



53rd Edition
NEWSLETTER

ICAI-GST

ICAI-SET UP BY AN ACT OF PARLIAMENT | APRIL 2025



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Dear Professional Colleagues,

Greetings!

As we move further into the new financial year, we are presented with both challenges and opportunities to strengthen the foundation of our economy. The progress of our nation's tax system, particularly in Goods and Services Tax (GST), reflects this growth trajectory. The continuous rise in GST collections is a testament to the resilience of the Indian economy, underscoring the effectiveness of our tax reforms and the collective efforts of stakeholders working towards a more efficient and transparent tax system.

GST collections for April 2025 rose by 12.6% year-on-year (YoY) to ₹ 2.37 lakh crore — the highest monthly collection ever since the introduction of GST in July 2017— surpassing the ₹ 2.10 lakh crore collected in April 2024.

The GST and Indirect Taxes Committee of ICAI remains steadfast in its endeavour to make the indirect tax laws of our country simpler, more transparent, and more effective. To this end, the Committee regularly provides technical inputs to the Government to foster continual improvement in the GST law and create widespread awareness among stakeholders about various initiatives and measures introduced by the Government. In line with this objective, the Committee has recently submitted its suggestions on the **GST Annual Return (Form GSTR-9) and the Reconciliation Statement (Form GSTR-9C)**. These suggestions aim to simplify the return filing process, enhancing clarity and standardisation, and aligning the forms with recent amendments in the GST law.

As a trusted partner in nation-building, ICAI, through its GST and Indirect Taxes Committee, actively supports the capacity-building efforts of the Government. The Committee organises and facilitates training programmes on GST for officers of both the Central and State GST departments. Recently, the Committee extended faculty support to the **Directorate of Commercial Taxes, West Bengal, for a Four Day Training Programme on Accounts & Audit held from 7th to 11th April 2025 in Kolkata**. Faculty support was also provided for a **Workshop on GST Audit organised at NACIN, Shillong**, further reinforcing our commitment to professional excellence and public service.

I encourage all members to take full advantage of the updated knowledge resources released by the GST & Indirect Taxes Committee. The **10th Edition of 'GST Act(s) and Rule(s) – Bare Law'**, incorporating amendments up to 11th April 2025, serves as a reliable reference for understanding the statutory provisions of GST law. Likewise, the revised **'Handbook on Exempted Supplies under GST'** (updated till 15th April 2025) offers clear and concise guidance on exemptions applicable to goods and services under GST. These publications are invaluable for staying updated and strengthening professional competence.

As John Wooden wisely said, *"Success comes from knowing that you did your best to become the best that you are capable of becoming."* This quote reminds us that true success lies not just in outcomes, but in the dedication, sincerity, and effort we invest in our work. Let us continue to embody this spirit by upholding the highest standards of our noble profession and contributing meaningfully to the nation's growth story.

Warm Regards

CA. Charanjot Singh Nanda

President

The Institute of Chartered Accountants of India

PHOTOGRAPHS



Certificate Course on GST at Coimbatore



CA. Rajendra Kumar P, Chairman, GST & IDTC and CA. Raginee Goyal, Chairperson, Guwahati Branch (EIRC) met Shri Jitu Doley, IRS, Commissioner of Taxes, Government of Assam

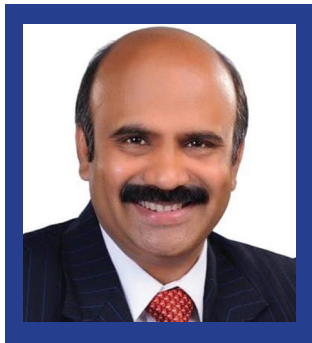


CA. Rajendra Kumar P, Chairman, GST & IDTC, met with Smt. Rakhi Biswas, IAS, Addl. Secretary & Director, Small Savings Group Insurance & Institutional Finance, Government of Tripura (Formerly Commissioner of Taxes).



CA. Rajendra Kumar P, Chairman, GST & IDTC, met Shri Vivek H. B., IAS, Commissioner of State Taxes, Tripura; Mr. Samuel S. Vaiphei, Joint Commissioner, CGST, Agartala; Mr. Ashin Barman, Assistant Commissioner, State Tax, Tripura to discuss collaboration via MOU, training and establishing an Audit Wing.





Dear Member,

It gives me great pleasure to present the 53rd edition of the ICAI GST Newsletter.

This edition comes at a significant time for the GST ecosystem, marked by progressive developments aimed at strengthening transparency, reducing litigation, and enhancing taxpayer confidence. The Central Government has recently notified the Goods and Services Tax Appellate Tribunal (Procedure) Rules, 2025, laying the foundation for the long-awaited operationalization of the GST Appellate Tribunal (GSTAT). These rules, notified on April 24, 2025, provide a comprehensive procedural framework for filing appeals, conduct of hearings, and powers of the Tribunal. This is a major step forward in establishing a time-bound and efficient appellate mechanism, which will go a long way in resolving disputes, improving compliance, and reducing the burden on existing judicial forums.

In another important move, the Central Board of Indirect Taxes and Customs (CBIC) has issued detailed instructions through *Instruction No. 03/2025-GST dated April 17, 2025*, aimed at simplifying the GST registration process. The instructions emphasize that if an application is not flagged as risky and is complete in all respects, it should be approved within seven working days. Officers are specifically directed not to raise queries beyond what is relevant to the documents submitted. This initiative is expected to reduce delays and improve the overall ease of doing business, particularly for new taxpayers entering the GST regime.

From the April 2025 tax period onwards, inter-state supplies made to unregistered persons, composition taxpayers, and UIN holders will be auto-populated in Table 3.2 of Form GSTR-3B based on details furnished in Forms GSTR-1, GSTR-1A, or IFF, and will no longer be editable. Hence, utmost care must be taken while furnishing data in these forms to ensure accuracy and consistency.

I am also happy to share that we have released updated editions of two key publications: *GST Act(s) and Rule(s) – Bare Law* and the *Handbook on Exempted Supplies under GST*. These are available for free download at <https://idtc.icaai.org/publications.php> and physical copies can be ordered via the CDS Portal. As part of our continued efforts to disseminate knowledge and build capacity, the Committee has been organizing webinars on relevant and practical topics in GST. Recently held sessions on “Unlocking Benefits of GST Amnesty Scheme u/s 128A” and “Landmark Judgements in Input Tax Credit” were well received. The recordings are available on ICAI TV at <https://icaiv.com/> and can be accessed at one's convenience.

I encourage all stakeholders to write to us at gst@icaai.in with their suggestions and topics they wish to see covered in future editions. Your feedback plays a vital role in shaping each edition to be relevant and impactful.

CA. Rajendra Kumar P

Chairman

GST & Indirect Taxes Committee

The Institute of Chartered Accountants of India

OIDAR AND IMPORT OF SERVICES

INTRODUCTION

Owing to the lack in arriving at a universally acceptable multilateral solution for levying tax on digital transactions, several countries have unilaterally started imposing tax on digital transactions under the nomenclature digital tax or digital services tax. One may argue that imposing tax on cross border digital transactions/supplies may not be in line with the WTO Declaration to not levy customs duty on electronic transmission, however several countries including India have imposed tax on cross border digital transactions. Countries like France, UK, Italy, New Zealand and Australia, among others, have already imposed or have proposed to impose digital services tax on specified digital transactions.

Though, India has not specifically used the term digital tax or digital services tax to levy tax on digital transactions, such levy is very much in existence in the indirect tax regime of India, under the nomenclature "Online Information and Database Access or Retrieval services (OIDAR)". The special provisions pertaining to OIDAR services were introduced in the service tax regime and have continued in the GST regime.

OIDAR is a transaction that was brought within the tax net only from 01.12.2016 under service tax. The experience was more than encouraging, as the amount of tax collected from OIDAR is in a class of its own with regard to the taxable person and place of supply. Hence, it found a prominent place in the GST law as well, through section 14 of the IGST Act, 2017.

However, on any services imported into India by a registered person liable to GST, we then find that there is a thin line of difference and sometimes confusion in categorising of OIDAR and Import of Services, we may sometime move our decision from one to another. But the aspects which distinguish and what are the intricacies are discussed here.

OIDAR INDUSTRY EXAMPLES

- **AI-driven advisory services**

Example: Scripbox – It performs an analysis using algorithms of the financial needs and goals of the individual, and based on the goals and duration, suggests the company and category of mutual funds to invest in. (Digital wealth management service)

- **SaaS platforms**

Example: Zoom, Google Workspace

- **Streaming services**

Example: Netflix

OIDAR AND IMPORT OF SERVICES - TAX IMPACT EXPLAINED

OIDAR is defined in the IGST Act and the definition is capable of covering within its ambit almost all kinds of automated services which are provided over the internet. Though the definition contains an inclusive part to include certain electronic services, it may not be out of place to state that even otherwise, the manner in which the definition is worded, it is capable to cover all such services mentioned in the inclusive part as also any other digital service fulfilling the criteria provided in the definition.

If we assign a formula, the definition could be stated as follows –

OIDAR = Service + Delivery mediated by IT over internet/electronic network + essentially automated + impossible to ensure in absence of IT

OIDAR accessed by a customer in India or Import of Services – in both cases, the place of supply would be India and the transaction is amenable to levy of GST.

If both are received by a taxable person, then the taxable person has to pay GST under Reverse Charge Mechanism (RCM). Then, why is the discussion all about distinguishing the two?

The problem arises on how such tax gets collected when the recipient is an individual end-customer who is not registered under GST. It would be impractical to ask the individual in India to register and undertake the necessary compliances under GST for a one-off purchase on the internet.

The main reason for identifying and making a distinction between OIDAR and Import of Service is that if the service is categorised as an OIDAR service and when the recipient is a non-taxable online recipient (NTOR), then the supplier in a non-taxable territory is liable to pay tax. But if the service is categorised as an Import of Services, then the supplier in the non-taxable territory is not under an obligation to pay taxes in India, and the recipient is also not liable to pay taxes in India subject to the conditions as prescribed in the exemption available vide SI No. 10 of *Notification No. 9/2017-IGST (R)*, which states that services are exempted when the service provider is located in a non-taxable territory and the recipient is an individual receiving such services for any purpose other than commerce, industry or any other business or profession.

OIDAR provisions seek to levy tax in the hands of supplier located in the non-taxable territory (i.e. outside India) for provision of OIDAR services to a NTOR located in the taxable territory (i.e. in India).

KEY ISSUES/ CHALLENGES – FOOD FOR THOUGHT!

- **Import of Services defined in the Act, but not used in the context of section 13 of the IGST Act - Place of Supply.** What is the reason for inserting the definition in the Act then?

The reason is the term 'Import of Services' is used in section 7 of the CGST Act and Schedule I, and to give meaning to this term as used in the definition of "Supply" and Schedule I, it is defined in the IGST Act. Also, import is considered as inter-state, and the power to define inter-state supply lies with Parliament.

Article 269A(5) states that only Parliament can formulate the principles to determine the place of supply in the course of inter-state trade or commerce. So that is the reason that Import of Services is defined in the IGST Act, even though not used anywhere in the Act.

- **How is the liability cast on an intermediary for payment of tax?**

As per these special provisions, where OIDAR services are supplied by an overseas supplier and received by a NTOR, such supplier of services located outside India shall be the person liable for paying integrated tax on supply of OIDAR services. However, where such services, provided by an overseas supplier, are arranged or facilitated by an intermediary who is also located outside India, then subject to certain exceptions, it shall be the intermediary who would be considered to be the supplier of OIDAR services to the NTOR. Accordingly, in such a scenario it would be the intermediary located outside India, who would be required to discharge integrated tax on OIDAR services.

Thus, it may be said that for OIDAR services to be taxable in the hands of overseas supplier (or an intermediary located outside India, as the case may be) it is essential that the recipient is a NTOR.

So, the next formula to decide the taxability of OIDAR would be –

Liability of supplier located in non-taxable territory = OIDAR service + supplier located in non-taxable territory + recipient of service is NTOR

Liability of intermediary located in non-taxable territory = OIDAR service + supplier located in non-taxable territory + intermediary located in non-taxable territory + recipient of service is NTOR

CASE STUDIES

1. E-learning courses (live or recorded lectures):

A classic example in this case would be e-learning courses where lectures are conducted online, either live or pre-recorded.

- The differentiation factor for classification of such OIDAR services would be whether or not it involves

any human intervention.

- In case, the classes are pre-recorded, and their access is provided through automated process of making payment and generation of its access online, then it would be regarded as OIDAR services.
- However, if the classes are live, then the teacher delivering those lectures would be regarded as providing human support. Therefore, this cannot be considered as OIDAR services.

2. Electronic services of provision of e-books.

- It is pertinent to note that what is covered within the ambit of OIDAR provisions is only 'services' and not goods. The inclusive portion of the definition also includes certain electronic 'services'. However, in certain situations particularly when delivery is over the internet i.e. in intangible form, it may be challenging to determine as to whether the supply is a supply of goods or a supply of services.
- To illustrate it may be noted that the inclusive part of definition includes electronic services of provision of e-books.
- Supply of e-book is categorised as service under *Notification 11/2017* under HSN 9984, "e-books" means an electronic version of a printed book [falling under tariff item 4901 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)] supplied online which can be read on a computer or a hand held device.
- A contrary view can be that it is a position that goods can be either a tangible property or an intangible property. Hence, supply of books whether in physical form or in electronic form (e-books), may be classified as supply of goods and would therefore not fall within the ambit of OIDAR services.

View: Access to book permitted only 'online' is OIDAR. However, if the download option is provided then it is goods.

3. Online databases and digital libraries:

- Online databases and digital libraries provide access to vast collections of digitized materials, making information readily available online. These platforms offer a range of resources, including books, journals, multimedia, and archival collections, allowing users to search, browse, and retrieve information from anywhere with an internet connection. Digital libraries also offer interactive elements and social media-like features for engaging with content and connecting with other users.

- The supply of access to online databases cannot be equated to e-books, impacting the GST rates applicable and the eligibility for certain exemptions.

View: Since the information is available only when one accesses it online over the internet, it will be OIDAR service.

4. Determining NTOR:

- The definition of NTOR provides for an unregistered person receiving OIDAR services for any purpose to be an NTOR. However, prior to amendment in 2023, the definition of NTOR was restricted to Government, local authority, Governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.
- It was difficult in certain situations to determine and/or distinguish, whether services received by a person is for a business purpose or for a non-business purpose, that was the reason the taxability was changed.

After the amendment the definition of NTOR is clear in providing that only a person who is not registered can be said to be NTOR whether he uses for commercial or non-commercial purpose and therefore GST shall be payable by the OIDAR service provider.

RELEVANT CIRCULARS

Circular No. 242/36/2024-GST dated 31.12.2024 clarifies that in respect of supply of online/digital services, OIDAR services and online money gaming to unregistered recipients, the suppliers are mandatorily required to record the name of the State of the recipient on the tax invoice, irrespective of the value of supply of such services, and to declare the place of supply of the said services as the location of the recipient (based on the name of State of the recipient) in their details of outward supplies in Form GSTR-1/1A (Para 4.5.1).

Further, it clarifies that in such cases, the name of the State of the recipient so recorded shall be deemed to be the address of the recipient available on record and thus, for determining the place of supply of the said services, provisions of section 12(2)(b)(i) of the IGST Act will be applicable, as per which the place of supply shall be the location of the recipient (Para 4.5.2).

The Circular reinforces the principle of destination as the location of the recipient. Further, this provision is akin to the Place of Supply (PoS) for supply to unregistered buyers under section 10(1)(ca). In fact, online money gaming is classified as a specified actionable claim & hence, goods.

SUMMARY OF TAXABILITY:

| Location of Supplier | Location of Recipient | Taxability in case of OIDAR | Taxability in case of Import of Services |
|----------------------|-----------------------|--------------------------------|---|
| India | India | Forward Charge | Forward Charge |
| Outside India | India (Not NTOR) | Reverse Charge | Reverse Charge |
| Outside India | India (NTOR) | Forward Charge | Exempt (Non-Commercial) |
| Outside India | Outside India | No GST | No GST |

This means that for online money gaming provided to unregistered recipients (gamers/players/participants), PoS is the State mentioned on the invoice, and similarly, PoS for OIDAR services to unregistered recipients would also be the State mentioned on the invoice.

RELEVANT ADVANCE RULING

- **NCS Pearson Inc., In re, Order NO.KAR/AAAR/07/2020-21 (Karnataka)**

NCS Pearson Inc., an intermediary located in a non-taxable territory, provides services of online exams/tests via electronic software to non-taxable online recipients in India. Since, in the test offered by the respondent, scoring by a human scorer is just one of the processes involved in a computer-based test that is entirely automated, along with other requirements, it is classifiable as an OIDAR service.

This was prior to the amendment which removes the involvement of minimal human intervention. Post amendment, since human intervention of even the slightest nature is involved, it would not be an OIDAR service and hence would not be taxable as per *Notification No.9/2017-IT(R)*.

- **Amogh Ramesh Bhatawadekar, In Re, Order No. MAH/AAAR/RS-SK/34/2020-21 (Maharashtra)**

The applicant was supplying e-goods in the form of "Online Gaming". The applicant contacted suppliers of digital products requesting a list of digital products (primarily online games) that were available. These online games were then sent to the applicant by email or instant messaging services, and payment was made. The digital goods were assessed and stored on cloud servers for dispatching to customers. The customers visited the applicant's website, made payments, and the games were delivered by cloud server.

It was held that supplying online games or digital goods is considered a supply of service and not goods and is classifiable as OIDAR. The applicant was therefore liable to discharge GST.

CONCLUSION

Accordingly, wherein OIDAR services have been supplied by a foreign service provider to a registered recipient in India, then in such scenario, the India recipient shall be liable to deposit GST under RCM on such supply. For ease of reference, a summary of the taxability of OIDAR services and Import of Services has been tabulated below:

Contributed by CA. Deepak P

GST IN REAL ESTATE: CONSTRUCTING CLARITY AMID CONFUSION

The taxability of real estate under the Goods and Services Tax (GST) regime in India has been a subject of intense debate and widespread discussion. Given the scale of investment in real estate and its significance in the Indian economy, any change or ambiguity in its taxability directly affects developers, buyers, and tax authorities. The interplay between GST law provisions, administrative notifications, and interpretational issues like the definition of “first occupancy” and the concept of a “completion certificate” makes this topic both complex and controversial.

STATUTORY FRAMEWORK UNDER GST

The GST law provides a framework for determining the taxability of supplies, including those related to real estate. The key statutory provisions that come into play are:

Extract of Section 7 of the CGST Act - Scope of supply

“(1) For the purposes of this Act, the expression “supply” includes-

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

[(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

Explanation- *For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;]*

(b) Import of services for a consideration whether or not in the course or furtherance of business; [and]

*(c) The activities specified in Schedule I, made or agreed to be made without a consideration; [****]*

[(1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.

.....”]

Entry 5(b) of Schedule II -

The following shall be treated as supply of services, namely: -

(a),

*(b) Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after **issuance of completion certificate**, where required, by the competent authority or after its **first occupation, whichever is earlier.***

Explanation —for the purposes of this clause—

(1) the expression “competent authority” means the Government or any authority authorized to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely: —

(i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972); or

(ii) a chartered engineer registered with the Institution of Engineers (India); or

(iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority;

(2) the expression “construction” includes additions, alterations, replacements or remodeling of any existing civil structure;

Entry 5 of Schedule III reads as under:

Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

Analysis

- In terms of section 9(1) of the CGST Act, 2017, GST is attracted on supply of goods or services or both. However, there must be a “Supply” as per section 7(1) to make a transaction exigible to GST. Merely because some activities or transactions are listed in Schedule II, the same would not make the said activity or transaction a “supply”, until it falls under section 7(1) of the CGST Act. It is also pertinent to mention that sub-clause (1A) has been inserted in section 7 of the CGST Act retrospectively only for the purpose of classification of the supply and nothing else.

- Under Paragraph 5 (b) of Schedule II, the activity of construction of complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly except where the entire consideration has been received after issuance of completion a complex or building intended for sale to a buyer, wholly or certificate, where required, by the competent authority or after its first occupation, whichever is earlier, is classified as a service.

COMPLETION CERTIFICATE OR FIRST OCCUPANCY – WHICHEVER IS EARLIER ?

As per the GST framework, a construction activity intended for sale is taxable only if the sale occurs before the issuance of a **completion certificate** or before **first occupancy**, whichever is earlier. This dual condition ensures that even if a formal completion certificate is delayed, GST may still not apply if first occupancy has already occurred.

This concept aligns with the objective of taxing only the value-added portion of a real estate project while ensuring that post-completion sale transactions remain outside the GST ambit.

PRACTICAL SCENARIO: COMPLETION CERTIFICATE NOT OBTAINED BUT SCHEDULE III APPLIES

In practice, many real estate projects are completed and handed over to buyers before a formal completion certificate is obtained from local authorities. In such cases, if buyers have already started occupying the premises, it constitutes the “first occupancy.”

AMBIGUITY REGARDING ‘FIRST OCCUPANCY’ IN LAW

Despite its significant tax implications, the term “first occupancy” is not defined in the CGST Act or its associated rules. This lack of a statutory definition creates ambiguity and scope for multiple interpretations.

To bridge this gap, authorities have defined “First Occupancy” in FAQs published by the Central Board of Indirect Taxes and Customs (CBIC). These FAQs attempt to provide clarity by explaining that “first occupancy” refers to the point at which a buyer starts residing or using the property.

WHAT IS WRITTEN IN THE GST FAQs ?

As per FAQ (Part-I), Q No.29 issued by CBIC vide *Circular F. No. 354/32/2019-TRU dt. 07.05.2019*, the term ‘First Occupation’ is to be understood in accordance with the applicable laws, rules, and regulations of the State/Central Government or any other authority and attempt is made by Department to correlate ‘First Occupation’ with ‘Occupancy Certificate’ issued by the authorities and conclude that if Occupancy certificate has not been obtained then ‘First Occupancy’ cannot be permitted and sale of flats/apartments shall continue to be taxable even if project has been occupied physically.

FAQS DO NOT PREVAIL OVER LAW

While FAQs can be helpful in interpreting certain aspects of the law, it is a well-established legal principle that **FAQs, circulars, or departmental clarifications do not have the force of law** (*This is itself mentioned in the preface of the circular quoted above*). They are meant to guide the implementation of the law, but in case of a conflict, the statutory provisions of the CGST Act and the rules framed thereunder prevail. So, interpretation of ‘First Occupancy’ should be construed with a pragmatic approach since the same has not been defined under GST Law.

The meaning of the phrase “**First Occupation**” from the Cambridge English Dictionary, Merriam Webster Dictionary & Oxford English Dictionary.

Meaning of the word “**first**”, as per Cambridge English Dictionary, Merriam- Webster Dictionary & Oxford English Dictionary respectively is as under:

- Coming **before all others in time** or order
- (A person or thing) **coming before all others in order, time, amount, quality, or importance.**
- Preceding all others in time, order, or importance.

Meaning of the word “**occupation**” as per Cambridge English Dictionary, Merriam-Webster Dictionary & Oxford English Dictionary respectively is as under:

- The **action of living** in or using a building or other place
- An **occasion when someone moves into and starts using a building**
- The act or process of taking possession of a place or area.

The applicant states, read together, the phrase “first occupation” may be understood to mean the **act of occupying or using the complex, building or property for the first time by a person.**

MATTER BROUGHT TO THE AUTHORITY FOR ADVANCE RULING (AAR)

The matter was brought before the *Authority for Advance Ruling (AAR), Goods and Services Tax, Uttar Pradesh by M/s Savfab Buildtech Private Limited (Advance Ruling No. UP ADRG 42/2024 dt. 16.01.2024*, wherein the applicant sought clarity on the applicability of GST in light of Entry 5(b) of Schedule II to the CGST Act, 2017. The case centred around the interpretation of the phrase “*construction of a complex, building, civil structure or a part thereof, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.*”

The Authority placed substantial reliance on a literal interpretation of the aforementioned provision. It was held that the term “*first occupation*” must be construed in alignment with the statutory requirement that **no lawful occupation can occur prior to the issuance of a completion certificate or occupancy certificate** by the competent authority. The AAR emphasized that under the prevailing regulatory framework, the act of permitting possession or occupation before obtaining such certificates would be in contravention of municipal laws and building codes.

However, this interpretation gives rise to a significant legal incongruity. If first occupation is interpreted to mean only post-completion or occupancy certificate, the legislative phrase “*or its first occupation, whichever is earlier*” becomes superfluous. It is a settled principle of statutory interpretation—*ut res magis valeat quam pereat*—that every word in a statute must be given effect, and no part should be treated as redundant or otiose. Courts have consistently held that statutory provisions must be interpreted in a manner that harmonizes all clauses and gives meaningful effect to the legislative intent.

In the case at hand, the applicant had duly applied to the competent authority for issuance of the completion/occupancy certificate. However, the said authority failed to act within the stipulated time period as prescribed under *Order No. 8208/UPRERA/20th Meeting/Office Order/2019-20 dated 16.09.2019*. Despite the delay on the part of the authority, the construction had already been completed, and the premises were ready for lawful occupation.

Accordingly, the applicant contended that since the construction was completed and possession had been offered in substance, the transaction should be treated as having occurred after “first occupation”, thereby bringing it outside the purview of GST under the combined reading of Entry 5(b) of Schedule II and the associated legal framework. This interpretation aligns not only with the spirit of the law but also upholds the principle that taxpayers should not be penalized due to administrative inaction, especially when all substantive requirements have been fulfilled.

It is emphasized that the Ghaziabad Development Authority (GDA) did not issue the Occupancy Certificate due to pending dues related to certain development obligations. Despite this, Sale Deeds were executed by the developer, and Letters of Possession were issued to the customers.

The AAR contended that a Letter of Possession cannot be treated as a substitute for an Occupancy Certificate, and that the mere execution of a Sale Deed or issuance of a Letter of Possession does not, in itself, constitute ‘first occupation.’

In light of these submissions, the AAR concluded that, since the GDA had not issued the Completion Certificate, it could not be deemed to have been granted, and ‘first occupation’ could not be considered to have taken place.

As a result, the AAR held that the sale of residential units in the project does not qualify as the sale of immovable property, but instead constitutes a supply of services, making it subject to GST.

This ruling highlights the ongoing ambiguity in the interpretation of “first occupation” and underscores the need for either judicial clarity or legislative intervention to resolve this apparent contradiction and provide certainty to stakeholders in the real estate sector.

AGENDA IN TAXATION OF LAND & BUILDING (REAL ESTATE)

This legal complexity is further compounded by the fact that various states have expressed divergent views on the taxability of immovable property transactions under GST. The matter was formally discussed in the GST Council Meeting held on 22nd and 23rd December 2016, under Agenda Item 2A, which specifically dealt with the treatment of land and buildings under the GST regime.

During the deliberations, it was acknowledged that while the definition of “goods” under section 2(49) of the CGST Act excluded immovable property, there was a significant tax arbitrage between under-construction and completed properties due to the non-applicability of Service Tax (now GST) on the latter. The Council recognized that extending GST to real estate could potentially resolve this anomaly and streamline the Input Tax Credit (ITC) chain, thereby formalizing the sector and reducing tax evasion.

However, sharp differences emerged among state representatives, with several states giving their opinion on the taxability of immovable property transactions, offering contrasting views on imposing GST on immovable property transactions could lead to double taxation, adversely affect affordable housing, and infringe upon the states’ constitutional authority to levy stamp duty under Entry 63 of the State List. Concerns were also raised about the economic timing of such a move—particularly in the wake of demonetization—and the potential burden on small homebuyers.

Despite thoughtful economic rationale presented by the Chief Economic Advisor and certain central authorities advocating for the extension of GST to land and buildings, there was no consensus among the Council members. Consequently, the GST Council deferred the decision, concluding that the proposal to tax immovable property under GST would be revisited only after a year or so of the GST’s implementation.

MEANING OF IMMOVABLE PROPERTY UNDER VARIOUS STATUTES

The General Clause Act, 1897 defines immovable property under section 3(26), stating that the term shall include land, things affixed to earth or permanently fastened to anything affixed to earth, and any benefits arising out of the land. Also, section 3 of the Transfer of Property Act, 1882, states that immovable property is not to include standing timber, growing crops, or grass.

It would be relevant to understand that immovable property in its traditional sense always meant the tangible property but as there were developments and changes in the practices of society, it came to be recognized as a bundle of rights in immovable property. As immovable property is different from the usage to which it could be put and the latter may or may not amount to services depending on the statute but the former would certainly not be a service in the light of the discussions held above.

It is relevant to note that a perusal of the definition of 'immovable property' in various statutory enactments including General Clauses Act, Transfer of Property Act, Registration Act etc., would clearly show that not only the physical property but also the rights and benefits arising out of such property are recognized as immovable property.

In view of this, it is unequivocally established that the construction of the projects which are duly completed, and first occupation have taken place, the subsequent sale of these fully constructed immovable properties does not fall within the purview of supply under GST law even if completion certificate/occupancy certificate has not been obtained, since the transfer of completed units neither constitutes a supply of goods nor a supply of services in terms of Schedule III of the CGST Act, 2017, the transaction remains outside the ambit of GST.

GST VS. SERVICE TAX: A SHIFT TOWARDS PRACTICAL TAXATION

- Further, as per the provisions of the erstwhile Service Tax law, specifically section 66E(b) of the Finance Act, 1994, which classifies the following as a declared service:

"Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration is received after issuance of completion-certificate by the competent authority."

This provision created an inflexible condition whereby exemption from service tax was contingent solely upon the receipt of a completion certificate, thereby rendering the position of the assessee vulnerable to procedural delays outside their control.

In contrast, Schedule II, Entry 5B of the CGST Act, 2017, read with section 7 of CGST Act, 2017

"The following shall be treated as supply of services, namely: -

(a),

(b) *construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier."*

It is pertinent to note that GST, which came into force on 1st July 2017, was designed to replace the shortcomings of the erstwhile indirect tax regime, including rigidities under service tax law. The phrase 'or after its first occupation, whichever is earlier' introduced under the GST regime is a significant legislative advancement, allowing for a more practical and business-aligned interpretation. Therefore, reading the GST provisions in pari materia with the service tax regime and disregarding the first occupation clause would amount to defeating the clear legislative intent and rendering the beneficial portion of the law nugatory. Such an interpretation must be avoided, in line with the principle of *ut res magis valeat quam pereat* — that the law should be interpreted in a manner that renders it effective rather than.

- Further, it is also important to mention that *Notification No. 11/2017-CT (R) dt. 28.06.2017*, which prescribes the rate of GST for "construction services" in order to contend that since Paragraph 5 (b) of Schedule II and section 7, contemplates only construction service provided by a builder/promoter to a service recipient is amenable/exigible to GST, therefore after completion neither construction service was provided to recipient nor there is service recipient. Accordingly, such post-construction sale transactions do not fall within the ambit of the said notification and hence are not exigible to GST.

COMPLETED CONSTRUCTIONS: ABSENCE OF SERVICE RECIPIENT, ABSENCE OF SUPPLY

It is submitted that for the said Paragraph 5 (b) and section 7 of the Act to get attracted for a transaction, the basic requirement is that there should be a service provider and service recipient and the service provider should undertake construction activity for the service recipient. It is also submitted that there should be performance of a contract for construction of building by the service provider/supplier to the service receiver/recipient and here the service recipient is absent in the case, thus there is no supply of services as per the provisions of section 7 of the Act.

From the understanding of Entry 5 of Schedule III which reads as *"Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building."* As far as sale of building is concerned, if the same is not coming within the ambit of Paragraph 5 (b) of Schedule II, then the same

would be treated neither as supply of goods nor a supply of service.

JUDGEMENTS TO SUBSTANTIATE ABOVE DISCUSSION

- In the judgement of *M/s. Rohan Corporation India Pvt Ltd v. Union of India*, Writ Petition No. 12700 of 2023 (T-Res), High Court of Karnataka, decided on 10th September, 2024, It was held that when the constructed immovable property whether fully constructed or partially constructed is sold, as such, without providing any construction service subsequently, the same would not attract Paragraph 5(b) of Schedule II and section 7 of the Act, since there is no supply of goods or services or both in the said transaction and consequently, the question of whether the building has received completion certification or not would be irrelevant in such cases. The fact that Paragraph 5 (b) of Schedule II and section 7, contemplates only construction service provided by a builder/promoter to a service recipient is further evident from the description of service entries provided under “construction services” in the *Notification No. 11/2017-CT(R) dt. 28.06.2017* prescribed the rate of GST.
- Further in the case of *Larsen & Toubro Ltd., vs State of Karnataka CIVIL APPEAL NO. 8672 of 2013 (Arising out of SLP(C) No.17741 of 2007)* it has been clarified by the Apex court that the activity of construction undertaken by the developer would be works contract only from the stage the developer enters into a contract with the flat purchaser and that the value addition made to the goods transferred after the agreement is entered into with the flat purchaser can only be made chargeable to tax by the Government. It was further observed in judgement that if at the time of construction and until the construction was completed,

there was no contract for construction of building with the flat purchaser, the goods used in the construction could not be deemed to have been sold by the builder since at that time there was no purchaser.

- Furthermore, in the judgment of the *Gujarat High Court in the case of Munjal Manish Bhai Bhat Vs. Union of India & others*, civil application no. 1350 of 2021, it is held that in order to contend that the factum of supply would be initiated only once the agreement is entered into between the supplier and recipient and there cannot be a supply in respect of construction undertaken prior to the agreement with the buyer.

CONCLUSION

In essence, when a fully constructed property is sold without any construction service being provided afterward, such a transaction does not fall within the scope of GST. Since there is no ongoing service and no agreement for construction between the seller and the buyer, the sale is simply a transfer of immovable property—not a taxable supply.

Whether or not a completion certificate has been issued becomes irrelevant in such cases, as the key factor is the absence of a service relationship. This reinforces the understanding that GST applies only where construction services are actively rendered to a buyer before completion.

Therefore, if a completed property is sold as-is, without any construction service linked to a buyer agreement, it lies outside the purview of GST. Such sales are treated in the same way as the sale of land—neither as a supply of goods nor as a supply of services.

**Contributed by CA. Nikhil Gupta and
CA. Pallavi Garg**

Invitation to write articles on GST

Chartered Accountants and other experts, with academic passion and flair for writing are invited to share their expertise on GST through ICAI-GST Newsletter. The article may be on any topic related to GST Law. While submitting the articles, please keep the following aspects in mind:

- 1) Article should be of 2000-2500 words.
- 2) An executive summary of about 100 words may accompany the article.
- 3) It should be original and not published/should not have been sent for publishing anywhere else.
- 4) Copyright of the selected article shall vest with the ICAI.

Please send editable soft copy of the article at gst@icai.in.

GST UPDATES

1. Instructions for processing of applications for GST registration

Instruction No. 03/2025-GST dt. 17.04.2025, has been issued to provide comprehensive guidelines for processing GST registration applications. This instruction supersedes the earlier issued *Instruction No. 03/2023-GST* and seeks to strike a balance between preventing registration of fraudulent entities and ensuring that genuine applicants are not harassed unnecessarily.

It provides that the officers should strictly adhere to the indicative list of documents prescribed in FORM GST REG-01 along with the following instructions:

I. Prescribed Documents

A. Documents required in respect of Principal Place of Business (PPOB)-

| Nature of Premises | Documents Required | Additional Documents |
|---|---|---|
| Owned | Any one of the documents as mentioned in the GST REG-01 list or any similar document such as water bill or any other document prescribed under the State or the local laws which clearly establishes the ownership of the premises by the applicant. | No additional documents should be requested from the applicant for proof of ownership of the premises and no query should be raised seeking original copy of the documents. |
| Rented | Valid Rent Lease agreement along any one of the documents as mentioned in the GST REG-01 list or any similar document such as water bill or any other document prescribed under the State or the local laws which clearly establishes the ownership of the premises by the lessor. | In case, rent/lease agreement is registered, identity proof of lessor should not be sought. In cases, where rent/ lease agreement is not registered, a copy of identity proof of the lessor should be sufficient. |
| Not covered under (i) and (ii) above, such as where ownership is with the spouse, relative etc. | A consent letter in plain paper by the concerned owner of the premises along with a copy of the identity proof of the person granting consent along with any one of the documents as mentioned in the GST REG-01 list or any similar document such as water bill or any other document prescribed under the State or the local laws which clearly establishes the ownership of the premises by the consenter. | No additional documents should be sought from the applicant. |
| Shared Premises, where rent/ lease agreement is available | Copy of the agreement along with any one of the documents in the said list relating to the ownership of the premises. | In cases where the Rent/ Lease Agreement is not registered, a copy of identity proof of lessor alongwith the agreement shall be sufficient. |
| Shared Premises, where rent/ lease agreement is not available | Consent letter in plain paper from the consenter along with his identity proof and any of the said documents in support of ownership of the premises of the consenter or any other document prescribed under the State or the local laws which clearly establishes the ownership of the premises by the consenter. | No additional document should be sought. |
| Rented/Leased premises, where rent or lease agreement is not available | An affidavit to that effect along with any document prescribed in the GST REG-01 in support of the possession of the premises of the applicant such as copy of Electricity Bill in the name of the applicant. | The affidavit is to be executed on non-judicial stamp paper of minimum value in the presence of First-Class Judicial Magistrate or Executive Magistrate or Notary Public. |

| Nature of Premises | Documents Required | Additional Documents |
|---|--|----------------------|
| Principle Place of Business is located in Special Economic Zone (SEZ) or the applicant is SEZ developer | Necessary documents/ certificates issued by the Government of India are required to be uploaded. | |

B. Documents in respect of Constitution of Business

- Where the applicant is one of the partners, Partnership Deed for the proof of constitution of business is required to be uploaded by the applicant. No additional document like Udhya certificate, MSME certificate, shop establishment certificate, trade license etc. should be sought from the applicant.
- In cases, where the applicant is Society, Trust, Club, Government Department, Association of Persons or Body of Individuals, Local Authority, Statutory Body and Others etc., Registration Certificate/Proof of Constitution is required to be uploaded by the applicant.

Officers handling registration applications should not ask any presumptive query which is not related to the documents or information submitted by the applicant.

II. Processing Registration Application

- The proper officer shall carefully scrutinize the documents such as bank statements, documents in respect of principal place of business etc. to ensure that the documents are legible, complete and relevant. Further, the details or information furnished by the applicant in the application should also be carefully examined to check completeness of the same, to correlate and cross-verify the same with the uploaded documents and to check the authenticity of the applicant. The details of the address of principal and additional places of business and the corresponding documents uploaded with the application as proof of address may be closely scrutinised to verify completeness and correctness of address of such places of business. The authenticity of the documents furnished as proof of address may be cross verified from the publicly available sources, such as websites of the concerned authorities such as land registry, electricity distribution companies, municipalities, and local bodies, etc.
- Where applications have not been flagged as risky on the common portal based on data analysis and risk parameters, and the same are found to be complete and without any deficiency, the officers should approve the application within

7 working days of submission of application.

- In case, the application falls under the following conditions, the registration shall be granted within 30 days of the submission of application, after the physical verification of the place of business. The concerned officer must ensure that the physical verification report along with the other documents, including photographs, is uploaded on the system in FORM GST REG-30 at least 05 days prior to the expiry of the time period of 30 days from the date of submission of application. The conditions are as follows-
 - The applicant has undergone authentication of Aadhaar number and is flagged as risky on the common portal based on the data analysis and risk parameters, or
 - The applicant fails to undergo authentication of Aadhar number, or does not opt for Aadhar authentication, or
 - The officer deems it fit to carry out physical verification of place of business, with the approval of the officer not below the rank of Assistant Commissioner.
- The officer carrying out physical verification shall ensure the following-
 - Give a specific report regarding existence/ non-existence of principal place of business declared by the applicant.
 - In case entity is found non-existing, efforts made in respect of locating the said premises, need to be recorded in the physical verification report.
 - Upload on the portal, GPS enabled site photograph and other documents, if any, during physical verification visit.
 - In case the ARN assigned for physical verification belongs to a different jurisdiction, the same should immediately be reassigned by the concerned officer to its correct jurisdiction through the portal.

The instructions also provide the cases in which the proper officer may seek clarification or information or document(s) in FORM GST REG-03 such as where any document is incomplete or not legible, where address of place of business does not match with the document uploaded by the applicant.

If any document apart from the listed documents is required to be sought, the officer shall seek the same only after the approval of the concerned Deputy/ Assistant Commissioner.

Further, the officer shall also ensure that queries are not raised for minor deficiencies which are not relevant for establishing Proof of Place of Business or Constitution of Business etc.

Principal Chief Commissioners and Chief Commissioners are advised to exercise close supervision over the processing of registration applications within their respective Zones. This includes monitoring physical verifications, the nature and appropriateness of queries raised, and instances of deemed registration through regular reviews. It is imperative that timely and appropriate action is taken against any officer found deviating from these instructions. Adequate staffing must be ensured to handle registration applications efficiently, avoiding any delays in their disposal. Furthermore, Chief Commissioners are encouraged to issue trade notices tailored to address unique local circumstances, clearly outlining the acceptable documentary evidence required to accompany registration applications.

2. Goods and Services Tax Appellate Tribunal (Procedure) Rules, 2025

In exercise of powers conferred under section 111 of the CGST Act, 2017, the Goods and Services Tax Appellate Tribunal (GSTAT) has prescribed the rules for regulating the procedure and functioning of the Tribunal.

The Rules essentially lay down a structured procedural framework for appellate proceedings before the GSTAT. Appeals and related documents shall be required to be filed electronically on the GSTAT portal, using standardized formatting with manual filing permitted only in exceptional cases. Irrespective of the number of show cause notices, refund claims, demands or communications covered in the order being appealed, only a single appeal in the prescribed form shall be filed by the appellant. However, where the order in appeal is in respect of more than one person, separate appeals shall be filed by each person. The Registrar of the Tribunal is empowered to reject an appeal form if the necessary accompanying documents are not furnished or if required amendments are not made within the specified time limit.

Proceedings before the GSTAT may be conducted either physically or virtually (hybrid mode), subject to the approval of the President for virtual hearings.

A daily cause list shall be prepared and published, listing cases in the order of priority. Documents to be used in the proceedings before the Tribunal can be in any language subject to certified translations thereof in English. An authorized representative, as specified under the rules, will only be entitled to appear or act in any proceeding before the Tribunal, subject to valid authorization. The Tribunal may empanel special authorized representatives, valuers, or other experts to assist in proceedings where necessary.

Any notice or communication issued by the Tribunal may be served using any method specified in section 169 of the CGST Act, and for this purpose, the “common portal” referred to in the said section shall be construed as the GSTAT portal. The final orders passed by the Tribunal or any of its Benches will be published online in the prescribed format. The Tribunal is required to make and pronounce its order immediately or as soon as practicable thereafter, but no later than 30 days from the date of final hearing, excluding holidays and vacations. The Tribunal shall be empowered to rectify arithmetical or clerical errors in its orders.

The rules are divided into following chapters specifying the provisions to be followed in detail-

1. Chapter I – Preliminary (Rules 1 to 2)
2. Chapter II - Powers and Functions (Rules 3 to 17)
3. Chapter III - Institution of Appeals – Procedure (Rules 18 to 37)
4. Chapter IV - Cause List – (Rules 38 to 40)
5. Chapter V - Hearing of Appeal (Rules 41 to 52)
6. Chapter VI - Record of Proceedings (Rules 53 to 58)
7. Chapter VII - Maintenance of Registers (Rules 59 to 66)
8. Chapter VIII - Inspection of Record (Rules 67 to 71)
9. Chapter IX - Appearance of Authorised Representative (Rules 72 to 77)
10. Chapter X – Affidavits (Rules 78 to 83)
11. Chapter XI - Discovery, Production and Return of Documents (Rules 84 to 87)
12. Chapter XII – Examination of Witnesses and Issue of Commissions (Rules 88 to 98)
13. Chapter XIII - Disposal of Cases and Pronouncement of Orders (Rules 99 to 114)
14. Chapter XIV - Electronic filing and processing of appeals and conduct of proceedings in the Appellate Tribunal in hybrid mode (Rules 115)
15. Chapter XV – Miscellaneous (Rules 116 to 124)

The above rules have come into force from the date of their publication in the Official Gazette i.e., 24.04.2025.

GSTN ADVISORIES

1. Advisory for Biometric-Based Aadhaar Authentication and Document Verification for GST Registration Applicants of Assam

Rule 8 of the CGST Rules, 2017 provides that an applicant can be identified on the common portal, based on data analysis and risk parameters for Biometric-based Aadhaar Authentication and taking a photograph of the applicant along with the verification of the original copy of the documents uploaded with the application. The functionality relating to this has been rolled out in Assam on 1st April, 2025. The said functionality also provides for the document verification and appointment booking process. After the submission of the application in Form GST REG-01, the applicant will receive either of the following links in the e-mail,

- (a) A link for OTP-based Aadhaar Authentication, or
- (b) A link for booking an appointment with a message to visit a GST Suvidha Kendra (GSK) along with the details of the GSK and jurisdiction, for Biometric-based Aadhaar Authentication and document verification (the intimation e-mail)

If the applicant receives the link for OTP-based Aadhaar Authentication as mentioned in point (a), she/he can proceed with the application as per the existing process.

However, if the applicant receives the link as mentioned in point (b), she/he will be required to book the appointment to visit the designated GSK, using the link provided in the e-mail.

The feature of booking an appointment to visit a designated GSK is being enabled for the applicants of Assam and the applicants can book slots from 1st April, 2025. After booking the appointment, the applicant gets the confirmation of appointment through e-mail (the appointment confirmation e-mail), she/he will be able to visit the designated GSK as per the chosen schedule.

At the time of the visit of GSK, the applicant is required to carry the following details/documents

- (a) a copy (hard/soft) of the appointment confirmation e-mail
- (b) the details of jurisdiction as mentioned in the intimation e-mail
- (c) Aadhaar Card and PAN Card (Original Copies)
- (d) the original documents that were uploaded with the application, as communicated by the intimation e-mail.

The biometric authentication and document verification will be done at the GSK, for all the required individuals as per the GST application Form REG-01.

The applicant is required to choose an appointment for the biometric verification during the maximum

permissible period for the application as indicated in the intimation e-mail. In such cases, ARNs will be generated once the Biometric-based Aadhaar Authentication process and document verification are completed. The operation days and hours of GSKs will be as per the guidelines provided by the administration in the State.

2. Advisory on Case Insensitivity in Invoice Reference Number (IRN) Generation

With effect from 1st June 2025, the Invoice Reporting Portal (IRP) would treat invoice/document numbers as case-insensitive for the purpose of IRN generation.

Invoice numbers reported in any format (e.g., "abc", "ABC", or "Abc") would be automatically converted to uppercase before IRN generation to ensure consistency and avoid duplication. This change aligns with the treatment of invoice numbers in GSTR-1, which already treats them as case-insensitive.

3. Advisory on reporting values in Table 3.2 of GSTR-3B

Table 3.2 of Form GSTR-3B captures the inter-state supplies made to unregistered persons, composition taxpayers, and UIN holders out of the supplies declared in Table 3.1 & 3.1.1 of GSTR-3B. The values in Table 3.2 of GSTR-3B auto-populates from corresponding inter-state supplies declared in GSTR-1, GSTR-1A, and IFF in requisite tables.

From April-2025 tax period, inter-state supplies auto-populated in Table 3.2 of GSTR-3B will be made non-editable. The GSTR-3B shall be filed with the auto-populated values as generated by the system only. Therefore, in case any modification/amendment is required in auto-populated values of Table 3.2 of GSTR-3B, same can be done only by amending the corresponding values in respective tables of GSTR-1A or through Form GSTR-1/IFF filed for subsequent tax periods.

It is advised to report the correct values in GSTR-1, GSTR-1A, or IFF to ensure that GSTR-3B is filed accurately with the correct values of inter-state supplies. This will ensure the auto-populated values in Table 3.2 of GSTR-3B are accurate and compliant with GST regulations.

FAQ's

1. What are the changes related to reporting supplies in Table 3.2 ?

Starting from the April 2025 tax period, the auto-populated values in Table 3.2 of GSTR-3B for inter-state supplies made to unregistered persons, composition taxpayers, and UIN holders will be non-editable, and taxpayers will need to file GSTR-3B with the auto-populated values generated by the system only.

2. How can I rectify values in Table 3.2 of GSTR-3B if incorrect values have been auto-populated after April 2025 period onwards due to incorrect reporting of the same through GSTR-1?

If incorrect values are auto-populated in Table 3.2 after April 2025, taxpayers need to correct the values by making amendments through Form GSTR-1A or through Form GSTR-1/IFF filed for subsequent tax periods.

3. What should I do to ensure accurate reporting in Table 3.2 of GSTR-3B?

Taxpayers should ensure that the inter-state supplies

are reported correctly in their GSTR-1, GSTR-1A, or IFF. This will ensure that the accurate values are auto-populated in Table 3.2 of GSTR-3B.

4. Till what time/date I can amend values furnished in GSTR-1 through Form GSTR-1A?

As there is no cut-off date for filing Form GSTR-1A before GSTR-3B which means Form GSTR-1A can be filed after filing Form GSTR-1 and till the time of filing Form GSTR-3B. Hence, any amendment required in auto-populated values of table 3.2, same can be carried out through Form GSTR-1A till the moment of filing GSTR-3B.

GST COMPLIANCES FOR THE MONTH OF MAY, 2025

| FORMS | COMPLIANCE PARTICULARS | DUE DATES |
|---------|--|------------|
| GSTR 7 | Return to be furnished by the registered persons who are required to deduct tax at source. | 10.06.2025 |
| GSTR 8 | Return to be furnished by the registered electronic commerce operators who are required to collect tax at source on the net value of taxable supplies made through it. | 10.06.2025 |
| GSTR 1 | Statement of outward supplies by the taxpayers having an aggregate turnover of more than ₹ 5 crore or the taxpayers who have opted for monthly return filing. | 11.06.2025 |
| GSTR-1A | Amendment to GSTR-1 filed for the month of May, 2025. | |
| IFF | Statement of outward supplies by the taxpayers having an aggregate turnover up to ₹ 5 crore and who have opted for the QRMP scheme. | 13.06.2025 |
| GSTR 5 | Return to be furnished by the non-resident taxable persons containing details of outward supplies and inward supplies. | 13.06.2025 |
| GSTR 6 | Return to be furnished by every Input Service Distributor (ISD) containing details of the input tax credit received and its distribution. | 13.06.2025 |
| GSTR 3B | Return to be furnished by all the taxpayers other than who have opted for QRMP scheme comprising consolidated summary of outward and inward supplies. | 20.06.2025 |
| GSTR 5A | Return to be furnished by Online Information and Data base Access or Retrieval (OIDAR) services provider for providing services from a place outside India to non-taxable online recipient (as defined in Integrated Goods and Services Tax Act, 2017) and to registered persons in India and details of supplies of online money gaming by a person outside India to a person in India. | 20.06.2025 |
| PMT-06 | Payment of GST for a taxpayer with aggregate turnover up to ₹ 5 crores during the previous year and who has opted for quarterly filing of return under QRMP scheme. | 25.06.2025 |
| GSTR-4 | Return to be furnished by the registered person paying tax under section 10 for the FY 2024-25 | 30.06.2025 |

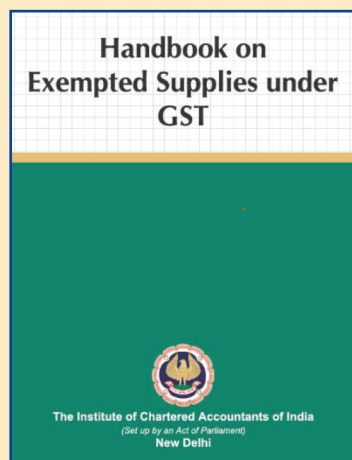
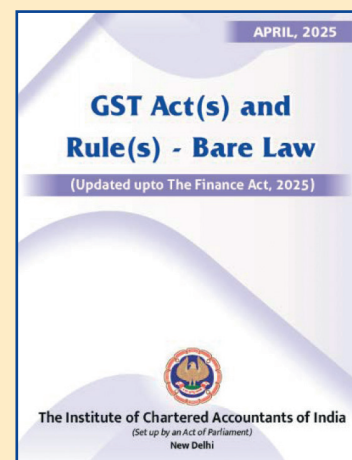
PUBLICATIONS



Release of Revised Edition of “GST Act(s) and Rule(s) – Bare Law” and “Handbook on Exempted Supplies under GST” by Hon'ble Vice President of ICAI, CA. Prasanna Kumar D in the 102nd meeting of the GST & Indirect Taxes Committee in the presence of Chairman, CA. Rajendra Kumar P and Vice Chairman, CA. Umesh Sharma and other Council members.

GST Act(s) and Rule(s) - Bare Law

The publication “GST Act(s) and Rule(s) – Bare Law” is a compilation of five Act(s) and two sets of Rule(s) pertaining to GST, namely the Constitution (101st Amendment) Act, the Central Goods & Services Tax Act, 2017, the Integrated Goods & Services Tax Act, 2017, the Union Territory Goods & Services Tax Act, 2017, the GST (Compensation to States) Act, 2017, the Central Goods & Services Tax Rules, 2017 and the Integrated Goods & Services Tax Rules, 2017. It also includes the relevant extract of the Finance Act, 2025. The publication is amended for the changes taken place up to 11th April, 2025.



Handbook on Exempted Supplies under GST

This publication aims to provide a clear understanding of the legal provisions relating to exemption under GST. It contains an analysis of all the exemptions provided under GST law for goods as well as services, making them easily understandable. The law stated in this publication is updated till 15th April, 2025.

The soft copies of the publications can be downloaded from the website of GST & Indirect Taxes Committee at <https://idtc.icai.org/publications.php>

The hard copy can be purchased via CDS Portal from the following link <https://cds.icai.org/#/>

QUIZ

- Which of the following records are not part of Invoice Management System functionality?
 - Reverse Charge Mechanism (RCM) records
 - Documents where Input Tax Credit is ineligible due to Place of Supply (PoS) rules.
 - Records from Form GSTR-5.
 - All of the above
- The last date to file Form GST SPL-01/02 is -
 - 31.05.2025
 - 30.06.2025
 - 30.09.2025
 - 31.10.2025
- The adjudicating authority passed the order on 23.01.2024 and it was communicated to the taxpayer on the same day. The taxpayer filed the appeal against the order with the Appellate Authority (AA) on 16.02.2024. The appeal proceedings before the AA are stayed by an order of a Court for the period between 01.05.2024 and 30.06.2024. Which of the following statements is true in this regard?
 - AA can pass the order by 16.02.2025.
 - AA can pass the order by 18.04.2025.
 - AA can pass the order by 16.08.2024.
 - AA can pass the order by 18.10.2024.
- The minimum and maximum limit for amount for compounding of offences under section 138 of the CGST Act, 2017 are -
 - Minimum: 25% of tax involved; Maximum: 50% of tax involved
 - Minimum: 25% of tax involved; Maximum: 100% of tax involved
 - Minimum: Higher of 50% of tax involved, or ₹ 10,000; Maximum: Higher of 150% of tax involved, or ₹ 30,000
 - There are no such limits.
- The advance ruling pronounced by the Authority or Appellate Authority shall be binding on -
 - on the applicant who has sought it in respect of any matter referred to in section 97(2).
 - on the concerned officer or jurisdictional officer in respect of the applicant.
 - Both (a) and (b)
 - on all the applicants relating to the same matter as pronounced by the Authority or Appellate Authority.
- A registered person (not opting for QRMP Scheme) shall not be allowed to furnish the details of outward supplies u/s 37 in GSTR-1, if he has not furnished the return in GSTR-3B for _____.
 - preceding one month
 - preceding two months
 - preceding four months
 - preceding six months
- Mr. Hanery Ford, a registered person in Mumbai, is in the manufacturing business of garments. His entity has multiple branches within the State of Maharashtra. Which of the following statements is correct with respect to registration?
 - He is required to take registration for each branch separately.
 - He is required to take single registration for all the branches.
 - It is at his option to take multiple or single registration(s) within the state of Maharashtra.
 - He is required to take registration for each branch separately if the turnover of each branch exceeds the threshold limit.
- Who should discharge the GST liability on the waste or scrap generated during the job-work?
 - Job-worker, if registered
 - Principal if job-worker is not registered
 - Always Principal
 - Either (a) or (b)
- Mr. B applies for voluntary registration on 05.07.2024 and was granted certificate of registration on 22.07.2024. Mr. B is eligible for input tax credit on inputs held in stock as on:
 - 04.07.2024
 - 05.07.2024
 - 21.07.2024
 - 22.07.2024
- MNO & Co. is a famous footwear outlet in Jaipur that makes over the counter sales as well as through an online platform having its registered office in Gurugram. The orders booked through App include B2C supplies. In one such case, it received an order from Mr. K of Noida for a pair of shoes to be delivered to Mrs. P of Delhi. The place of supply shall be -
 - Jaipur
 - Gurugram
 - Delhi
 - At the discretion of supplier

The names of first five members who were the top scorers in the last Quiz are as under:

| Name | Membership No. |
|--------------------|----------------|
| CA. Sachin Bubna | 434243 |
| CA. Swapnil Jain | 300170 |
| CA. Mahesh Parmar | 548177 |
| CA. Akash Tyagi | 550061 |
| CA. Aditya Dhanuka | 305212 |

Please provide reply of the above MCQs in the link given below. Top five scorers will be awarded hard copy of the publication 'GST Act(s) and Rule(s)- Bare Law' & their names will be published in the next edition of the Newsletter.

Link to reply: <https://forms.gle/zuCfQU6reByrmJva6>

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