

Moreover, *vide CGST Amendment Act, 2018 w.e.f 1-02-2019*, the "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule i.e Sale of Land (S-III) / building (S-II).

Hence, they will not entail any reversal of credit. Further, *vide CGST Amendment Act, 2018 w.e.f 1-02-2019*, a couple of clauses has been inserted within Schedule III of the CGST Act:

Compliances of GST in Banking Sector

“7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.

8. (a) Supply of warehoused goods to any person before clearance for home consumption; (b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption”

From the above, it can be gathered that excluding of supplies covered under Schedule III has resulted in lower reversal of credit particularly in case of high sea sales and merchant trade transactions.

Rule 42 of the CGST Rules, 2017: Manner of determination of ITC in respect of inputs or input services and reversal thereof via illustration:

Sl. No	Particulars	Reference	CGST	SGST/UTGST	IGST
1	Total input tax on inputs and input services for the tax period May 2018	T	1,00,000	1,00,000	50,000
	Out of the total input tax (T):				
2	Input tax used exclusively for non-business purposes (Note 1)	T1	10,000	10,000	5,000
3	Input tax used exclusively for effecting exempt supplies (Note 1)	T2	10,000	10,000	5,000
4	Input tax ineligible under Section 17(5) (Note 1)	T3	5,000	5,000	2,500
	Total		25,000	25,000	12,500

Input Tax Credit

	ITC credited to Electronic Credit Ledger (Note 1)	$C1 = T - (T1 + T2 + T3)$	75,000	75,000	37,500
	Input tax credit used exclusively for taxable supplies (including zero-rated supplies) [Note 4]	T4	50,000	50,000	25,000
	Common credit	$C2 = C1 - T4$	25,000	25,000	12,500
	Aggregate value of exempt supplies for the tax period May 2018 (Note 2 & 3)	E	25,00,000	25,00,000	25,00,000
	Total Turnover of the registered person for the tax period May 2018 (Note 2)	F	1,00,00,000	1,00,00,000	1,00,00,000
	Credit attributable to exempt supplies (Note 5)	$D1 = (E/F) * C2$	6,250	6,250	3,125
	Credit attributable to non-business purposes	$D2 = C2 * 5\%$	1,250	1,250	625
	Net eligible common credit [Note 6]	$C3 = C2 - (D1 + D2)$	17,500	17,500	8,750
	Total credit eligible (Exclusive + Common)	$G = T4 + C3$	67,500	67,500	33,750

Compliances of GST in Banking Sector

Note 1: T1, T2, T3 and T4 shall be DETERMINED AS ABOVE and declared in Form GSTR-2 and at summary level in FORM GSTR-3B

Note 2: If the registered person does not have any turnover for May 2018, then the value of E and F shall be considered for the last tax period for which such details are available

Note 3: Aggregate value of exempt supplies and the total turnover shall exclude the amount of any duty or tax levied under entry 84 and entry 92A of List I of the Seventh Schedule to the Constitution and entry 51 and 54 of List II of the said Schedule.

Note 4: In case of supply of services covered by clause (b) of paragraph 5 of Schedule II of the said Act, value of T4 shall be zero during the construction phase because inputs and input services will be commonly used for construction of apartments booked on or before the date of issuance of completion certificate or first occupation of the project, whichever is earlier, and those which are not booked by the said date.

Note 5: In case of supply of services covered by clause (b) of paragraph 5 of Schedule II of the Act, the value of 'E/F' for a tax period shall be calculated for each project separately, taking value of E and F as under: -

E= aggregate carpet area of the apartments, construction of which is exempt from tax plus aggregate carpet area of the apartments, construction of which is not exempt from tax, but are identified by the promoter to be sold after issue of completion certificate or first occupation, whichever is earlier;

F= aggregate carpet area of the apartments in the project;

Explanation 1: In the tax period in which the issuance of completion certificate or first occupation of the project takes place, value of E shall also include aggregate carpet area of the apartments, which have not been booked till the date of issuance of completion certificate or first occupation of the project, whichever is earlier.

Explanation 2: Carpet area of apartments, tax on construction of which is paid or payable at the rates specified for items (i), (ia), (ib), (ic) or (id), against serial number 3 of the Table in the notification No. 11/2017-Central Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated 28th June, 2017 vide GSR number 690(E) dated 28th June, 2017, as amended, shall be taken into account for calculation of value of 'E' in view of Explanation (iv) in paragraph 4 of the notification No. 11/2017-Central Tax (Rate), published in the Gazette of India, Extraordinary,

Input Tax Credit

Part II, Section 3, Subsection (i) dated 28th June, 2017 vide GSR number 690(E) dated 28th June, 2017, as amended.

Remarks: Note 4 and 5 may only be applicable in case of apartment construction project-promoter and not a banking company.

Note 6: Amount of 'C3', 'D1' and 'D2' shall be computed separately for ITC of CGST, SGST, UTGST and IGST declared in FORM GSTR-3B or through FORM GST DRC-03.

And the amount equal to aggregate of 'D1' and 'D2' shall be reversed by the registered person in FORM GSTR-3B or through FORM GST DRC-03.

Note 7: The registered person is expected to make such computation for each tax period and reverse the same in the periodic returns being filed by such registered person. However, on completion of the financial year, input tax credit shall be determined accurately based on actuals, in the same manner as provided in Rule 42. A reconciliation is required to be done on an annual basis (between the amounts reversed for each tax period during the year and the amount determined at the end of the financial year) and any excess credit availed needs to be reversed with interest while short credit, if any, needs to be re-availed within 6 months from end of the financial year.

It is to be noted that the registered person would be required to remit excess ITC claimed (as determined in Note 7 above) with interest calculated at for the period starting from the first day of April of the succeeding financial year till the date of payment. However, no interest can be claimed if, at the end of the financial year, it is found that short credit was availed.

Therefore, an auditor can check whether, concerned branch is reversing the Input Tax Credit in compliance to the above Rule. If Input Tax Credit is not reversed in compliance to the above Rules, it shall be treated as Input Tax Credit wrongly taken and the same will be recovered along with the interest under Section 50 of the CGST Act, 2017.

Please Note that Input tax credit by a Registered Taxable Person can only be availed subject to the fulfilment of following conditions:

Compliances of GST in Banking Sector

Basis - **tax invoice / debit note issued by a registered supplier**, or other prescribed taxpaying document

Goods and/or services have been received*

Tax actually paid by the supplier to the credit of the appropriate Government, either in cash or by utilization of ITC

Monthly return in Form GSTR-3 u/s 39 is furnished

Credit only upon receipt of the last lot/ instalment in case of goods received in lots / instalments.

Goods deemed to be received by a taxable person when the supplier delivers the goods to the recipient/ any other person, on the direction provided by the taxable person to the supplier.

Exception in case of goods being directly sent to job worker

If the recipient of services fails to pay (value + tax) within 180 days from date of invoice, (ITC availed + interest @ 18%) shall be added to his output tax liability. ITC available when amount discharged later

Documents required for availing credit (Sec 36 of the CGST Act)

Invoice issued by a supplier of goods or services or both as per S-31	Invoice issued as per S-31(2)(f) by recipient along with proof of payment of tax	A debit note issued by supplier u/s 34
Bill of entry or similar document prescribed under Customs Act, 1962	Revised invoice	Document issued by Input Service Distributor.

No ITC allowed to be availed

- Beyond September of the following FY to which invoice pertains or date of filing of annual return, whichever is earlier
- If all applicable particulars as specified in the provisions of Chapter VI

Input Tax Credit

are contained in the said document, and the relevant information, as contained in the said document, is furnished in FORM GSTR-2

- In respect of any tax paid, where any demand has been confirmed on accounts of any fraud, wilful misstatement or suppression of facts

No ITC can be availed in terms of S- 17(5) of CGST Act, 2017 – No ITC shall be available in respect of the following namely:

- (a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely: —
 - (A) further supply of such motor vehicles; or
 - (B) transportation of passengers; or
 - (C) imparting training on driving such motor vehicles;
- (aa) vessels and aircraft except when they are used—
 - (i) for making the following taxable supplies, namely: —
 - (A) further supply of such vessels or aircraft; or
 - (B) transportation of passengers; or
 - (C) imparting training on navigating such vessels; or
 - (D) imparting training on flying such aircraft;
 - (ii) for transportation of goods;
- (ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):

Provided that the input tax credit in respect of such services shall be available—

- (i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;
- (ii) where received by a taxable person engaged—
 - (I) in the manufacture of such motor vehicles, vessels or aircraft; or
 - (II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;

Compliances of GST in Banking Sector

- (b) the following supply of goods or services or both—
- (i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

Provided that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

- (ii) membership of a club, health and fitness centre; and
- (iii) travel benefits extended to employees on vacation such as leave or home travel concession.

Provided that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide to its employees under any law for the time being in force.]¹³

¹³Substituted vide CGST Amendment Act, 2018 w.e.f. 1-02-2019 & earlier it was:

- (a) *motor vehicles and other conveyances except when they are used—*
- (i) *for making the following taxable supplies, namely: —*
- (A) *further supply of such vehicles or conveyances; or*
- (B) *transportation of passengers; or*
- (C) *imparting training on driving, flying, navigating such vehicles or conveyances;*
- (ii) *for transportation of goods;*
- (b) *the following supply of goods or services or both—*
- (i) *food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;*
- (ii) *membership of a club, health and fitness centre;*
- (iii) *rent-a-cab, life insurance and health insurance except where—*
- (A) *the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or*
- (B) *such inward supply of goods or services or both of a particular*

Input Tax Credit

- (c) works contract services when supplied for construction of immovable property, (other than plant and machinery), except where it is an input service for further supply of works contract service;
- (d) goods or services or both received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account, including when such goods or services or both are used in the course or furtherance of business;

Explanation. - For the purpose of clause (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property.

- (e) goods or services or both on which tax has been paid under section 10;
- (f) goods or services or both received by a non-resident taxable person except on goods imported by him;
- (g) goods or services or both used for personal consumption;
- (h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and
- (i) any tax paid in accordance with the provisions of sections 74, 129 and 130.

Explanation. For the purposes of Chapter V and Chapter VI of the CGST Act, the expression 'plant and machinery' means apparatus, equipment and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes:

- (i) land, building or any other civil structures,
- (ii) telecommunication towers; and
- (iii) pipelines laid outside the factory premises

-
- category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and*
 - (iv) *travel benefits extended to employees on vacation such as leave or home travel concession;*

Compliances of GST in Banking Sector

Credit utilization [Sec 49(5)]

Credit of:	Allowed for Payment of		
	IGST	CGST	SGST /UTGST
IGST	✓ (1)	✓ (2)	✓ (2)
CGST	✓ (2)	✓ (1)	
SGST /UTGST	✓ (3)		✓ (1)

*The numbers represent the order of utilization of credit

Further, in terms of section 49(5)(e) and (f), CGST shall not be utilised towards payment of SGST/ UTGST and vice versa respectively

With effect 1-02-2019, *vide the CGST Amendment Act 2018 read with Notification No. 02/2019-Central Tax, dated 29-01-2019*, Section 49A and 49B has been inserted.

Section 49A of the CGST Act, 2017 provides for manner of ITC utilisation, wherein, the Credit of IGST has to be utilised first and only after which, credits of CGST and SGST/UTGST can be utilized.

“49A. Notwithstanding anything contained in section 49, the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment.”

The full utilization of IGST credit by taxpayer facilitates the Government the following;

- (a) Reduction of transactions of inter -settlement between the Centre & States
- (b) Self-utilization of IGST deposited in Consolidated Fund of India through payment route of taxpayer instead of post return calculation

However, in few situations it leads to situation wherein taxpayer has to pay SGST in cash while his balance in CGST Credit ledger still lying.

Illustration:

Nature of Tax	Tax liability	ITC available
IGST	100(ip)	200 (ic)
CGST	100 (cp)	50 (cc)
SGST	100 (sp)	50 (sc)

Input Tax Credit

As per Old provision				As per New provisions		
	Tax liability	Paid through ITC	Paid through Cash / Balance Credit	Paid through ITC	Paid through Cash	Balance ITC
IGST	100 (ip)	100 (ic)	Nil	100 (ic)	-	-
CGST	100 (cp)	50 (ic) 50 (cc)	Nil	100 (ic)	-	50 (cc)
SGST	100 (sp)	50 (ic) 50 (sc)	Nil	50 (sc)	50	-

Further, Section 49B of the CGST Act, 2017 stipulates that notwithstanding anything contained in ITC Chapter V of the CGST Act and subject to section 49(5)(e) and (f) of the CGST, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the ITC on account of IGST, CGST, SGST or UTGST, as the case may be, towards payment of any such tax.

In this regard, w.e.f. 29-03-2019 vide Notification No. 16/2019 – Central Tax dated 29.03.2019, Rule 88A of the CGST Rules has been inserted which provides order of utilization of ITC.as:

*“Input tax credit on account of integrated tax shall first be utilised towards payment of integrated tax, and the amount remaining, if any, may be utilised towards the payment of central tax **and** State tax or Union territory tax, as the case may be, in any order:*

Provided that the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully.”

Therefore

Credit of:	Liability of ↓		
	IGST	CGST	SGST / UTGST
IGST	✓ (1)	✓ (1)	✓ (1)
CGST	✓ (2)	✓ (2)	
SGST /UTGST	✓ (3)		✓ (2)

*The numbers represent the order of utilization of credit

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From above two set of opinion can be drawn:

1. Available ITC of account of IGST will first be utilised for payment of IGST, then CGST/SGST and then for SGST/CGST or vice versa
2. Available ITC of account of IGST will first be utilised for payment of IGST and then for payment of CGST and SGST (in any proportion).

E.g.,

	ITC available	Lability	ITC Utilization OPTION-I		ITC Utilization OPTION-II
IGST	₹ 2000	₹ 1200	IGST- ₹ 1200	IGST- ₹ 1200	IGST- ₹ 1200
CGST	₹ 500	₹ 1800	IGST- ₹ 800 CGST- ₹ 500 Cash- ₹ 500	IGST- ₹ 0 CGST- ₹ 500 Cash- ₹ 1300	IGST- ₹ 400 CGST- ₹ 500 Cash- ₹ 900
SGST	₹ 300	₹ 1800	IGST- ₹ 0 SGST- ₹ 300 Cash- ₹ 1,500	IGST- ₹ 800 SGST- ₹ 300 Cash- ₹ 700	IGST- ₹ 400 SGST- ₹ 300 Cash- ₹ 1,100

Chapter 5

Routine Procedural Checks under GST regime

Payment dates

GST should be disbursed by following the due dates mentioned below: —
20th of the next month

FORM GST PMT-6 Challan for deposit of GST — valid for 15 days from the date of generation of challan

Further, interest under Section 50, to be paid in case of failure to pay tax or part thereof to the Government within period prescribed is 18% from the due date of payment to the actual date of payment of tax

And 24% in case Excess claim of Input Tax Credit or excess reduction in output tax liability

Time limitation for issuance of invoice

Invoice shall be issued before or after the provision of service, but within 45 days from the date of supply of services.

Further, an insurer or a banking company or a financial institution, including a NBFC, or a telecom operator, or any other class of supplier of services as may be notified by the Government on the recommendations of the Council, making taxable supplies of services between distinct persons as specified in section 25, may issue the invoice before or at the time such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.

A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, the tax charged thereon, and such other particulars as may be prescribed:

Provided that the Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which —

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- (a) any other document issued in relation to the supply shall be deemed to be a tax invoice; or
- (b) tax invoice may not be issued

A. In terms of Rule 46 of the CGST Rules, 2017, a tax invoice referred to in this section shall be issued by the registered person containing the following:-

- (a) name, address and GSTIN of the supplier;
- (b) a consecutive serial number, not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- (c) date of its issue;
- (d) name, address and GSTIN or UIN, if registered, of the recipient;
- (e) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered and where the value of taxable supply is fifty thousand rupees or more;
- (f) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is less than ₹ 50,000/- and the recipient requests that such details be recorded in the tax invoice;
- (g) Harmonised System of Nomenclature code for goods or services;

[As regards the requirement to quote the HSN of the supplies, the annual turnover of the registered person for the previous year shall be referred. In case of suppliers having annual turnover in the previous year: –

- i. Upto ₹ 1.5 Crore – No HSN required;
- ii. Exceeding 1.5 Crore upto ₹ 5 Crore – HSN upto 2 digits required;
- iii. Exceeding ₹ 5 Crore – HSN upto 4 digits required.

Please note that the term ‘annual turnover’ has not been defined. Therefore, it may be understood, to be the Turnover in the State as

Routine Procedural Checks under GST regime

defined in Section 2(112) of the Act, computed for the preceding financial year.

It is also relevant to note that there has been no notification issued in respect of services, separately. However, considering that the term 'HSN' has been used commonly in respect of both goods and services, the aforesaid order can be applied even in respect of services, while quoting the code from the scheme of Classification of Services, as provided in *Notification No. 11/2017-Central Tax (Rate) dt.28.06.2017.*]

- (h) description of goods or services;
- (i) quantity in case of goods and unit or Unique Quantity Code thereof;
- (j) total value of supply of goods or services or both;
- (k) taxable value of supply of goods or services or both considering discount or abatement, if any;
- (l) rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- (m) amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- (n) place of supply along with the name of State, in case of a supply in the course of inter-State trade or commerce;
- (o) address of delivery where the same is different from the place of supply;
- (p) whether the tax is payable on reverse charge basis; and
- (q) signature or digital signature of the supplier or his authorized representative:

B. Tax Invoices in cases of special services

Sl. No.	Class of supplier of taxable services	Nature of document	Optional	Mandatory All particulars as specified in Rule 46 other than that specified in 'Optional' column
1	Insurer, Banking Company,	Consolidated Tax Invoice or	a. Serial no. b. Address of the	Consolidation for the supply of services made during the month, at the

Compliances of GST in Banking Sector

	Financial Institution and NBFC	any other similar document	recipient of services	end of the month
2	Goods transport agency (GTA) transporting goods by road	Tax Invoice or any other similar document	None	In addition to those cited in Rule 46; a. Gross weight of consignment b. Consignor and Consignee name c. Regn. No. of Vehicle d. Details of goods transported e. Origin and destination details f. GSTIN of person liable to pay tax whether as consignor / consignee/ GTA
3	Passenger transport agency*	Tax invoice or ticket	a. Serial no. b. Address of the recipient of services	
* Equally applicable to the documents: Bill of supply, receipt voucher, refund voucher payment voucher, revised tax invoice, debit notes and credit notes.				

C. In case of export of goods or services, the invoice shall carry an endorsement-Supply meant for export/supply to SEZ unit or SEZ developer for authorised operations, the invoice shall carry an endorsement as follows:

1. Where the supply is effected on payment of IGST: “*Supply meant for export/supply to SEZ unit or SEZ developer for authorised operations on payment of integrated tax*” or
2. Where the supply is effected without payment of IGST: “*Supply meant for export/supply to SEZ unit or SEZ developer for authorised operations under bond or letter of undertaking without payment of integrated tax*”.

Routine Procedural Checks under GST regime

Further, for the details of invoice Rule 46 will apply and, in lieu of the details specified in *clause (e) cited supra*, contain the following details:

- (i) name and address of the recipient;
- (ii) address of delivery; and
- (iii) name of the country of destination.

D. Supplies not exceeding ₹ 200/-

A registered person is not required to issue a tax invoice in accordance section 31(3)(b) of the CGST Act,2017 i.e. in respect of supply of goods or services or both where the value therein does not exceed a sum of ₹ 200/- subject to the following conditions, namely: -

- (a) the recipient is not a registered person; and
- (b) the recipient does not require such invoice,

However, in respect of such supplies, the supplier shall issue a consolidated tax invoice for such supplies at the close of each day in respect of all such supplies.

Therefore, **Banking companies**

- ✓ may issue tax invoice or any other document, whether serially numbered or not and issue an invoice even without containing the address of the recipient of service but contains the other information as provided by Rule 46 of the CGST, Rules.
- ✓ have the option to issue a consolidated tax invoice or any other document in lieu of tax invoice for the supply of services made during a month, at the end of the month, either in physical form or electronically.

NOTE

- A registered person supplying exempted goods or service or both or paying tax u/s10 shall issue Bill of supply . However, registered person may not Bill of supply if such supply is less than ₹ 200 /-
- A registered person shall on receipt of advance payment with respect to any supply shall issue Receipt voucher.
- Further, where at the time of receipt of advance,
 - the rate of tax is not determinable, the tax shall be paid at the rate of 18%
 - the nature of supply is not determinable, the same shall be treated as inter-State supply.

Compliances of GST in Banking Sector

- Where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment;
- A registered person who is liable to pay tax u/s 9(3) or (4) shall issue a payment voucher at the time of making payment to the supplier.
- Notwithstanding anything contained in Rule 46 or Rule 49 or Rule 54, where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single “**invoice-cum-bill of supply**” may be issued for all such supplies.

Returns

It is pertinent to mention here that for smooth implementation of GST and remove/elimination of difficulties in above, that Govt. has extended due date of filling return has been extended by Government by issuing Various Notifications

FORM	PARTICULARS	DUE DATE	APPLICABLE TO
GSTR-3B	Monthly summary return	20 th of the next month (to be continued till June 2019)	All registered persons (other than Input Service Distributor (ISD), person liable to deduct TDS and personally liable to collect tax at source).
GSTR-1	Outward Supplies > 1.5 Crore Outward Supplies < 1.5 Crore	11 th of the next month Last date of month subsequent to the quarter	Normal / Regular Taxpayer
GSTR-2	Inward Supplies	15 th of the next month (Deferred till June 2019)	Normal / Regular Taxpayer
GSTR-3	Monthly return [periodic]	20 th of the next month (Deferred till June 2019)	Normal / Regular Taxpayer

Routine Procedural Checks under GST regime

GSTR-4	Return by compounding tax payers	18 th of the month succeeding the quarter	Composition taxpayer
GSTR-5	Return by non-resident tax payers [foreigners]	20 th of the next month or within 7 days after expiry of registration, whichever is earlier	Non-Resident taxpayer
GSTR-5A	Monthly Return by Online information and database access or retrieval services (supply to a person other than a registered person i.e., online non-taxable recipient)	20 th of the next month	Online information and database access or retrieval services
GSTR-6	Monthly Return by input service distributors	13 th of the next month	Input Service Distributor
GSTR-7	Monthly Return for TDS	10 th of the next month	Tax Deductor
GSTR-8	Monthly Return (Statement) for Collection of Tax at Source	10 th of the next month	E-Commerce Operator
GSTR-9	Annual return	31 st December of the next Financial Year FY 2017-18 has been extended till 30 th June, 2019	Normal tax payer (other than casual tax payer)
GSTR-9A	Annual return by Composition Supplier	31 st December of the next Financial Year FY 2017-18 has been extended till 30 th June, 2019	Compounding Taxpayer

Compliances of GST in Banking Sector

GSTR-9C	Annual return along with the copy of audited annual accounts and a reconciliation statement	31 st December of the next Financial Year FY 2017-18 has been extended till 30 th June, 2019	Normal tax payer having aggregate turnover of more than ₹ 2 crores
GSTR-10	Final Return	Within 3 months of the date of cancellation or date of order of cancellation, whichever is later	Registered Person whose registration has been cancelled
GSTR-11	Return to be filed by a person having UIN (Unique Identity Number) w.r.t inward supplies received by him to file refund of the taxes paid by him on inward supplies.		Person having UIN

Every registered banking and/or financial institution including non-banking financial company is liable **GSTR1, GSTR 2, GSTR3, GSTR3B GSTR6, GSTR9, GSTR-9C**

(A) Obligation to furnish information return

- Any person, being a banking company within the meaning of clause (a) of section 45A of the Reserve Bank of India Act, 1934, who is responsible for maintaining record of registration or statement of accounts or any periodic return or document containing details of payment of tax and other details of transaction of goods or services or both or transactions related to a bank account or consumption of electricity or transaction of purchase, sale or exchange of goods or property or right or interest in a property under any law for the time being in force, shall furnish an information return of the same in respect of such periods, within such time, in such form and manner and to such

Routine Procedural Checks under GST regime

authority or agency as may be prescribed.[Section150(1)(e) of the CGST Act]

Registration

Unlike concept Centralized registration available under erstwhile Service tax, under GST every supplier effecting taxable supplies, subject to a threshold limit and hence no concept of Centralized registration exists. So, a person having multiple business verticals [as defined in Section 2(18)] in one State may obtain separate registrations for each of the business vertical, subject to prescribed conditions.

In terms of section 22 of the CGST Act, every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States [as specified in sub-clause (g) of clause (4) of Article 279A of the Constitution], from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds ₹ 20 lakh and in case of special category state wherein the registration limit is ₹ 10 lakhs.

However, *vide* CGST, (Amendment) Act, 2018 effect from w.e.f 1-02-2019, second proviso to section 22(1) has been inserted to provide that Government may, at the request of a special category State and on the recommendations of the Council, enhance the aggregate turnover referred to in the first proviso from ₹ 10 lakhs to such amount, not exceeding ₹ 20 lakhs and subject to such conditions and limitations, as may be so notified. Accordingly, threshold limit remains ₹ 20 lakhs for the States of Jammu and Kashmir, Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand w.e.f. 1-02-2019 and ₹ 10 lakhs for the States of Manipur, Mizoram, Nagaland and Tripura.

Therefore, now except 4 State namely, Manipur, Mizoram, Nagaland and Tripura, threshold limit for registration is Rs.20 lakhs for rest all States.

Please note that the proviso to section 22(1) appearing in CGST Act also appears in SGST Act(s). As a result, for a taxable person in a non-Special Category State, who has a branch in Special Category State, the threshold becomes ₹ 10 lacs and not ₹ 20 lacs.

From above it is important to understand the term aggregate turnover. Where, aggregate turnover means the aggregate value of all taxable supplies, exempt supplies, export of goods or services or both and inter-State supplies of persons having the same PAN, to be computed on all India basis and excludes CGST/SGST, IGST, UTGST and cess.

Compliances of GST in Banking Sector

Aggregate turnover does not include value of inward supplies on which tax is payable on reverse charge basis.

For calculating the threshold limit, the turnover shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals. Further, supply of goods by a registered job worker, after completion of job work, shall be treated as the supply of goods by the “principal” referred to in section 143 (i.e. Job work procedure) of this Act. The value of such goods shall not be included in the aggregate turnover of the registered job worker.

Now, it is important to mention that section 23 provides relaxation from the requirement of obtaining registration to two categories of persons

- Agriculturist;
- Persons engaged exclusively in the supply of exempted goods or services or both.

The term exclusive indicates engaging in only those supplies which are exempted. Therefore, if a supplier is supplying both exempted and non-exempted goods and/or services, then this provision is not applicable, and he is required to obtain registration under section 22.

Further, this section also permits any person whose ‘entire’ supply consists of ‘exempt supplies’, then such person is excluded from obtaining registration

- (a) Notified persons may also be granted an exemption from registration. In this regard, the Government has exempted the following persons from obtaining registration: Persons engaged in rendering taxable services which are liable to GST under reverse charges are not required to take registration - (*Notification No. 5/2017–Central Tax, dated 19.06.2017*)
- (b) Job-workers engaged in making inter-State supply of services to a registered person except those who are liable to be registered under section 22(1) of the CGST Act, 2017 or persons opting for voluntary registration or persons engaged in making supply of services in relation to jewellery, goldsmiths’ and silversmiths’ wares and other articles (w.e.f. 14.09.2017) - *Notification No. 7/2017–Integrated Tax, dated 14.09.2017* as amended vide *Notification No. 2/2019-Integrated Tax, dated 29-Jan-2019, w.e.f. 1-Feb-2019.*

Routine Procedural Checks under GST regime

- (c) Persons effecting inter-State supplies of taxable services – where the aggregate value of supplies on PAN-India basis does not exceed ₹ 20 Lakhs in a year (₹ 10 Lakhs for special category States- Manipur, Mizoram, Nagaland and Tripura) (w.e.f. 13.10.2017) - *Notification No. 10/2017–Integrated Tax, dated 13.10.2017* as amended *vide Notification No. 3/2019-Integrated Tax, dated 29-01-2019, w.e.f. 1-02-2019.*
- (d) Categories of persons effecting inter-State taxable supplies of handicraft goods – where the aggregate value of supplies on PAN-India basis does not exceed ₹ 20 Lakhs in a year (₹ 10 Lakhs for special category States- Manipur, Mizoram, Nagaland and Tripura) - (w.e.f. 22.10.2018) - *Notification No. 3/2018–Integrated Tax dated 22.10.2018.* This notification has superseded Notification No. 8/ 2017-Integrated Tax, dated 14.09.2017
- (e) Persons providing services through an e-commerce who is required to collect tax at source, provided their aggregate turnover does not exceed ₹ 20 lakh (₹ 10 lakh in special category States-Manipur, Mizoram, Nagaland and Tripura) (w.e.f. 15.11.2017). - *Notification No. 65/2017–Central Tax, dated 15.11.2017* as amended *vide Notification No. 6/2019-Central Tax, dated 29-Jan-2019, w.e.f. 1-Feb-2019*
- (f) Categories of casual taxable persons making taxable supplies of handicraft goods- where the aggregate value of supplies on PAN-India basis does not exceed ₹ 20 Lakhs in a year (₹ 10 Lakhs for special category States-Manipur, Mizoram, Nagaland and Tripura) - (w.e.f. 23.10.2018) – *Notification No. 56/2018-Central Tax, dated 23.10.2018.* This notification has superseded Notification No. 32/ 2017-Central Tax, dated 15.09.2017.
- (g) **W.e.f. 01.04.2019** -the basic limit beyond which obtaining registration becomes mandatory is increased from ₹ 20 lakhs to Rs.40 lakhs for certain categories of persons *vide notification No. 10/2019-Central Tax, dated 07.03.2019.* This notification, *interalia* provides that any person, who is engaged in **exclusive supply of goods** and whose aggregate turnover in the financial year does not exceed Rs.40 lakhs, except, -
 - (a) persons required to take compulsory registration under section 24 of the CGST Act;
 - (b) persons engaged in making supplies of the following goods;

Compliances of GST in Banking Sector

Sl. No.	Tariff item, sub heading, heading or Chapter	Description
1	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa
2	2106 90 20	Pan masala
3	24	All goods, i.e. Tobacco and manufactured tobacco substitutes

- (c) persons engaged in making intra-State supplies in the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand; and
- (d) persons exercising option under the provisions of sub-section (3) of section 25 [voluntary registration], or such registered persons who intend to continue with their registration under the said Act.

COMPULSORY REGISTRATION under GST

Section 24 of the CGST Act provides the categories of persons who shall be required to be registered under this Act irrespective of the threshold. Two such Categories of Compulsory registration, the persons who are required to pay tax under reverse charge and input service distributor is relevant to Banking sector.

- (a) persons making any inter-State taxable supply; [Please Note *vide Notification 10/ 2017–Integrated Tax, dated 13.10.2017*, persons making inter-States supply of services and having turnover not exceeding ₹ 20 lakhs have been exempted u/s. 23 from obtaining registration. Accordingly, only persons who make inter-State supply of goods have to compulsorily obtain registration irrespective of the all-India turnover. However, the aggregate value of supply of services should not exceed ₹ 10 lakhs in respect of special category Special Category States except the States of Jammu and Kashmir, Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand.
- (a) casual taxable persons making taxable supply;
- (b) persons who are required to pay tax under reverse charge;
- (c) non-resident taxable persons making taxable supply;
- (d) an electronic commerce operator for whom the provision of section 9(5) of GST Act apply an electronic commerce operator for whom the provision of section 9(5) of GST Act apply.

Routine Procedural Checks under GST regime

- (e) persons who are required to deduct tax under section 51;
- (f) person who are required to pay tax under section 95);
- (g) persons who supply goods or services or both on behalf of other taxable persons whether as an agent or otherwise;
- (h) input service distributor;
- (i) persons who supply goods or services or both, other than supplies specified under section 9(5), through such electronic commerce operator who is required to collect tax at source under section 52;
- (j) every electronic commerce operator who is required to collect tax at source under section 52 ¹⁴;
- (k) every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered

Effective date of Registration

Where the application for registration has been submitted within thirty days from the date on which the person becomes liable to registration, the effective date of registration shall be date on which he become liable for registration.

Where an application for registration has been submitted by the applicant after thirty days from the date of his becoming liable to registration, the effective date of registration shall be the date of grant of registration.

In case of suo-moto registration, i.e. registration pursuant to any survey, enquiry, inspection, search or any other proceedings, the effective date of registration shall be the date of order of registration.

Section 25 read with Rule 8 to 26 of the CGST Rules, 2017 related to registration provides a detailed road map on the procedural aspects of the registration. The time limit for application is within 30 days (for persons other than casual taxable person or a non-resident taxable person) and casual taxable person or a non-resident taxable person shall have to obtain the registration at least 5 days prior to the commencement

¹⁴ *Inserted vide The Central Goods and Services Tax Amendment Act, 2018 w.e.f. 01.02.2019*

Chapter 6

Questionnaire for GST Audit of Banks

Name of the Branch:

GSTIN:

Particulars/information for the year.....

PART A: Basic Details of Assessee	
1.	Name of the Supplier/ Recipient of Supply
2.	Full address of: (Refer Appendix) of the Branch under audit and address of the branches in the State:
3.	List of GST registration numbers in the State with date of registration and nature of registration as Supplier/ Recipient of Supply. (Refer Appendix)
4.	Validity Period of Registration (in case of casual person and NRI)
5.	PAN of Assessee
6.	List principal activities (Refer Appendix)
7.	Is there any change in the activities stated above during the year as compared to immediately preceding year? Whether the same is included in registration (Refer Appendix)
8.	No such requirement in GST.
9.	Whether taxpayer has maintained accounts and records in terms of Section 35 -36 of the CGST Act, 2017 read with Rule 56 to 58 of the CGST Rules, 2017. (Refer Appendix)
PART B: EXEMPTION AVAILABLE UNDER CGST/SGST/IGST	
10.	Broad description of nature of Income

Questionnaire for GST Audit of Banks

11.	Not Applicable as erstwhile service tax law was not applicable in case of J&K. GST Law is applicable from 8 th July 2017. (b) Are services provided outside India? If Yes, please specify nature of Service and amount involved (Refer Appendix)
12.	Broad description of exempted services provided, if any, along with Notification No. and amount Involved (Refer Appendix)
13.	Not applicable
14.	Whether GST is leviable on Transaction in Money under GST? (Refer Appendix)
15.	Whether Securities/ derivatives are exigible for GST? (Refer Appendix)
16.	Whether any service charges or administrative charges or entry charges are recovered in addition to interest on a loan, advance or a deposit such as locker rent, folio charges, loan processing fee, late payment fee, lease management fee, rent, management fee etc. are exigible to GST?
17.	Whether the Bank is trading in Commercial paper /Certificates of deposits? If yes, whether any separate charges are collected, and GST being paid on the same and provide details thereon.
18.	Whether GST is levied on late fee charges collected from credit card holders? If yes, then whether GST is being paid on the same and give details thereof. (Refer Appendix)
PART C: COMPLIANCES UNDER GST ACT AND RULES, 2017	
19. (a)	REVERSE CHARGE- Requirement of reverse charge has now been changed and Section 9(3) and 9(4) of the CGST apply? Whether payment requirement of GST payment under reverse charge on supplies received from unregistered supplier upto October 12, 2017 made? Note- Section 9 (4) and applicability deferred till 30.06.2017. (Refer Appendix and Chapter 3)

Compliances of GST in Banking Sector

	<p>Definition has changed.- Works Contract” in terms of Section 2(119)of CGST Act means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.</p> <p>Further, Schedule II of Section 7 of the CGST Act, 2017 inter alia provides that Works contract is a composite supply to be treated as a supply of services. Therefore, it is important to note that under GST, work contract as service under GST law applies in relation to immovable property only.</p> <p>Rest Discussed in Ch-3</p>
19 (b)	Is Section 9(3) of the CGST Act read with Notification No.13/2017 Central Tax (Rate) date 28.06.2017 as amended followed?
	if the answer (b) is No, Specify the head of expenditure and corresponding details?
	<ul style="list-style-type: none"> • Whether GST have been paid on reverse charge basis on the services procured from supplier in terms of Section 9(3) of the CGST Act? • Whether GST have been paid on reverse charge basis on the goods/services procured from the unregistered supplier in terms of Section 9(4) of the CGST/SGST Act, for the period July 1,2017 till October 12, 2017, if aggregate value of supplies of goods or services or both received by a registered person from any or all the suppliers, who is or are not registered, exceeds ₹ 5000/- in a day? • Similarly, whether GST has been paid, in respect of each GST-registered location, on reverse charge basis on inter-State inward supplies from unregistered suppliers for the period July 1, 2017 till October 12, 2017? • Whether GST have been paid on advances paid by the banks to the specified registered persons under section 9(3) of the CGST Act such as sponsorship services, GTA

Questionnaire for GST Audit of Banks

	<p>services, etc.?</p> <ul style="list-style-type: none"> • Whether GST have been paid on advances paid by the banks to the unregistered persons under section 9(4) of the CGST Act till 12th October, 2017? • Whether all inward supplies (whether creditable or not) flow into the books of the bank through the GSTR-1 of any registered supplier? If not, have such supplies been reported in GSTR-2 under section 9(3) of CGST Act / 5(4) of IGST Act, even if no tax is payable from 13th October, 2017? • Whether in respect of each inward supply where no tax has been paid, is there is a clear disclosure made to the auditors as to the reasons for the tax position taken in each case? Auditor may examine, if the tax position taken requires to be reported in the audit report or other communication? • Whether the credit taken in respect of services covered under reverse charge mechanism is taken only after making payment of GST?
20.	<p>(a) Whether payment and ledger entries are made in terms CGST Act and payment rules given in CGST Rules, 2017?</p> <p>(b) If Tax is paid belatedly, specify interest paid on delayed payment under Section 50 of the CGST Act,2017</p>
21.	<p>Banking sector provides services of purchase and sale of foreign currency to its customers, the value of which can be ascertained in terms of Rule 32(2) of the CGST Rules, hence liable to GST. However, (i) inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers is exempt vide NN12/2017. (Refer Appendix)</p>
<p>PART D: COMPLIANCE OF ITC PROVISIONS GIVEN UNDER GST ACT AND CGST RULES, 2017</p>	
22.	<p>(a) Whether ITC taken/ utilized is matching with Books of accounts and GST returns (Annexure A)</p> <p>(b) If the answer of (a) above is negative, Report differences thereof. (Annexure C).</p>

Compliances of GST in Banking Sector

23.	Whether ITC credit taken, utilized and reversed on input services / inputs and Capital goods is CGST Act read with CGST Rules?
24.	<ul style="list-style-type: none"> • Whether the head office has not availed depreciation u/s 32 of the Income Tax Act, 1961 on the amount of GST on the capital goods on which input tax credit has been availed? • Whether the bank has taken the Input Tax Credit in respect of input and capital goods on the basis of proper duty paying documents, containing all particulars as prescribed by CGST Rules read with section 31 of the CGST Act, 2017, i.e., serially numbered invoice / bill not exceeding sixteen characters, containing the requisite information like, Name, address and GST Number of Bank, Name, address and Goods and Services Tax No. of recipient, date of issue, HSN Code of goods, etc.? • Whether the bank has taken the Input Tax Credit in respect of services on the basis of proper duty paying documents, containing all particulars as prescribed by CGST Rules read with section 31 of the CGST Act, 2017, i.e., serially numbered invoice / bill not exceeding 16 characters, containing the requisite information like, Name, address and GST Number of Bank, date of issue, amount of the credit distributed, etc.?
25.	Month-wise amount of distribution of CENVAT credit if the assessee is registered as an Input Service Distributor together with address of the unit to which it is distributed. (Applicable for Zonal / Head Office). (Refer Appendix)
26.	List of major Input services /inputs on which the company takes ITC: whether it comply with CGST Act read with CGST Rules. (Refer Appendix)
27.	<p>Whether credit has been reversed for every month an amount equal to 50% of the Input Tax Credit availed on inputs, input services and capital goods or input tax credit has been reversed in respect of exempted supplies on actual basis?</p> <p>Note- such reversal is not required in case of cross charge made to other branches (refer Rule 42 in chapter-2)</p>

Questionnaire for GST Audit of Banks

28.	Credit of taxes paid under RCM is now available in the same month
29.	If the answer of 27 is No, then details of CENVAT Availed and utilized (Refer Appendix)
30.	Whether ITC distributed is in compliance to Section 20 of the CGST Act 2017, If answer to above is negative, provide the discrepancy in the distribution and reasons thereof. (Refer Appendix)
31.	Amount of Input Tax Credit received from Input Service Distributor, if any together with address of the unit from which it is received.
32.	Whether any Credit on has been claimed input tax credit on invoice/ debit notes after the latter of due date of furnishing of the return under section 39 for the month of September of the subsequent financial year or furnishing of the relevant annual return?
PART E: COMPLAINTS OF GST ACTS AND CGST RULES, 2017	
33.	(i) Value of service provided to persons other than account holders where tax not charged on the ground that the place of supply is outside the taxable territory. (s-12(12) of IGST Act, 2017 (Refer Appendix) (ii) Value of services exported <ul style="list-style-type: none"> • With payment of IGST and claimed refund • Without payment of IGST under the cover LUT or Bond and claimed refund
34.	Whether conditions for export of supply of service satisfied to avail benefit of export supply without payment of tax, such benefit is subject to furnishing of LUT/Bond? (Refer Appendix)
35.	Is the payment for services exported received by the service provider in convertible foreign currency within the time limit prescribed by RBI? If not, give details.

Compliances of GST in Banking Sector

PART F: TRANSITIONAL PROVISION	
36.	<ul style="list-style-type: none"> • Whether the banks have filed TRANS-1 and the said form has absorbed all the accumulated credits and credits appearing as closing balance in the service tax returns? • In case of Centralised registration, whether the credit distributed in TRANS-1 has been received at GSTIN of Branch? • Whether sale or lease of vehicles procured prior to 1st July, 2017 and on which any Input Tax Credit has not been availed of Central Excise duty, VAT or any other taxes paid on such motor vehicles be subject to 65% of applicable GST rate?
PART G- OTHERS	
37.	<ul style="list-style-type: none"> • Whether GST have been properly charged by the head office, regional offices, zonal offices in case of inter unit / branch transactions? • Whether the registered person have filed the applicable returns on timely basis as notified by the Government? • Whether IGST has been paid on 'import of services'? • Whether an amount equal to the input tax credit availed by the recipient added to output tax liability of supplier along with interest, where the recipient fails to pay supplier of goods or services an amount towards the value of supply along with tax payable within 180 days from the date of issue of invoice by the supplier? • Whether Tax wrongfully collected and paid to Central or State Government (interstate supply considered as intra state supply or vice versa)? • If Yes, state the details of transaction (quantum) [Annexure D]

NOTE: Please also refer Frequently Asked Questions (FAQ) issued by CBIC on Banking, Insurance and Stock Brokers Sector updated as on 27.12.2018 which would assist the auditee in GST Audit.

http://www.cbic.gov.in/resources//htdocs-cbec/gst/27122018-UPDATED_FAQs%20ON%20BANKING,%20INSURANCE%20AND%20STOCK%20BROKERS.pdf;jsessionid=1B50BE18BCC2EFE4C3B9DC77FE902354

NAME OF THE ASSESSEE

ANNEXURE A

RECONCILIATION OF TURNOVER FOR THE YEAR.....

GSTR 1: RECON WITH BOOKS		
	Total Credits in statement of profit and loss	XXX
Less:	Not Goods / Not Services - e.g. Dividend Income	(XXX)
Less:	Sch III Items which is not a Supply e.g.: Land & Building etc	(XXX)
Less:	April - June Supplies	(XXX)
Less:	Receipts Not in the Course of Business	(XXX)
Add:	Sch I Supplies like Branch Transfer not in books, but supply as per GST Law	XXX
Add:	Receipts capitalised but taxable to GST	XXX
Less:	Profit on Sale of Capital Goods	(XXX)
Add:	Taxable Value of Supply of Capital Goods	XXX
Add:	Advance received during the Current Period	XXX
Less:	Advance of earlier period adjusted during the Current period	(XXX)
Less:	Closing unbilled revenue recognised - But Time of Supply did not arise	(XXX)
Add:	Opening unbilled revenue (Billed during the period/Time of supply falls in the month)	XXX

Compliances of GST in Banking Sector

	Total Value in GSTR 1	XXX
Less:	Exempted Supply	(XXX)
Less:	Non-Taxable Supplies: Supplies Like HSD, Motor Spirit Etc including Liquor	(XXX)
Less:	NIL Rated Supply	(XXX)
	Taxable Value in GSTR 1	XXX

NAME OF THE ASSESSEE

ANNEXURE B

Details of Discharge of Liabilities

A

Month	CGST				SGST				IGST				Cess			
	Liability	Credit utilized	Cash utilized	Ratio	Liability	Credit utilized	Cash utilized	Ratio	Liability	Credit utilized	Cash utilized	Ratio	Liability	Credit utilized	Cash utilized	Ratio
Apr																
May																
Jun																
Jul																
Aug																
Sep																
Oct																
Nov																
Dec																
Jan																
Feb																
Mar																
Total																

B	Liability for the month	CGST				SGST				IGST				Cess			
		Liability	Delay	Date of offsetting liability in returns	Interest	Liability	Delay	Date of offsetting liability in returns	Interest	Liability	Delay	Date of offsetting liability in returns	Interest	Liability	Delay	Date of offsetting liability in returns	Interest
	Apr																
	May																
	Jun																
	Jul																
	Aug																
	Sep																
	Oct																
	Nov																
	Dec																
	Jan																
	Feb																
	Mar																
	Total																

ANNEXURE C
Details of Input Tax Credit

A

Month	Goods / services on which ITC is eligible (A)				Goods / services on which ITC is ineligible (B)				Total inward supplies	Out of (B), Value of capital goods on which credit is not availed on account of Section 16(3) of the CGST Act, 2017 (Depreciation claimed on Capital Goods on GST component under the IT Act, 1961)
	Value of Inputs	Value of Input services	Value of Capital goods	Total ineligible	Value of Inputs	Value of Input services	Value of Capital goods	Total eligible	To match with Annex 4	
Apr										
May										
Jun										
Jul										

Aug										
Sep										
Oct										
Nov										
Dec										
Jan										
Feb										
Mar										
Total										

B Out of total of (A), eligible credits on supplies received from related persons and distinct persons

GSTIN of supplier	Nature of relationship	Value of supply		Tax		
		Goods	Services	CGST	SGST	IGST

ITC reversal

A Details of amount of tax credit paid as output tax liability u/s 16 r/w Rule 37, which was reclaimed during the year

Month in which the credit was paid as output liability	Amount of ITC paid as output tax liability u/s 16(2) r/w Rule 37	Amount of credit reclaimed upon payment of consideration											
		Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
PY -3													
PY -2													
PY -1													
Apr		-											
May		-	-										
Jun		-	-	-									
Jul		-	-	-	-								
Aug		-	-	-	-	-							
Sep		-	-	-	-	-	-						
Oct		-	-	-	-	-	-	-					

Nov		-	-	-	-	-	-	-	-	-			
Dec		-	-	-	-	-	-	-	-	-			
Jan		-	-	-	-	-	-	-	-	-	-		
Feb		-	-	-	-	-	-	-	-	-	-	-	
Mar		-	-	-	-	-	-	-	-	-	-	-	-
Total													

B Details of amount of tax credit paid as output tax liability u/s 16 r/w Rule 37, which was reclaimed during the year

Month in which the credit was paid as output liability	Amount of ITC paid as output tax liability u/s 16(2) r/w Rule 37	Month in which the amount of credit should have been paid as output liability u/s 16(2) r/w rule 37											
		Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
Apr													
May													
Jun													
Jul													
Aug													

Sep													
Oct													
Nov													
Dec													
Jan													
Feb													
Mar													
Total													

NAME OF THE ASSESSEE

ANNEXURE D

Section 77 of the CGST Act

Details of transactions, where incorrect tax paid

Month	Incorrect tax paid			Appropriate tax applicable			Appropriate tax paid			Refund claimed		
	CGST	SGST	IGST	CGST	SGST	IGST	CGST	SGST	IGST	CGST	SGST	IGST
Apr												
May												
Jun												
Jul												
Aug												
Sep												
Oct												
Nov												
Dec												
Jan												
Feb												
Mar												
Total												

Appendix

Clarification regarding Questionnaire for GST Audit of Banks

Point No. 2: In GST, there is no Concept of Centralised Registration. State wise registration prevails and each unit in the respective states should be added in the registration certificate classifying as a principal place of business in the State and others as additional place of business.

However, it is pertinent to mention that a person having multiple business verticals in a State/ Union Territory is permitted to obtain separate registrations for each such business vertical. Therefore, the person will have an option to avail a single registration (covering all business verticals in a State or Union Territory) or separate registration for each business vertical in a State or Union Territory.

Point No. 3: In GST, a service receiver was liable to make payment as a recipient by virtue of section 9(3) of the CGST Act read with Notification 13/2017- Central Tax (Rate) dated 28.06.2018 and Section 9(4) of the CGST Act. [For details refer Chapter 3] Being an auditor, we should check whether concerned branch was also registered as a service recipient or not and whether related services were registered with the department.

Point No.6: In order to understand the taxability of various supplies provided by the concerned branch/head office, it is important to identify the various supplies provided by such branch or head office. For this purpose, the auditors may analyse the various income heads (Operating and Non-Operating).

Hence in GST various List principal supplies need to be provided by the unit registered assessee i.e., branch

Point No.7: It is important to check whether any new service is provided by the concerned branch or head office. If yes, being an auditor, we can check whether the same is updated in the GST Registration Certificate or not? However, GST portal allows addition of Top 5 supplies only. It becomes important because taxability of any activity depends upon its nature and any exemption or relief will be available accordingly.

Point No.9: Section 35-36 of the CGST Act and Rule 56 to 58 of CGST Rules deals with provisions pertaining to accounts and records. Rule 56 of

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the CGST Rules provide for the documents with maintenance of accounts by registered persons. Rule 56(7) stipulates that every registered person shall keep the books of account at the principal place of business and books of account relating to additional place of business mentioned in his certificate of registration and such books of account shall include any electronic form of data stored on any electronic device.

Section 36 *interalia* prescribes that, every assessee shall retain the books of accounts and other records until the expiry of 72 months (6 years) from the due date for filing of Annual Return for the year pertaining to such accounts and records. If the annual returns for the FY 2017-18 are filed on say 31.12.2018, even then, the books of account and other records are to be maintained till 31.12.2024. Even if the annual return is filed earlier, the start date for considering 72 months runs from the end of due date to file the annual return.

In case an appeal or revision or any other proceeding is pending before any Appellate Authority or Revisional Authority or Appellate Tribunal or Court, or in case the assessee is under investigation for an offence under Chapter XIX, the assessee shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceeding or investigation for a period of one year after final disposal of such appeal or revision or proceeding, or for the period specified records u/s 35(1), whichever is later

Point No.11: GST is applicable in India including sea water upto 12 nautical miles including Jammu & Kashmir. Therefore, being a destination-based tax GST will apply by application of the provisions of place of supply as classified under the IGST Act, 2017. In case, services are provided outside India the same needs to be ascertained in terms of section 13 of the IGST Act which provide place of supply rules. (Place of supply discussed in chapter 1)

Point No.12: Under GST Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 as amended from time to time, provides exemption to supply of 109 services under CGST Act. Parallel to this notification under CGST, Exemption to supply 115 services is given under IGST *vide* Notification No. 9/2017- IGST (Rate) dated 28.06.2017.

Point No.14: Transaction in money is excluded from the definition of goods and services given under section 2(52) and 2(102) respectively. Since GST is payable on supply of goods and services [charging section] the instant transaction is not exigible to GST. The relevant extract is hereunder:

(52) “goods” means every kind of movable property other than money and

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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;

(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

However, it is also provided that if any separate consideration is charged by the service provider/supplier, then the same will be taxable and service tax shall be payable on such separate consideration.

For e.g. A is carrying 40\$ and wants to convert it in to INR. A approaches to a bank and get an amount of ₹ 40*60 = ₹ 2400. In this case, no separate consideration is charged by the bank and the transaction is merely a transaction in money. However, if the bank recovers an additional amount say ₹ 100 for the same, it will be liable to service tax/GST payment.

Point No.15: Securities/ derivatives are excluded from the definition of goods and services given under section 2 (52) and 2(102) of the CGST Act, respectively and hence not exigible to GST

However, any sort of service charge collected by the supplier of service for such transaction shall be liable for the payment of GST

Being an auditor, we can check whether service tax is paid by the concerned branch on amount recovered as an additional consideration.

Point No.16: Any services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discounts is mentioned in the negative list of services. However, if any additional amount is charged over and above interest or discounts the same would represent taxable consideration vide Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017

Services covered under this exemption category are-

- Fixed deposits or saving deposits or any other such deposits in a bank or a financial institution for which return is received by way of interest.
- Providing a loan or overdraft facility or a credit limit facility in consideration for payment of interest.
- Mortgages or loans with a collateral security to the extent that the

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consideration for advancing such loans or advances are represented by way of interest.

- Corporate deposits to the extent that the consideration for advancing such loans and advances are represented by way of interest or discount.

Being an auditor, we can check whether any additional amount is recovered by the concerned branch/head office and the same is accounted for separately instead of treating it as a component of interest/ advance.

Point No.18: Late fee charged is taxable under GST in lieu of the clause Schedule II clause 5(e) of the CGST Act, 2017. However, charges received in case of credit card are in the nature of consideration for the services rendered for using the convenience of services by way of a credit card and hence taxable.

Being an auditor, we can check whether such late payment charges recovered by the concerned branch are not shown as interest. These charges are taxable and service tax/GST shall be levied on the same.

Point No. 19 (a): The supplies under reverse charge are provided under section 9(3) read with NN13/2017 Central tax dated 28.06.2017 and Section 9(4) of the CGST Act. [Detail Discussion made in chapter 2]. It is pertinent to mention Section 9(4) applicability is exempted under section 11 till 31.03.2019.

Auditors is required to check the nature and description of supplies received by the concerned branch/head office.

Point 19(b): Under GST point of taxation is determined in terms of time of supply, the relevant provisions of which are discussed in Chapter 1. Auditor has to ensure the adherence of the same.

Point 21: The value of supply of services in relation to the purchase or sale of foreign currency, including money changing is determined in terms of Rule 32(2) [discussed in chapter 1].

Point 25: The concept of input service distributor has been borrowed into GST from service tax, entitling a person who is registered as an Input Service Distributor (ISD) to distribute the credit in respect of input services (and not inputs) received in its name.

Generally, the head office, or the corporate office, by whatever name called, would be the location to which the services would be billed. However, there is no implication by law that an ISD must be the head office.

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Therefore, a company may choose to have multiple offices based on its business requirements to ensure that the office registered as ISD does not itself undertake any activity in the nature of outward supply, not receive inward supplies of its own or not attract RCM liability. Being an auditor, some of the points to be check are:

- (a) Ensure every person being an Input Service Distributor shall make a separate application for registration as such Input Service Distributor?
- (b) Whether an ISD invoice is issued to each recipient of credit on every distribution in terms of CGST Act read with CGST Rules?

Note -Under CGST banking company or a financial institution, including a non-banking financial company, a tax invoice shall include any document in lieu thereof, by whatever name called, whether or not serially numbered but containing the information as prescribed Rule 46.

- (c) Ensure, Credit distributed does not exceed the credit available for distribution?
- (d) Whether ISD is distributed to those taxable persons whose PAN no is same as that of ISD (Under GST)?
- (e) Whether credit attributable to a specific unit is distributed to that unit only?
- (f) Whether, Section 20 of the CGST Act is adhered in reference to the manner of distribution of credit by ISD?
- (g) Whether, Procedure for distribution of input tax credit by Input Service Distributor is adhered
- (h) Whether Tax paid on input services used by a particular location (registered as supplier), is to be distributed only to that location?
- (i) Whether, Credit of tax paid on input service used by more than one location who are operational is to be distributed to all of them based on the pro rata basis of turnover of each location in a State to aggregate turnover of all such locations who have used such services.
- (j) Ensure that, each type of tax must be distributed through a separate ISD invoice?

Note- However, there is no requirement to issue ISD invoices at an invoice-level (received from the supplier of the service).

- (k) Whether the credit of integrated tax is be distributed as integrated tax irrespective of the location of the ISD?

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- (l) Whether the aggregate of Central tax, State tax and Union territory tax, as integrated tax, where the ISD is located in a State other than that of the recipient of credit?
- (m) Whether the Central tax and State tax (or Union territory tax) is distributed as the Central tax and State tax (or Union territory tax), respectively, where the ISD is located in the same State as that of the recipient?
- (n) Whether turnover for the distribution has been determined in accordance with the CENVAT Credit Rules\ CGST Rules?
- (o) Ensure every ISD shall, for every calendar month or part thereof, furnish a return in FORM GSTR-6 electronically within 13 days after the end of such month?

Points 26: Under GST regime, Section 17(5) of the CGST Act, 2017 read with CGST Rules provides that input tax credit shall not be availed in respect of certain supplies. (Details list given in Chapter 5 -Section 17(5))

Being an auditor, we can check ITC is not availed on where disallowed in GST law.

Point 27, 29 and 30: As per section 17 (2) read with CGST Rules an assessee in banking sector has to reverse 50% of the CENVAT Credit taken on monthly basis or avail 50% of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse (discussed in Chapter -4)

Being an auditor, we can check whether, concerned branch is reversing the CENVAT Credit/ITC in compliance to the GST Acts read with CGST Rules. Further, we can check whether the rest 50% of the credit in case of GST is lapsed.

Point No.29: Section 16(2) of the CGST Act, 2017 *inter alia* provides that no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless - subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said supply.

Moreover, the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

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Point No.33: In terms of section 13(8) of the IGST Act, 2017 service provided by the bank to its account holder shall be deemed to be provided at the place where such bank is located (Details discussed Chapter-1-Place of supply)

However, in terms of section 13 of the IGST Act,2017, where Location of Supplier or Location of Recipient is outside India, place of supply will be the location of the recipient of the services. But, where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services. Therefore, service provided by the bank to person other than account holder located outside India, is location of the supplier of services

Point No.34: In terms of section 2(6) of the IGST Act, “*export of services*” means the supply of any service when, —

- (i) the supplier of service is located in India;
- (ii) the recipient of service is located outside India;
- (iii) the place of supply of service is outside India;
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange; and
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8.

Now the Auditor should check whether a transaction is export of service, then only claim the benefit of refund claim on export where export is made with/without payment of tax but after furnishing bond of LUT in the latter case.