



# PAYMENT OF TAX



## UNIT I: PAYMENT OF TAX, INTEREST AND OTHER AMOUNTS

### LEARNING OUTCOMES

**After studying this Chapter, you will be able to –**

- describe three kinds of ledgers to be maintained by the taxable person- electronic cash ledger, electronic credit ledger and electronic liability register.
- analyse and apply the methodology of cross utilization of credit.
- comprehend and apply the chronological order in which the liability of a taxable person has to be discharged.
- identify and analyse the circumstances in which penal interest is levied.
- understand the remedy available in case of tax wrongfully collected and paid to Central/State Government.

## 1. INTRODUCTION

In the GST regime, for any intra-state supply, taxes to be paid are the Central GST (CGST), going into the account of the Central Government and the State/UTGST (SGST), going into the account of the concerned State Government. For any inter-state supply, tax to be paid is Integrated GST (IGST) which will have components of both CGST and SGST. In addition, certain categories of registered persons will be required to pay to the government account Tax Deducted at Source (TDS) and Tax Collected at Source (TCS). In addition, wherever applicable, interest, penalty, fees and any other payment will also be required to be made.



The introduction of E-ledgers is a unique feature under the GST regime. Electronic Ledgers or E-Ledgers are statements of cash and input tax credit in respect of each registered taxpayer. In addition, each taxpayer shall also have an electronic tax liability register. Once a taxpayer is registered on common portal (GSTN), two e-ledgers (Cash & Input Tax Credit ledger) and an electronic tax liability register will be automatically opened and displayed on his dash board at all times.

Chapter X of the CGST Act prescribes the provisions relating to payment of tax containing sections 49 to 53. While section 49 discusses the three ledgers namely the electronic cash ledger, electronic credit ledger and electronic liability register, section 50 discusses about the interest on delayed payment of tax. Section 51 lays down the circumstances in which tax deduction at source (TDS) becomes mandatory. Section 52 deals with the circumstances when tax is to be collected at source (TCS) by the Electronic Commerce Operator. Further, the manner of utilization of ITC is laid down in section 53.

Chapter IX of CGST Rules deals with provisions relating to payment of tax.

**Provisions of payment of tax under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.**

Before proceeding to understand the provisions of section 49, 50, 53 & the relevant rules, let us first go through few relevant definitions.



## 2. RELEVANT DEFINITIONS



- ❖ **Agent** means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another [Section 2(5)].
- ❖ **Authorised bank** shall mean a bank or a branch of a bank authorised by the Government to collect the tax or any other amount payable under this Act [Section 2(14)].
- ❖ **Business** includes
  - (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
  - (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
  - (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
  - (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
  - (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
  - (f) admission, for a consideration, of persons to any premises;
  - (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
  - (h) services provided by a race club by way of totalisator or a licence to book maker in such club; and
  - (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities [Section 2(17)].

- ❖ **Central Tax** means the central goods and services tax levied under Section 9 [Section 2(21)].
- ❖ **Common portal** means the common goods and services tax electronic portal referred to in section 146 [Section 2(26)].
- ❖ **Council** means the Goods and Services Tax Council established under article 279A of the Constitution [Section 2(36)].
- ❖ **Electronic Cash ledger** means the electronic cash ledger referred to in sub-section (1) of Section 49 [Section 2(43)].
- ❖ **Electronic Credit ledger** means the electronic credit ledger referred to in sub-section (2) of section 49 [Section 2(46)].
- ❖ **Integrated tax** means the integrated goods and services tax levied under the Integrated Goods and Services Tax Act [Section 2(58)].
- ❖ **Input tax** in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—
  - ✓ the integrated goods and services tax charged on import of goods;
  - ✓ the tax payable under the provisions of sub-sections (3) and (4) of section 9;
  - ✓ the tax payable under the provisions of sub-section (3) and (4) of section 5 of the IGST Act;
  - ✓ the tax payable under the provisions of sub-section (3) and sub-section (4) of section 9 of the respective State Goods and Services Tax Act; or
  - ✓ the tax payable under the provisions of sub-section (3) and sub-section (4) of section 7 of the Union Territory Goods and Services Tax Act,but does not include the tax paid under the composition levy [Section 2(62)].
- ❖ **Input Tax Credit** means the credit of input tax [Section 2(63)].
- ❖ **local authority** means-
  - ✓ a “Panchayat” as defined in clause (d) of article 243 of the Constitution;
  - ✓ a “Municipality” as defined in clause (e) of article 243P of the Constitution;
  - ✓ a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or

- any State Government with the control or management of a municipal or local fund;
- ✓ a Cantonment Board as defined in section 3 of the Cantonments Act, 2006;
  - ✓ a Regional Council or District Council constituted under the Sixth Schedule to the Constitution;
  - ✓ a Development Board constituted under article 371 of the Constitution; or
  - ✓ a Regional Council constituted under article 371A of the Constitution. [Section 2(69)].
- ❖ **Notification** means a notification published in the Official Gazette and the expression "notify" and "notified" shall be construed accordingly [Section 2(80)].
- ❖ **Output tax** in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis [Section 2(82)].
- ❖ **Person includes:-**
- (a) an individual;
  - (b) a Hindu Undivided Family;
  - (c) a company;
  - (d) a firm;
  - (e) a limited liability Partnership;
  - (f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;
  - (g) any corporation established by or under any Central Act, State Act, or Provincial Act or a Government Company as defined in clause (45) of section 2 of the Companies Act, 2013;
  - (h) any body corporate incorporated by or under the laws of a country outside India;
  - (i) a co-operative society registered under any law relating to co-operative societies;
  - (j) a local authority;
  - (k) Central Government or a State Government;

- (l) society as defined under the Societies Registration Act, 1860;
- (m) trust; and
- (n) every artificial juridical person, not falling within any of the above [Section 2(84)].

❖ **Recipient** of supply of goods or services or both, means—

- (a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
- (b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
- (c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93)].

❖ **State Tax** means the tax levied under any State Goods and Services Tax Act [Section 2(104)].

❖ **Supplier** in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied [Section 2(105)].


❖ **Taxable person** means a person who is registered or liable to be registered under Section 22 or section 24 [Section 2(107)].

❖ **Valid return** means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full [Section 2(117)].

After going through the various definitions relevant to this Chapter, let us discuss the provisions of Chapter X of the CGST Act.



### 3. PAYMENT OF TAX, INTEREST, PENALTY AND OTHER AMOUNTS [SECTION 49]

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|---|---------------|---|
|  |               | <b>STATUTORY PROVISIONS</b>   |
| <b>Section 49</b>   |               | <b>Payment of tax, interest, penalty and other amounts</b>  |
| <b>Sub-Section</b>  | <b>Clause</b> | <b>Particulars</b>  |
| (1)   |               | <i>Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed.</i> |
| (2)   |               | <i>The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with section 41, to be maintained in such manner as may be prescribed.</i>   |
| (3)   |               | <i>The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made there under in such manner and subject to such conditions and within such time as may be prescribed.</i>   |
| (4)   |               | <i>The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed.</i>  |
| (5)   |               | <i>The amount of input tax credit available in the electronic credit ledger of the registered person on account of—</i>   |

|            |     |  |
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|            | (a) | <i>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 as the case may be, Union territory tax, in that order;</i>                     |
|            | (b) | <i>the central tax shall first be utilised towards payment of central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;</i>   |
|            | (c) | <i>the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax;</i>   |
|            | (d) | <i>the Union territory tax shall first be utilised towards payment of Union territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax;</i>   |
|            | (e) | <i>the central tax shall not be utilised towards payment of State tax or Union territory tax; and</i>  |
|            | (f) | <i>the State tax or Union territory tax shall not be utilised towards payment of central tax.</i>  |
| <b>(6)</b> |     | <i>The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder may be refunded in accordance with the provisions of section 54.</i> |
| <b>(7)</b> |     | <i>All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic liability register in such manner as may be prescribed.</i>  |
| <b>(8)</b> |     | <i>Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:—</i>  |
|            | (a) | <i>self-assessed tax, and other dues related to returns of previous tax periods;</i>   |
|            | (b) | <i>self-assessed tax, and other dues related to the return of the current tax period;</i>  |



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|  | (c)   | <i>any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or section 74;</i>  |
| (9)  |   | <i>Every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.</i> |
| <b>Explanation.—For the purposes of this section,—</b> |   |  |
|  | (a)   | <i>the date of credit to the account of the Government in the authorised bank shall be deemed to be the date of deposit in the electronic cash ledger;</i>   |
|  | (b)   | <i>the expression,—</i>  |
|  | (i)   | <i>"tax dues" means the tax payable under this Act and does not include interest, fee and penalty; and</i>   |
|  | (ii)  | <i>"other dues" means interest, penalty, fee or any other amount payable under this Act or the rules made there under.</i>   |
| <b>Chapter IX: Payment of Tax of the CGST Rules</b>    |   |  |
| <b>Rule 85</b>   | <b>Electronic Liability Register</b>  |  |
| (1)  | <i>The electronic liability register specified under sub- section (7) of section 49 shall be maintained in <b>FORM GST PMT-01</b> for each person liable to pay tax, interest, penalty, late fee or any other amount on the common portal and all amounts payable by him shall be debited to the said register.</i> |  |
| (2)  | <i>The electronic liability register of the person shall be debited by:-</i>  |  |
|  | (a)   | <i>the amount payable towards tax, interest, late fee or any other amount payable as per the return furnished by the said person;</i>  |

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|     | (b) | <i>the amount of tax, interest, penalty or any other amount payable as determined by a proper officer in pursuance of any proceedings under the Act or as ascertained by the said person;</i>   |
|     | (c) | <i>the amount of tax and interest payable as a result of mismatch under section 42 or section 43 or section 50; or</i>  |
|     | (d) | <i>any amount of interest that may accrue from time to time.</i>  |
| (3) |     | <i>Subject to the provisions of section 49, payment of every liability by a registered person as per his return shall be made by debiting the electronic credit ledger maintained as per rule 86 or the electronic cash ledger maintained as per rule 87 and the electronic liability register shall be credited accordingly.</i>   |
| (4) |     | <i>The amount deducted under section 51, or the amount collected under section 52, or the amount payable on reverse charge basis, or the amount payable under section 10, any amount payable towards interest, penalty, fee or any other amount under the Act shall be paid by debiting the electronic cash ledger maintained as per rule 87 and the electronic liability register shall be credited accordingly.</i> |
| (5) |     | <i>Any amount of demand debited in the electronic liability register shall stand reduced to the extent of relief given by the appellate authority or Appellate Tribunal or court and the electronic tax liability register shall be credited accordingly.</i>   |
| (6) |     | <i>The amount of penalty imposed or liable to be imposed shall stand reduced partly or fully, as the case may be, if the taxable person makes the payment of tax, interest and penalty specified in the show cause notice or demand order and the electronic liability register shall be credited accordingly.</i>  |
| (7) |     | <i>A registered person shall, upon noticing any discrepancy in his electronic liability ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in <b>FORM GST PMT-04</b>.</i>   |

| <b>Rule 86</b>     | <b>Electronic Credit Ledger</b>   |
|--------------------|---|
| <b>(1)</b>         | <i>The electronic credit ledger shall be maintained in <b>FORM GST PMT-02</b> for each registered person eligible for input tax credit under the Act on the common portal and every claim of input tax credit under the Act shall be credited to the said ledger.</i> |
| <b>(2)</b>         | <i>The electronic credit ledger shall be debited to the extent of discharge of any liability in accordance with the provisions of section 49.</i>   |
| <b>(3)</b>         | <i>Where a registered person has claimed refund of any unutilized amount from the electronic credit ledger in accordance with the provisions of section 54, the amount to the extent of the claim shall be debited in the said ledger.</i>                            |
| <b>(4)</b>         | <i>If the refund so filed is rejected, either fully or partly, the amount debited under sub- rule (3), to the extent of rejection, shall be re-credited to the electronic credit ledger by the proper officer by an order made in <b>FORM GST PMT-03</b>.</i>         |
| <b>(5)</b>         | <i>Save as provided in the provisions of this Chapter, no entry shall be made directly in the electronic credit ledger under any circumstance.</i>  |
| <b>(6)</b>         | <i>A registered person shall, upon noticing any discrepancy in his electronic credit ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in <b>FORM GST PMT-04</b>.</i>                                      |
| <b>Explanation</b> | <i>For the purposes of this rule, it is hereby clarified that a refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking to the proper officer that he shall not file an appeal.</i>                          |
| <b>Rule 87</b>     | <b>Electronic Cash Ledger</b>   |
| <b>(1)</b>         | <i>The electronic cash ledger under sub-section (1) of section 49 shall be maintained in <b>FORM GST PMT-05</b> for each person, liable to pay tax, interest, penalty, late fee or any other amount, on the common</i>  |

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|       | portal for crediting the amount deposited and debiting the payment therefrom towards tax, interest, penalty, fee or any other amount.  |     |  |      |  |       |   |      |   |
| (2)   | <p>Any person, or a person on his behalf, shall generate a challan in <b>FORM GST PMT-06</b> on the common portal and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount.</p> <p>Provided that the challan in FORM GST PMT-06 generated at the common portal shall be valid for a period of fifteen days.</p> <p>Provided further that a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) may also do so through the Board's payment system namely, Electronic Accounting System in Excise and Service Tax from the date to be notified by the Board.</p> |     |  |      |  |       |   |      |   |
| (3)   | <p>The deposit under sub-rule (2) shall be made through any of the following modes, namely:-</p> <table border="1"> <tr> <td>(i)</td> <td>Internet Banking through authorised banks;</td> </tr> <tr> <td>(ii)</td> <td>Credit card or Debit card through the authorised bank;</td> </tr> <tr> <td>(iii)</td> <td>National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or</td> </tr> <tr> <td>(iv)</td> <td>Over the Counter payment through authorised banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft:</td> </tr> </table> <p>Provided that the restriction for deposit up to ten thousand rupees per challan in case of an Over the Counter payment shall not apply to deposit to be made by –</p>                    | (i) | Internet Banking through authorised banks; | (ii) | Credit card or Debit card through the authorised bank; | (iii) | National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or | (iv) | Over the Counter payment through authorised banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft: |
| (i)   | Internet Banking through authorised banks;   |     |  |      |  |       |   |      |   |
| (ii)  | Credit card or Debit card through the authorised bank;   |     |  |      |  |       |   |      |   |
| (iii) | National Electronic Fund Transfer or Real Time Gross Settlement from any bank; or  |     |  |      |  |       |   |      |   |
| (iv)  | Over the Counter payment through authorised banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft:  |     |  |      |  |       |   |      |   |

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|                    | (a)   | <i>Government Departments or any other deposit to be made by persons as may be notified by the Commissioner in this behalf;</i>  |
|                    | (b)   | <i>Proper officer or any other officer authorised to recover outstanding dues from any person, whether registered or not, including recovery made through attachment or sale of movable or immovable properties;</i> |
|                    | (c)   | <i>Proper officer or any other officer authorised for the amounts collected by way of cash, cheque or demand draft during any investigation or enforcement activity or any ad hoc deposit:</i>                       |
|                    | <i>Provided further that a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) may also make the deposit under sub-rule (2) through international money transfer through Society for Worldwide Interbank Financial Telecommunication payment network, from the date to be notified by the Board.</i> |  |
| <b>Explanation</b> | <i>For the purposes of this sub-rule, it is hereby clarified that for making payment of any amount indicated in the challan, the commission, if any, payable in respect of such payment shall be borne by the person making such payment.</i>   |  |
| <b>(4)</b>         | <i>Any payment required to be made by a person who is not registered under the Act, shall be made on the basis of a temporary identification number generated through the common portal.</i>  |  |
| <b>(5)</b>         | <i>Where the payment is made by way of National Electronic Fund Transfer or Real Time Gross Settlement mode from any bank, the mandate form shall be generated along with the challan on the common portal and the same shall be submitted to the bank from where the payment is to be made:</i>  |  |

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|             | <i>Provided that the mandate form shall be valid for a period of fifteen days from the date of generation of challan.</i>   |
| <b>(6)</b>  | <i>On successful credit of the amount to the concerned government account maintained in the authorised bank, a Challan Identification Number shall be generated by the collecting bank and the same shall be indicated in the challan.</i>  |
| <b>(7)</b>  | <i>On receipt of the Challan Identification Number from the collecting bank, the said amount shall be credited to the electronic cash ledger of the person on whose behalf the deposit has been made and the common portal shall make available a receipt to this effect.</i>   |
| <b>(8)</b>  | <i>Where the bank account of the person concerned, or the person making the deposit on his behalf, is debited but no Challan Identification Number is generated or generated but not communicated to the common portal, the said person may represent electronically in <b>FORM GST PMT-07</b> through the common portal to the bank or electronic gateway through which the deposit was initiated.</i> |
| <b>(9)</b>  | <i>Any amount deducted under section 51 or collected under section 52 and claimed in <b>FORM GSTR-02</b> by the registered taxable person from whom the said amount was deducted or, as the case may be, collected shall be credited to his electronic cash ledger in accordance with the provisions of rule 87.</i>  |
| <b>(10)</b> | <i>Where a person has claimed refund of any amount from the electronic cash ledger, the said amount shall be debited to the electronic cash ledger.</i>   |
| <b>(11)</b> | <i>If the refund so claimed is rejected, either fully or partly, the amount debited under sub-rule (10), to the extent of rejection, shall be credited to the electronic cash ledger by the proper officer by an order made in <b>FORM GST PMT-03</b>.</i>  |
| <b>(12)</b> | <i>A registered person shall, upon noticing any discrepancy in his electronic cash ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in</i>  |

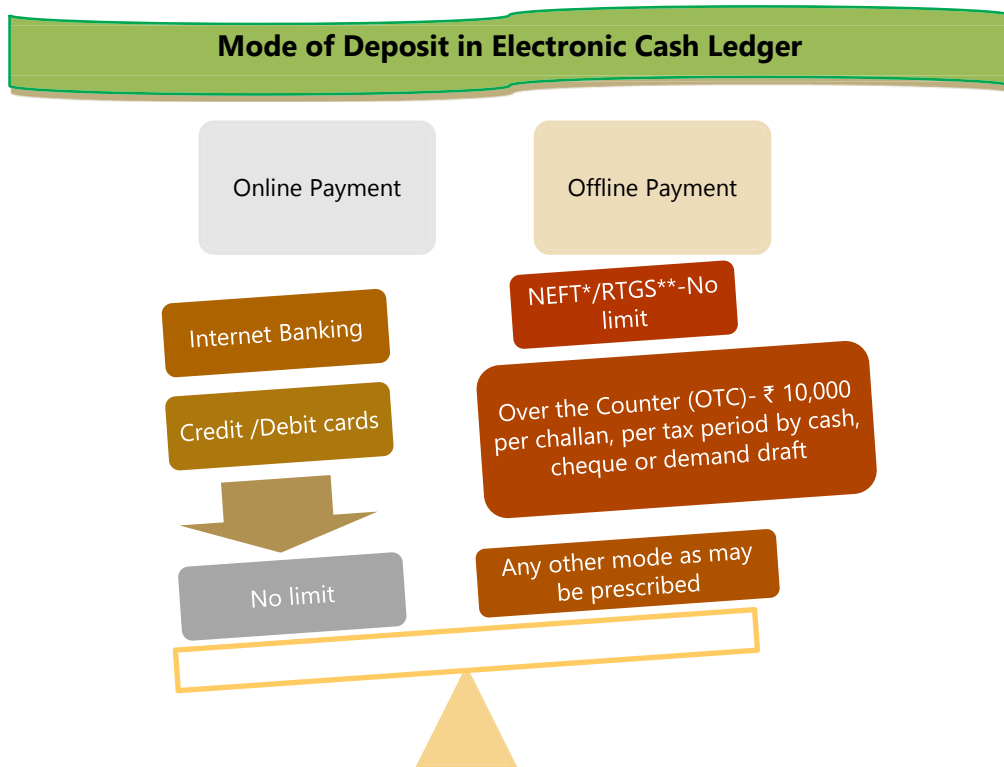
|                      |  |
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|                      | <b>FORM GST PMT-04.</b>  |
| <b>Explanation 1</b> | <i>The refund shall be deemed to be rejected if the appeal is finally rejected.</i>  |
| <b>Explanation 2</b> | <i>For the purposes of this rule, it is hereby clarified that a refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking to the proper officer that he shall not file an appeal.</i> |
| <b>Rule 88</b>       | <b>Identification number for each transaction</b>  |
| <b>(1)</b>           | <i>A unique identification number shall be generated at the common portal for each debit or credit to the electronic cash or credit ledger, as the case may be.</i>  |
| <b>(2)</b>           | <i>The unique identification number relating to discharge of any liability shall be indicated in the corresponding entry in the electronic liability register.</i>   |
| <b>(3)</b>           | <i>A unique identification number shall be generated at the common portal for each credit in the electronic liability register for reasons other than those covered under sub-rule (2).</i>  |



## ANALYSIS

### A. ELECTRONIC CASH LEDGER [SECTION 49(1) & (3) READ WITH RULE 87 OF CGST RULES]

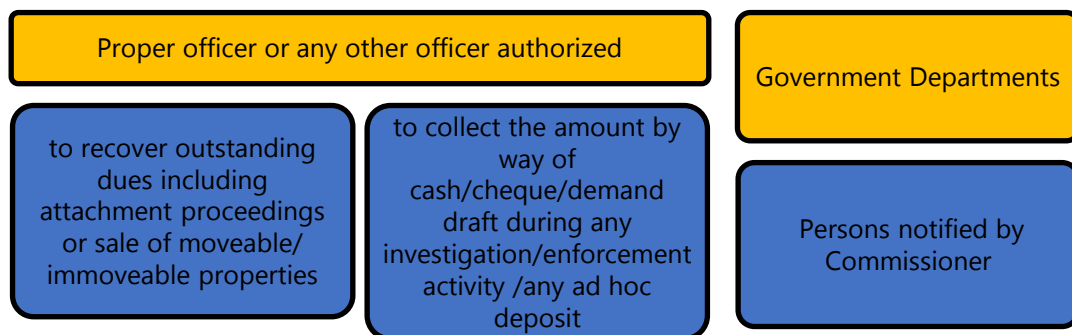
The Electronic Cash Ledger contains a summary of all the deposits/payments made by a taxpayer. Electronic Cash Ledger is maintained on the GST Portal. The Electronic Cash Ledger has to be maintained in prescribed form on the common portal by a person liable to pay tax.



\*NEFT stands for National Electronic Fund Transfer.

\*\*RTGS stands for Real Time Gross Settlement.


**Non-applicability of Over the Counter payment limit on deposits to be made by**







## Payment by Challan


### What are CPIN, CIN, BRN and E-FPB?

 **CPIN** stands for Common portal Identification Number. It is created for every Challan successfully generated by the taxpayer. It is a 14-digit unique number to identify the challan. CPIN remains valid for a period of 15 days.

 **CIN** or Challan Identification Number is generated by the banks, once payment in lieu of a generated Challan is successful. It is a 17-digit number that is 14-digit CPIN plus 3-digit Bank Code.


CIN is generated by the authorized banks/Reserve Bank of India (RBI) when payment is actually received by such authorized banks or RBI and credited in the relevant government account held with them. It is an indication that the payment has been realized and credited to the appropriate government account. CIN is communicated by the authorized bank to taxpayer as well as to GSTN.

 **BRN** or Bank Reference Number is the transaction number given by the bank for a payment against a Challan


 **E-FPB** stands for Electronic Focal Point Branch. These are branches of authorized banks which are authorized to collect payment of GST. Each authorized bank will nominate only one branch as its E-FPB for pan India transaction.

The E-FPB will have to open accounts under each major head for all governments. Any amount received by such E-FPB towards GST will be credited to the appropriate account held by such E-FPB. For NEFT/RTGS Transactions, RBI will act as E-FPB.










### Are manual Challans applicable as allowed earlier under the VAT regimes?

 Manual or physical Challans are not allowed under the GST regime. It is mandatory to generate Challans online on the GST Portal.

### How many types of Challans are prescribed for various taxes and payments to be paid under the GST regime?

 There is single Challan prescribed for all taxes, fees, penalty, interest, and other payments to be made under the GST regime.

### Other Aspects relating to Challan

-  E- challan validity is for 15 days. The commission for making payment through e-challan has to be borne by the person making the payment.
-  Any unregistered person has to make payment on the basis of temporary identification number generated through common portal.
-  The mandate form obtained after making NEFT/RTGS payment has to be submitted in the Bank. The validity of the mandate form is 15 days.
-  On successful credit of amount in the concerned (Central/State) Government Account maintained in the authorized bank, a Challan Identification Number (CIN) will be generated by the collecting bank which will be indicated in the challan.
-  The 'deposit' made by one of the modes and in the prescribed manner will be credited to the Electronic Cash Ledger of the taxable person.
-  On receipt of the CIN from the collecting bank, the said amount is credited into the electronic cash ledger of the person on whose behalf the deposit is made and the common portal will generate a receipt to this effect.
-  If CIN is not generated even after making payment and submission of mandate form or when after generation, it has not reflected in the common portal, the person making the deposit or the person on whose behalf the deposit has been made, can make a representation in prescribed form through the common portal or e-gateway through which the payment has been made.
-  Date of credit into the treasury of the State Government/Central Government is deemed to be the date of deposit and not the actual date of debit to the amount of the taxable person.
-  In case any discrepancy is noticed in electronic cash ledger, the registered person shall communicate the same to the officer exercising jurisdiction in the matter, through the common portal in prescribed form.

**Validity of  
challan-15 days**

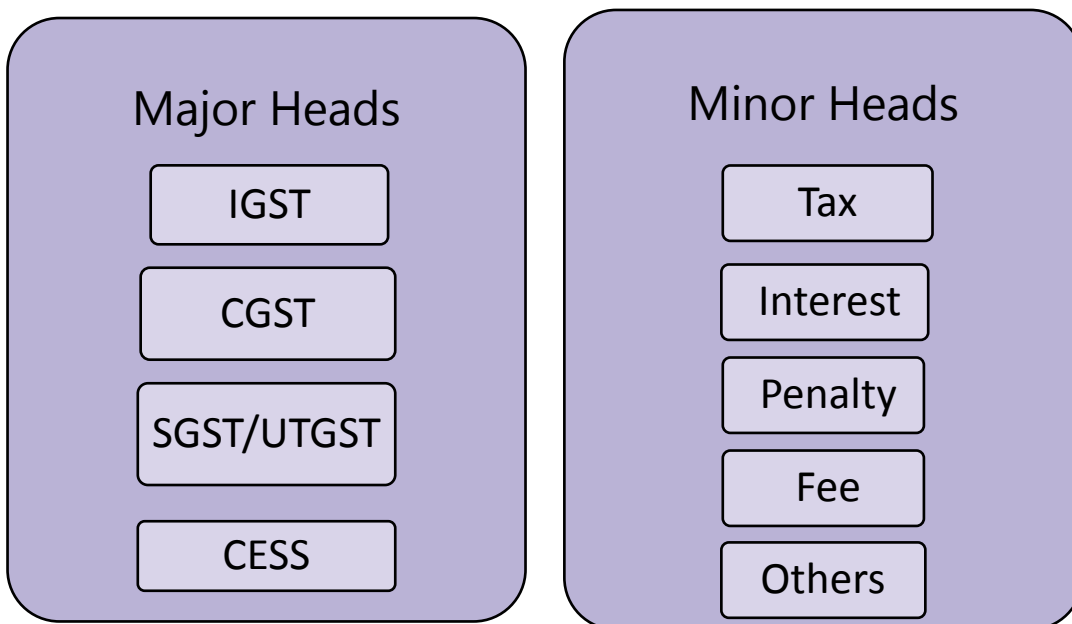
### Manner of utilization of amount reflected in Electronic Cash Ledger


Sub-section 3 of section 49 of the CGST Act lays down the following:


The amount reflected in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fee, or any other amount under the relevant tax head in the prescribed manner.

In the ledger, information is kept minor head-wise for each major head. The ledger is displayed major head-wise i.e., IGST, CGST, SGST/UTGST, and CESS. Each major head is divided into five minor heads: Tax, Interest, Penalty, Fee, and Others.

A registered taxpayer can make cash deposits in the recognized Banks through the prescribed modes to the Electronic Cash Ledger using any of the Online or Offline modes permitted by the GST Portal. The Cash deposits can be used for making payment(s) like tax liability, interest, penalties, fee, and others.



 **How can the cash available in the Electronic Cash Ledger be utilised? Can a taxpayer utilise the amount available in any minor head of a major head for any other minor head of the same major head?**

 The amount available in the Electronic Cash Ledger can be utilised for payment of any liability for the respective major and minor heads. For example, liability for the tax under SGST/UTGST can be settled only from the available amount of cash under SGST/UTGST Major head.



An amount of ₹ 1,000 is available under minor head 'tax' of major head 'SGST/UTGST' and the taxpayer has a liability of ₹ 200 for minor head 'interest' under the same major head 'SGST/UTGST'. Since, there is no amount available under minor head 'interest' under major head "SGST/UTGST", therefore, interest payment cannot be made from the amount available under 'tax' of the same major head

### **Is transfer of funds between the major heads permissible for discharging liabilities?**

- Amount available under one major head (SGST/UTGST, CGST, IGST or CESS) cannot be utilised for discharging the liability under any other major head. For example, amount available in SGST/UTGST cannot be utilised for discharging liabilities under CGST, IGST, or CESS and vice versa



A taxpayer made a cash deposit of ₹ 1,000 to IGST – Tax, through net banking. The tax payer can utilise this cash deposit of ₹ 1,000 in the cash ledger to make payment ONLY of the IGST – Tax liability, by debiting the Cash Ledger.

## **B. ELECTRONIC CREDIT LEDGER [SECTION 49(2),(4) & (5) READ WITH RULE 86 OF CGST RULES]**

Sub-section (2) of section 49 of the CGST Act provides that the self-assessed **input tax credit (ITC)** by a registered person shall be credited to its Electronic Credit Ledger or **Electronic Input Tax Credit Ledger**. This is to be maintained in the prescribed form.



### **Manner of utilisation of ITC**

The electronic credit ledger can be debited only to the extent of the discharge of any liability in accordance with section 49.

- The input tax credit available under the head IGST in the electronic credit ledger will first be utilized against IGST payment.
  - ✓ Remaining amount if any, will be utilized in the following manner:-
    - (a) as against CGST payment

**Input Tax Credit as self-assessed in monthly returns will be reflected in the ITC Ledger. The credit in this ledger can be used to make payment of TAX ONLY and not other amounts such as interest, penalty, fees etc.**

(b) if any amount is remaining after adjustment against CGST payment, it can be utilized to make SGST/UTGST payment.

-  Available CGST Credit in the credit ledger shall first be utilized for payment of CGST.
- ✓ Remaining amount if any, will be utilized for payment of IGST
-  Available SGST /UTGST credit in the credit ledger shall first be utilized for payment of SGST/UTGST.
- ✓ Remaining amount if any, will be utilized for payment of IGST



**CGST credit cannot be utilized for payment of SGST/UTGST.**

**Similarly, SGST/UTGST credit cannot be utilized for payment of CGST.**



### **Transfer of input tax credit**

Section 53 of CGST Act provides simple but important modus operandi in respect of post CGST utilisation towards IGST liability. Under section 49(5)(b),(c) and (d) of the Act, CGST/SGST/UTGST credits can be utilised by a tax payer on priority basis to respective CGST/SGST/UTGST dues first. Then, in case of CGST, balance, if any, can be used to pay towards IGST. If used so, there shall be reduction in central tax caused by Central Government and equal credit shall be ensured to IGST in the prescribed manner.

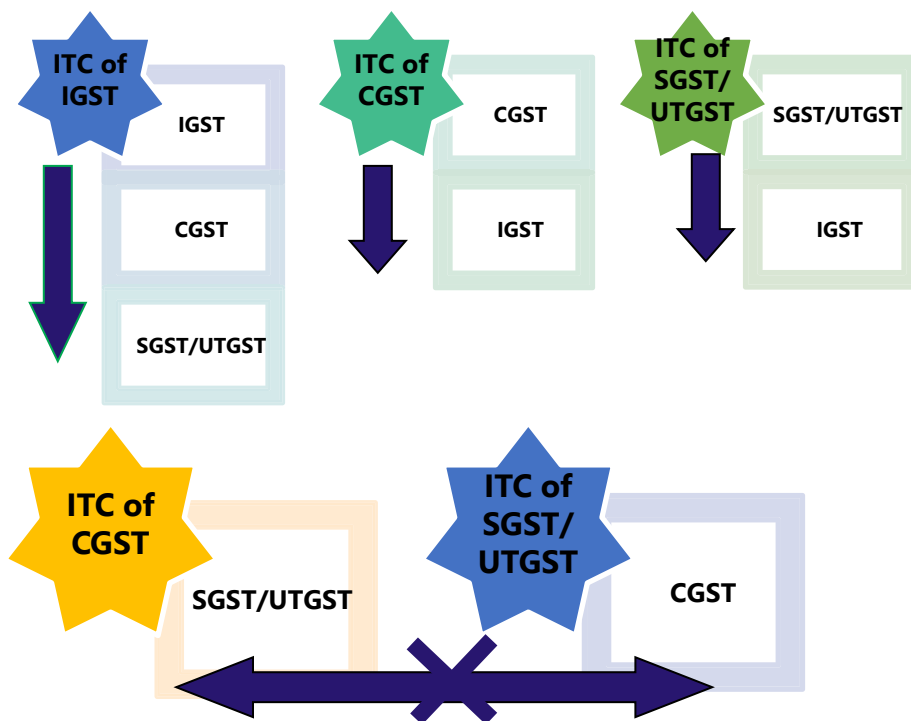
In other words, if CGST is utilised to pay towards dues of IGST, there shall be reduction in CGST on such utilisation and the Central Government shall transfer equivalent amount to the credit of IGST account. Thus, in this manner the Central Government shall ensure due credit to IGST.

Such treatment shall be ensured by the Central Government for UTGST and SGST also in respective cases.

It may be noted that equivalent provision is there in Section 18 of IGST Act, 2017.



The protocol to avail and utilize the credit of CGST, SGST/UTGST and IGST can be better understood with the help of following diagram:



**What happens if the taxable person files the return but does not make payment of tax?**

In such cases, the return is not considered as a valid return. Section 2(117) defines a valid return to mean a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full. It is only the valid return that would be used for allowing input tax credit (ITC) to the recipient. In other words, unless the supplier has paid the entire self-assessed tax and filed his return and the recipient has filed his return, the ITC of the recipient would not be confirmed.

#### Common Points for Electronic Cash & Credit Ledger

- ❖ Where a person has claimed refund of any amount from the electronic cash or credit ledger, the said amount shall be debited to the electronic cash or credit ledger
- ❖ If the refund so claimed is rejected, either fully or partly, the amount debited earlier, to the extent of rejection, shall be credited to the electronic cash or credit ledger by the proper officer by an order made in prescribed form




### C. ELECTRONIC LIABILITY REGISTER [SECTION 49(7), (8) & (9) READ WITH RULE 85 OF CGST RULES]

Sub-section (7) of section 49 speaks about the third kind of ledger to be maintained by a taxable person viz. **Electronic Liability Register**. While the terms "Electronic Cash Ledger" and "Electronic Credit Ledger" are defined in the Act, the term "Electronic Liability Register" is not defined. The Section lays down that all liabilities of a taxable person will be maintained in a separate register.

**Electronic Liability Register will reflect the total tax liability of a taxpayer (after netting) for the particular month.**

#### **Order of discharge of tax and other dues**

Sub-section (8) prescribes the chronological order in which the liability of a taxable person has to be discharged:

-  self -assessed tax and other dues for the **previous tax periods** have to be discharged first.
-  the self -assessed tax and other dues for the **current period** have to be discharged next.
-  Once these two steps are exhausted, thereafter any other amount payable including **demand determined under section 73 or section 74** to be discharged. In other words, the liability if any, arising out of demand notice and adjudication proceedings comes last. This sequence has to be mandatorily followed.





The expression "other dues" referred above mean interest, penalty, fee or any other amount payable under the Act or the rules made thereunder.

#### **Presumption that incidence of tax is passed on**

Sub-section (9) contains a deeming clause. This part of the section provides that when a taxable person has paid the GST under the corresponding Act, the taxable person is deemed to have passed on the incidence of such payment of tax to the recipient of such goods and /or services. Thus, if tax has been paid under the CGST Act, then the taxable person is deemed to have passed on the incidence of such payment of CGST to the recipient. This is subject to the contrary being proved.

 **Chapter IX of CGST Rules provide the following:**




**(I) Debit to electronic liability register:**

-  all amounts payable towards tax, interest, late fee and any other amount as per return filed;
-  all amounts payable towards tax, interest, penalty and any other amount determined in a proceeding by an Assessing authority or as ascertained by the taxable person;
-  the amount of tax and interest as a result of mismatch.
-  any interest amount that may accrue from time to time.





**(II) Debit to Electronic Credit/Cash ledger:**

| <b>Debit to Electronic Credit Ledger and Credit to Electronic Liability Register</b>           | <b>Debit to Electronic Cash Ledger and Credit to Electronic Liability Register</b>  |
|--|---|
| Payment of all the liabilities of a registered person as per his return subject to section 49. | Payment of all the liabilities of a registered person as per his return subject to section 49.  |
|  | Payment of TDS deducted under section 51, TCS deducted by e-commerce operator under section 52, amount payable under reverse charge basis, amount payable under section 10, amount payable towards payment of interest, penalty, fee or any other amount under the Act. |

 **How do the new payment systems benefit the taxpayer and the Commercial Tax Department?**


-  No more queues and waiting for making payments as payments can be made online 24 X 7.
-  Instant online receipts for payments made online.
-  Tax Consultants can make payments on behalf of the clients.



-  Single Challan form to be created online, replacing the three or four copy Challan.
-  Revenue will come earlier into the Government Treasury as compared to the old system.
-  Greater transparency.
-  Online payments made after 8 pm will be credited to the taxpayer's account on the same day.



## 4. INTEREST ON DELAYED PAYMENT OF TAX [SECTION 50]




|   |   |
|---|---|
|  | <b>STATUTORY PROVISIONS</b>   |
| <b>Section 50</b>   | <b>Interest on delayed payment of tax</b>   |
| <b>Sub-section</b>  | <b>Particulars</b>  |
| <b>(1)</b>  | <i>Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.</i>  |
| <b>(2)</b>  | <i>The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.</i>   |
| <b>(3)</b>  | <i>A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty-four per cent., as may be notified by the Government on the recommendations of the Council.</i> |



## ANALYSIS

### When interest is payable ?

Interest is payable in following 3 circumstances:-

-  Delay in payment of tax, in full or in part within the prescribed period
-  Undue or excess claim of input tax credit under section 42(10)
-  Undue or excess reduction in output tax liability under section 43(10)

⇒ *section 42 (10) of CGST Act deals with contravention of provisions for matching of claims for input tax credit by a recipient and*

⇒ *section 43 (10) of CGST Act deals with contravention of provisions for matching of claims for reduction in output tax liability by a supplier*

### Rate of interest





The rate of interest shall be notified by the Government on the basis of recommendation of the Council. However, such rate to be notified shall not exceed-

- (a) 18% in case of belated payment of tax i.e. on failure to pay tax (or part of tax) to the Government's account. *Notification No. 13/2017 CT dated 28.06.2017* has notified the rate of interest as 18% per annum.
- (b) 24% on undue or excess claim of ITC or on such undue or excess reduction in output tax liability. *Notification No. 13/2017 CT dated 28.06.2017* has notified the rate of interest as 24% per annum.

### Computation of period for calculation of interest

The period of interest will be from the date following the due date of payment to the actual date of payment of tax.

### Other relevant points relating to interest

-  The term “tax” here means the tax payable under the Act or Rules made thereunder.
-  The payment of interest in case of belated payment of tax should be made voluntarily i.e. even without a demand.
-  The interest payable under this section shall be debited to the Electronic Liability Register.
-  The liability for interest can be settled by adjustment with balance in Electronic Cash Ledger **but not with balance in electronic credit ledger.**

## 5. TAX WRONGFULLY COLLECTED AND PAID TO CENTRAL GOVERNMENT OR STATE GOVERNMENT [SECTION 19 OF IGST ACT]

Payment of tax based on erroneous determination of ‘nature of supply’ is not permitted to be adjusted because of the above appropriation of payments. Remedy lies in refund.

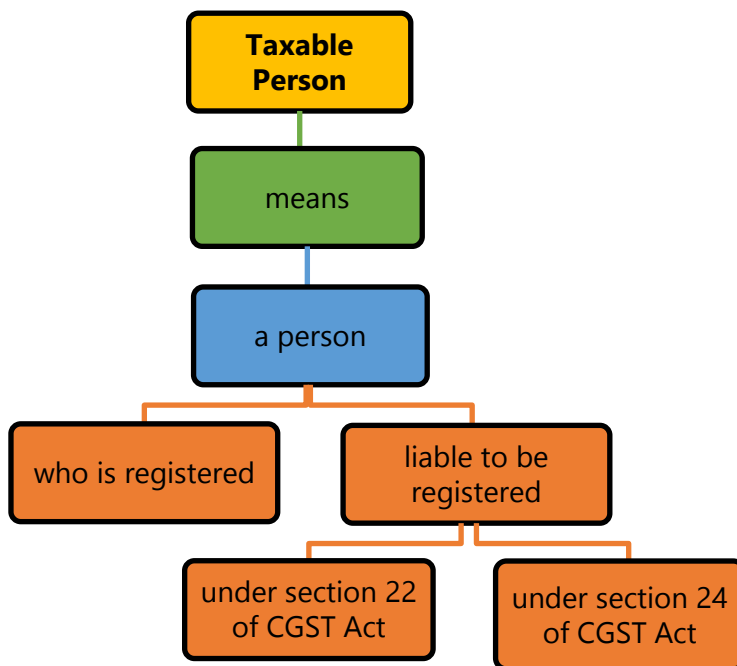
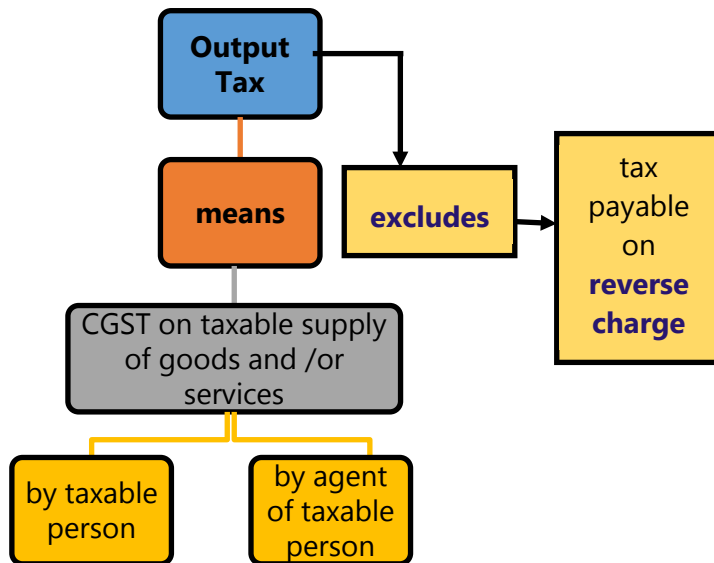
Taxable person who has paid tax in error is entitled to refund by first restoring the discharge of the correct tax due so that the incorrect tax paid reflects on the common portal as ‘paid in excess’ and

- IGST paid in error will be refunded subject to conditions prescribed
- IGST payable due to payment of CGST & SGST/UTGST is exempted from payment of interest on IGST due.

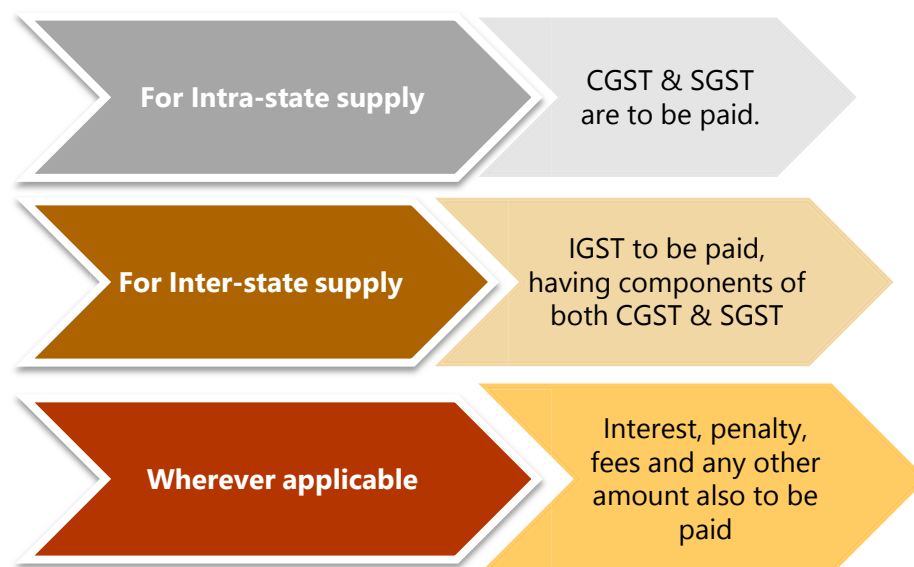
## LET US RECAPITULATE

The provisions relating to payment of tax, interest and other amounts have been summarised by way of table and diagrams to help students remember and retain the provisions in a better and effective manner:-

## DEFINITIONS OF CERTAIN KEY TERMS



## Payments to be made in GST regime



### Key Features of Payment process

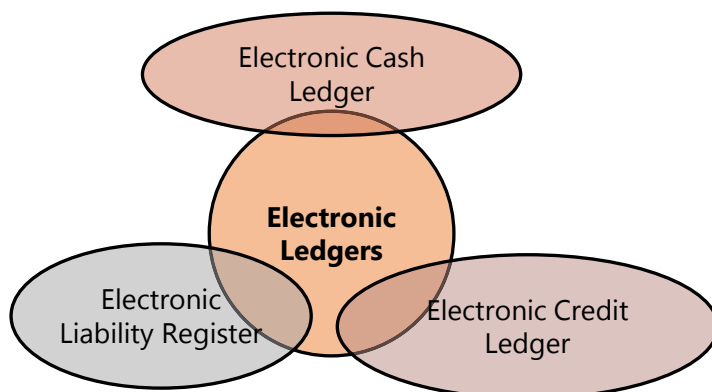
- ✎ Electronically generated challan from GSTN common portal in all modes of payment and no use of manually prepared challan;
- ✎ Facilitation for the tax payer by providing hassle free, anytime, anywhere mode of payment of tax;
- ✎ Convenience of making payment online;
- ✎ Logical tax collection data in electronic format;
- ✎ Faster remittance of tax revenue to the Government Account;
- ✎ Paperless transactions;
- ✎ Speedy Accounting and reporting;
- ✎ Electronic reconciliation of all receipts;
- ✎ Simplified procedure for banks;
- ✎ Warehousing of Digital Challan.

## What are E-Ledgers?



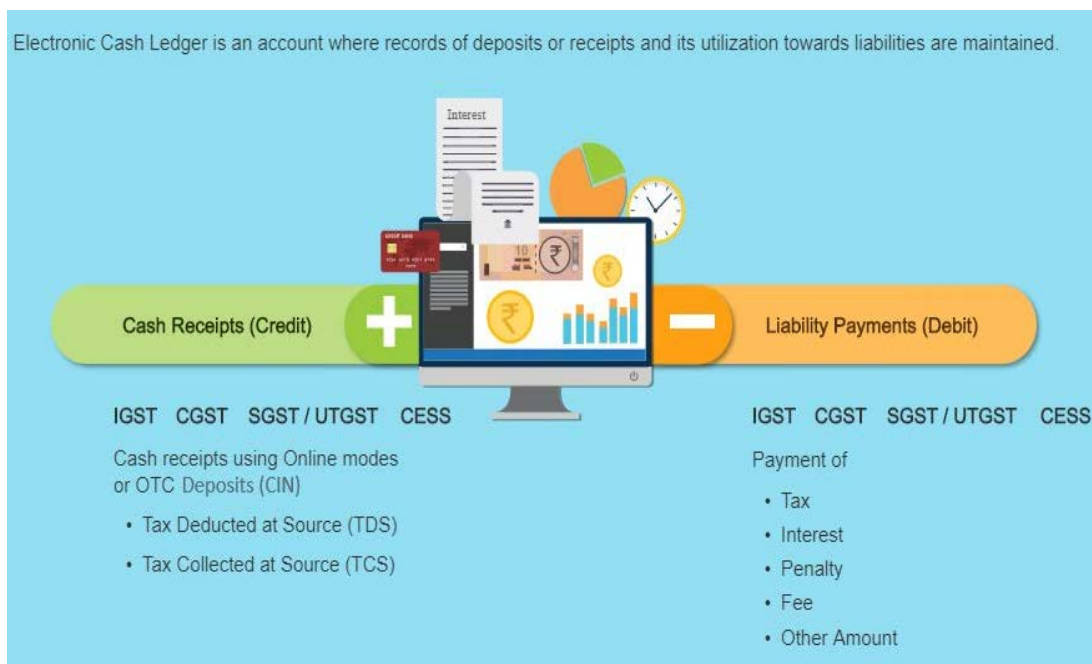
Electronic Ledgers or E-Ledgers are statements of cash and input tax credit in respect of each registered taxpayer. In addition, each taxpayer shall also have an electronic tax liability register.

## Types of Electronic ledgers

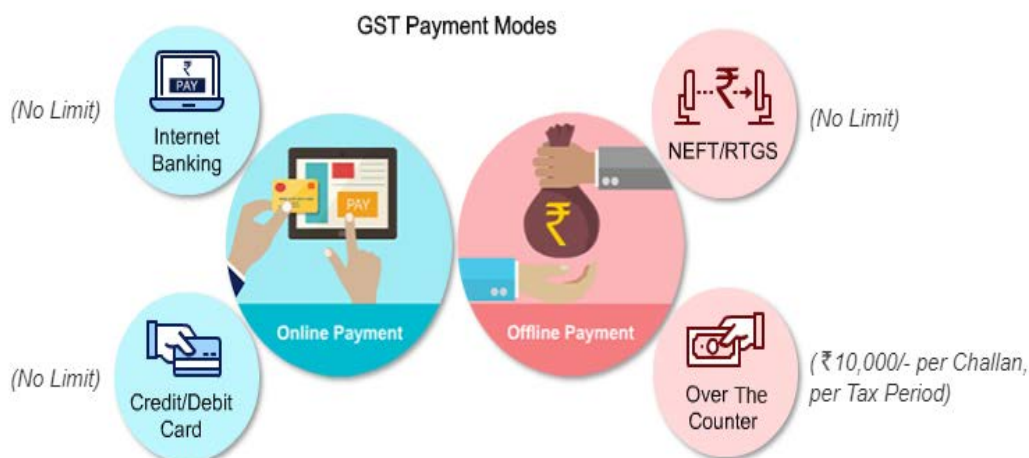


## A. Electronic Cash Ledger

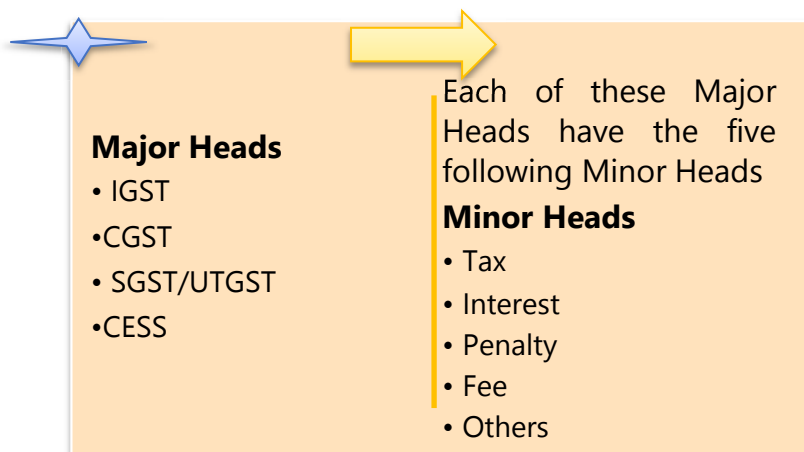
Electronic Cash Ledger is an account where records of deposits or receipts and its utilization towards liabilities are maintained.



### Modes of Deposit in Electronic Cash Ledger



### Major and Minor Heads of Payment



Cross utilization of funds across major or minor heads → NOT possible

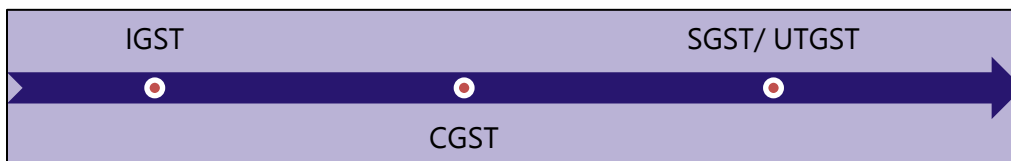
### Date of deposit of tax dues

| Which date is considered as date of deposit of the tax dues ? |   |   |
|---|---|---|
| (i)   | Date of presentation of cheque                        | × |
| (ii)  | Date of payment                                       | × |
| (iii)   | Date of credit of amount in the account of government | ✓ |

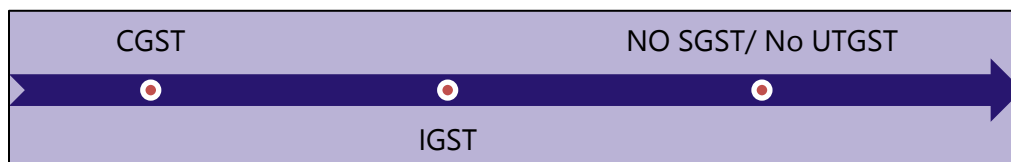
## B. Electronic credit ledger

### Order of utilisation of input tax credit available in electronic credit ledger [Section 49(5) of CGST Act]

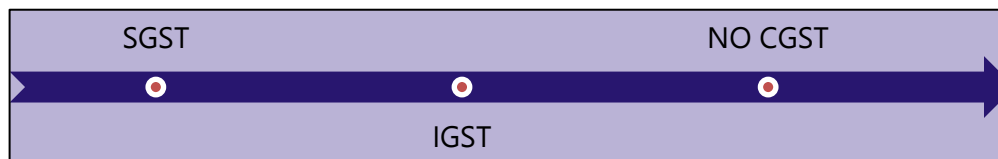
#### Input tax credit of IGST



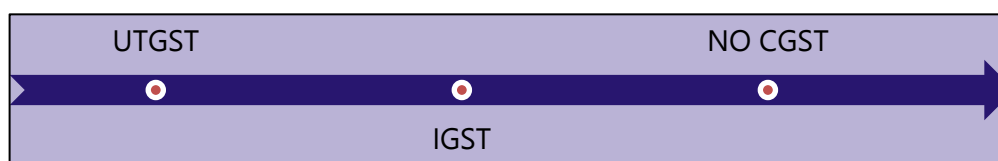
#### Input tax credit of CGST



#### Input tax credit of SGST



#### Input tax credit of UTGST

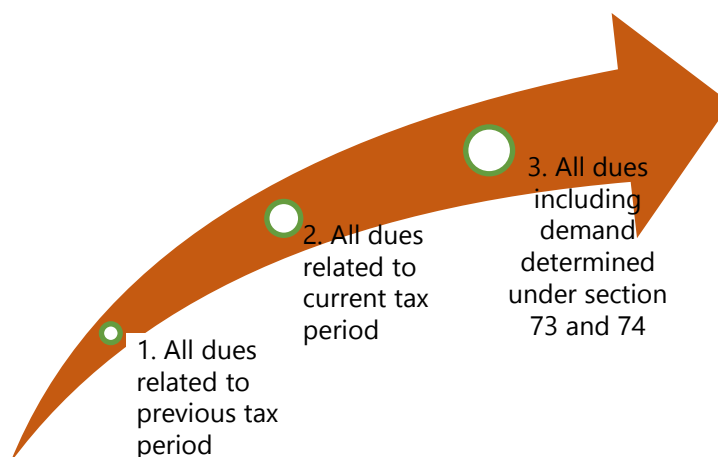


The CGST credit cannot be utilized for payment of SGST/UTGST.  
The SGST/UTGST credit cannot be utilized for payment of CGST.



## c. Electronic liability register

### Order of discharge of liability of taxable person



### Manner of making payment

| Through debit of Electronic Credit Ledger  | In cash, by debit in the Electronic Cash Ledger  |
|--|--|
| Through debit of Credit Ledger of the tax payer maintained on the Common portal – <b>ONLY Tax can be paid.</b> | Payment can be made in cash, by debit in the Cash Ledger of the tax payer maintained on the common portal. |

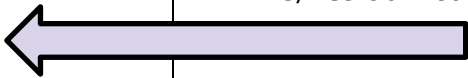
### E-Ledgers

|                                      |   |
|--------------------------------------|---|
| <b>Electronic Cash Ledger</b>        | <ul style="list-style-type: none"> <li>• It will reflect all deposits made in cash, and TDS/TCS made on account of the tax payer.</li> <li>• This ledger can be used for making <b>ANY PAYMENT</b> towards tax, interest, penalty, fees or any other amount on account of GST.</li> </ul> |
| <b>Electronic Credit Ledger</b>      | <ul style="list-style-type: none"> <li>• It will reflect Input Tax Credit as self-assessed in monthly returns.</li> <li>• The credit in this ledger can be used to make payment of <b>TAX ONLY</b> i.e. output tax and not other amounts such as interest, penalty, fees etc.</li> </ul>  |
| <b>Electronic Liability Register</b> | <ul style="list-style-type: none"> <li>• Electronic Liability Register will reflect the total tax liability of a taxpayer (after netting) for the particular month.</li> </ul>  |

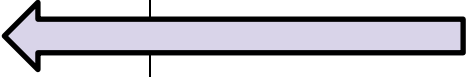
**Payment of Tax via Electronic Ledger****A. Electronic Cash Ledger**

(Assume it as an account statement provided by bank, for easy understanding)

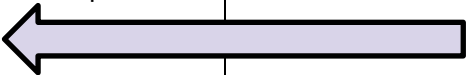
| Debit Amount (DR)   | Credit Amount (CR)   |
|---|--|
| <ul style="list-style-type: none"> <li>• Credit amount of this ledger may be used for payment of tax, interest, fees etc.</li> <li>• Remaining credit balance amount after payment of above tax etc. will be refunded to taxable person.</li> </ul> | <ul style="list-style-type: none"> <li>• Any deposit made towards tax, interest, penalty, late fee etc. via internet banking, RTGS, fund transfer etc.</li> <li>• TDS/TCS claimed</li> </ul> |


**B. Electronic Credit ledger**

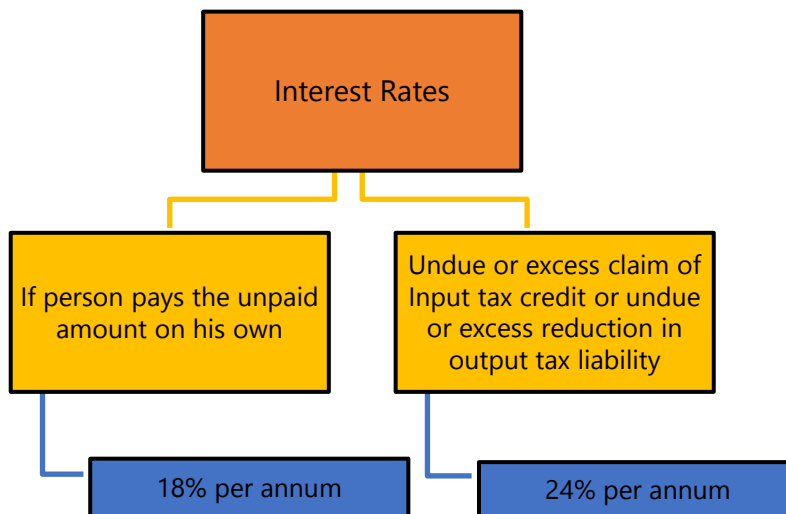
| Debit Amount (DR)   | Credit Amount (CR)   |
|---|--|
| <ul style="list-style-type: none"> <li>• Credit amount of this ledger may be used for payment of output tax viz IGST, CGST, SGST, UTGST in the prescribed order.</li> </ul> | <ul style="list-style-type: none"> <li>• Input Tax credit as self-assessed in the return in the form of IGST, CGST, SGST, UTGST</li> </ul> |


**C. Electronic Liability Register**

| Debit Amount (DR)  | Credit Amount (CR)   |
|--|--|
| <ul style="list-style-type: none"> <li>• Amount payable towards tax, interest, fees etc.</li> <li>• Tax or interest payable due to mismatch</li> <li>• Any other dues</li> </ul> | <ul style="list-style-type: none"> <li>• Electronic cash ledger</li> </ul>   |
| <ul style="list-style-type: none"> <li>• Amount payable towards output tax</li> </ul>  | <ul style="list-style-type: none"> <li>• Electronic credit ledger</li> </ul> |



## Interest on delayed payment of tax [Section 50]



## TEST YOUR KNOWLEDGE

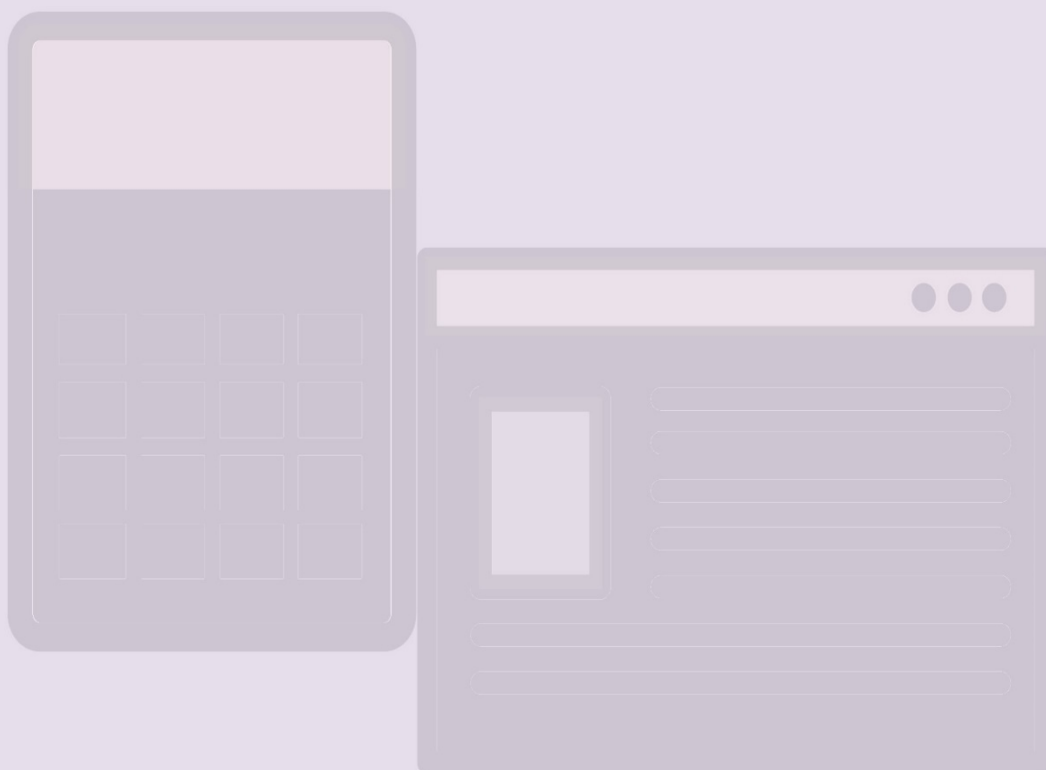
1. How many types of electronic ledger are there?
2. What are the main features of GST payment process?
3. Explain the following terms in brief:
  - (a) E-FPB
  - (b) CPIN
  - (c) CIN
4. Can one use input tax credit for payment of interest, penalty, and payment under reverse charge?
5. Are principles of unjust enrichment applicable for payment made under GST?
6. State the name of output tax under GST, where any of the input tax credit under GST can be availed?
7. ABC limited filed the return for GST under section 39(1) for the month of November on 20<sup>th</sup>, December showing self assessed tax of Rs. 2,50,000 which was not paid.  
Explain what are the implications for ABC limited as per relevant provisions?

## ANSWERS/HINTS

1.
  - (a) Electronic cash ledger
  - (b) Electronic credit ledger
  - (c) Electronic liability register
2. Refer para-Electronic Liability Register
3. Refer para-Electronic Cash Ledger
4. No, as per Section 49 (4) of the CGST Act, 2017 the amount available in the electronic credit ledger may be used for making any payment towards 'output tax'.  
As per Section 2 (82) of the CGST Act, 2017, output tax means, the CGST/SGST chargeable under this Act on taxable supply of goods and/or services made by him or by his agent and excludes tax payable by him on reverse charge basis. Therefore, input tax credit cannot be used for payment of interest, penalty, and payment under reverse charge.

5. Yes, as per Section 49 (9) of the CGST Act, 2017 every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.
6. IGST. IGST, CGST, SGST, UTGST i.e. all input tax credit can be availed against output tax liability known as IGST.
7. As per section 2(117) of CGST Act, "valid return" means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full.

Hence, in such a case, the return is not considered as a valid return and also input tax credit will not be allowed to the recipient of supplies.



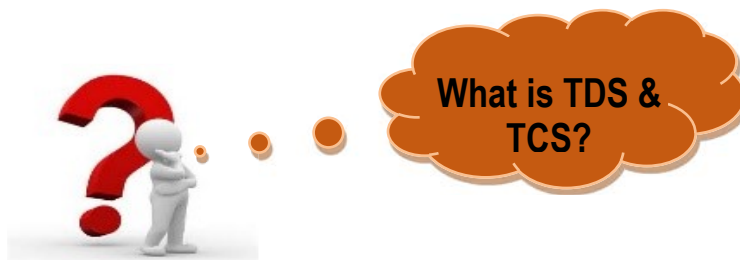
## UNIT II: TAX DEDUCTION AT SOURCE AND COLLECTION OF TAX AT SOURCE

### LEARNING OUTCOMES

**After studying this Unit, you will be able to –**

- ❑ understand and analyse the provisions relating to TDS, i.e. tax deduction at source including the list of deductors, standard rate of deduction, value of supply.
- ❑ explain the remittance period and the time within which the TDS certificate is to be issued.
- ❑ describe and analyse the TCS i.e. tax collection at source provisions relating to collection, payment and reporting of tax by electronic commerce operator.

## 1. INTRODUCTION



TDS stands for Tax Deduction at Source (TDS). Tax Deduction at Source (TDS) is a system, initially introduced by the Income Tax Department. It is one of the modes/methods to collect tax, under which, certain percentage of amount is deducted by a recipient at the time of making payment to the supplier. It is similar to “pay as you earn” scheme also known as Withholding Tax, in many other countries. It facilitates sharing of responsibility of tax collection between the deductor and the tax administration. It also ensures regular inflow of cash resources to the Government. It acts as a powerful instrument to prevent tax evasion and expands the tax net, as it provides for the creation of an audit trail.

# TDS

Section 51 of CGST Act provides for deduction of tax at source in certain circumstances. This Section specifically lists out the deductors who are mandated by the Central Government to deduct tax at source, the rate of tax deduction and the procedure for remittance of the tax deducted.

# TCS

On the other hand, Tax Collection at Source (TCS) has similarities with TDS, as well as a few distinctive features. TDS refers to the tax which is deducted when the recipient of goods or services makes some payments under a contract etc., while TCS refers to the tax which is collected by the electronic commerce operator when a supplier supplies some goods or services through its portal and the payment for that supply is collected by the electronic commerce operator.

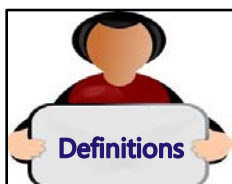
Section 52 provides for collection of tax at source in certain circumstances. The Section specifically lists out the tax collecting persons who are mandated by the Central Government to collect tax at source, the rate of tax collection and the procedure for remittance of the tax collected.

The amount of tax deducted/collected is reflected in the Electronic Cash Ledger of the deductee/supplier respectively.

Provisions of TDS and TCS under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.



## 2. RELEVANT DEFINITIONS



- ❖ **Agent** means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another [Section 2(5)].
- ❖ **Authorised bank** shall mean a bank or a branch of a bank authorised by the Government to collect the tax or any other amount payable under this Act [Section 2(14)].
- ❖ **Business** includes
  - (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
  - (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
  - (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
  - (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
  - (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
  - (f) admission, for a consideration, of persons to any premises;
  - (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;



- (h) services provided by a race club by way of totalisator or a licence to book maker in such club ; and
  - (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities [Section 2(17)].
- ❖ **Central Tax** means the central goods and services tax levied under Section 9 [Section 2(21)].
  - ❖ **Cess** shall have the same meaning as assigned to it in the Goods and Services Tax (Compensation to States) Act [Section 2(22)].
  - ❖ **Common Portal** means the common goods and services tax electronic portal referred to in section 146 [Section 2(26)].
  - ❖ **Council** means the Goods and Services Tax Council established under article 279A of the Constitution [Section 2(36)].
  - ❖ **Electronic Cash ledger** means the electronic cash ledger referred to in sub-section (1) of Section 49; [Section 2(43)].
  - ❖ **Electronic Commerce** means the supply of goods or services or both, including digital products over digital or electronic network [Section 2(44)].
  - ❖ **Electronic Commerce Operator** means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce [Section 2(45)].
  - ❖ **Electronic Credit ledger** means the electronic credit ledger referred to in sub-section (2) of section 49 [Section 2(46)].
  - ❖ **Integrated tax** means the integrated goods and services tax levied under the Integrated Goods and Services Tax Act [Section 2(58)].
  - ❖ **Input tax** in relation to a registered person, means the central tax, State tax, integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes—
    - ✓ the integrated goods and services tax charged on import of goods;
    - ✓ the tax payable under the provisions of sub-sections (3) and (4) of section 9;
    - ✓ the tax payable under the provisions of sub-section (3) and (4) of section 5 of the Integrated Goods and Services Tax Act;

- ✓ the tax payable under the provisions of sub-section (3) and sub-section (4) of section 9 of the respective State Goods and Services Tax Act; or
  - ✓ the tax payable under the provisions of sub-section (3) and sub-section (4) of section 7 of the Union Territory Goods and Services Tax Act,
- but does not include the tax paid under the composition levy [Section 2(62)].
- ❖ **Input Tax Credit** means the credit of input tax [Section 2(63)].
  - ❖ **local authority** means-
    - ✓ a "Panchayat" as defined in clause (d) of article 243 of the Constitution;
    - ✓ a "Municipality" as defined in clause (e) of article 243P of the Constitution;
    - ✓ a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund;
    - ✓ a Cantonment Board as defined in section 3 of the Cantonments Act, 2006;
    - ✓ a Regional Council or District Council constituted under the Sixth Schedule to the Constitution;
    - ✓ a Development Board constituted under article 371 of the Constitution; or
    - ✓ a Regional Council constituted under article 371A of the Constitution [Section 2(69)].
  - ❖ **Notification** means a notification published in the Official Gazette and the expression "notify" and "notified" shall be construed accordingly [Section 2(80)].
  - ❖ **Output tax** in relation to a taxable person, means the tax chargeable under this Act on taxable supply of goods or services or both made by him or by his agent but excludes tax payable by him on reverse charge basis [Section 2(82)].
  - ❖ **Person includes:**
    - (a) an individual;
    - (b) a Hindu Undivided Family;
    - (c) a company;
    - (d) a firm;
    - (e) a limited liability Partnership;

- (f) an association of persons or body of individuals, whether incorporated or not, in India or outside India;
- (g) any corporation established by or under any Central Act, State Act, or Provincial Act or a Government Company as defined in clause (45) of section 2 of the Companies Act, 2013;
- (h) any body corporate incorporated by or under the laws of a country outside India;
- (i) a co-operative society registered under any law relating to co-operative societies;
- (j) a local authority;
- (k) Central Government or a State Government;
- (l) society as defined under the Societies Registration Act, 1860;
- (m) trust; and
- (n) every artificial juridical person, not falling within any of the above [Section 2(84)].

❖ **Recipient** of supply of goods or services or both, means—

- (a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
- (b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
- (c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied [Section 2(93)].

❖ **State Tax** means the tax levied under any State Goods and Services Tax Act [Section 2(104)].


❖ **Supplier** in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting

as such on behalf of such supplier in relation to the goods or services or both supplied [Section 2(105)].

- ❖ **Taxable person** means a person who is registered or liable to be registered under Section 22 or section 24 [Section 2(107)].
- ❖ **Valid return** means a return furnished under sub-section (1) of section 39 on which self-assessed tax has been paid in full [Section 2(117)].



### 3. TAX DEDUCTION AT SOURCE [SECTION 51 OF CGST ACT]

|   |   |  |  |
|---|---|--|--|
|    |   | <b>STATUTORY PROVISIONS</b>  |  |
| <b>Section 51</b>   |   | <b>Tax deduction at source</b>   |  |
| <b>Sub-Section</b>  | <b>Clause</b>   | <b>Particulars</b>   |  |
| <b>(1)</b>  | <p><b><i>Notwithstanding anything to the contrary contained in this Act, the Government may mandate,—</i></b></p> |  |  |
|   | <i>(a)</i>  | <i>a department or establishment of the Central Government or State Government; or</i>                                 |  |
|   | <i>(b)</i>  | <i>local authority; or</i>   |  |
|   | <i>(c)</i>  | <i>Governmental agencies; or</i>   |  |
|   | <i>(d)</i>  | <i>such persons or category of persons as may be notified by the Government on the recommendations of the Council,</i> |  |
| <p><i>(hereafter in this section referred to as "the deductor"), to deduct tax at the rate of one per cent. from the payment made or credited to the supplier (hereafter in this section referred to as "the deductee") of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees:</i></p> |   |  |  |

|            |  |
|------------|--|
|            | <p><i>Provided that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.</i></p> <p><i>Explanation.—For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.</i></p> |
| <b>(2)</b> | <i>The amount deducted as tax under this section shall be paid to the Government by the deductor within ten days after the end of the month in which such deduction is made, in such manner as may be prescribed.</i>  |
| <b>(3)</b> | <i>The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed.</i>   |
| <b>(4)</b> | <i>If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five day period until the failure is rectified, subject to a maximum amount of five thousand rupees.</i>   |
| <b>(5)</b> | <i>The deductee shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor furnished under sub-section (3) of section 39, in such manner as may be prescribed.</i>   |
| <b>(6)</b> | <i>If any deductor fails to pay to the Government the amount deducted as tax under sub-section (1), he shall pay interest in accordance with the provisions of sub-section (1) of section 50, in addition to the amount of tax deducted.</i>   |
| <b>(7)</b> | <i>The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74.</i>  |

|            |  |
|------------|--|
| <b>(8)</b> | <i>The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54:</i> |
|            | <i>Provided that no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee.</i>                   |



## ANALYSIS

### **Deductors of Tax at Source**

Under the GST regime, section 51 of the CGST Act, 2017 prescribes the authority and procedure for 'Tax deduction at source'. The TDS provisions empower the Central Government to make it mandatory for the following persons (the deductor) to deduct tax at source from payments made to the suppliers of taxable goods and/or services.

**Central/State Government  
department or establishment  
[Section 51(1)(a)]**

**Local Authority [Section  
51(1)(b)]**

**Governmental Agencies  
[Section 51(1)(c)]**

**Notified Persons/category of  
persons [Section 51(1)(d)]**

The provisions of section 51(1) have come into effect from 18.09.2017 with respect to persons specified under clauses (a) and (b) of section 51(1) and following persons notified under clause (d) of sub-section (1) of section 51 of the CGST Act by the Central Government:

- (a) an authority or a board or any other body, -
  - (i) set up by an Act of Parliament or a State Legislature; or
  - (ii) established by any Government,
 with 51% or more participation by way of equity or control, to carry out any function;

- (b) society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860;
- (c) public sector undertakings:

However, the said persons shall be liable to deduct tax from the payment made or credited to the supplier of taxable goods or services or both with effect from a date to be notified subsequently, on the recommendations of the Council, by the Central Government **[Notification No. 33/2017 CT dated 15.09.2017]**.



### **Deductees**

The deductees are the suppliers whose total value of supply of taxable goods and/or services under a contract exceeds ₹ 2,50,000 exclusive of tax & cess as per the invoice.



### **Standard Rate of deduction**

The tax would be deducted @ 1% of the payment made to the supplier (the deductee) of taxable goods and/or services, where the total value of such supply, under a contract, exceeds ₹ 2,50,000 (excluding the amount of Central tax, State tax, Union Territory tax, Integrated tax and cess indicated in the invoice). Thus, individual supplies may be less than ₹ 2,50,000/-, but if total value of supply under a contract is more than ₹ 2,50,000/-, TDS will have to be deducted.

TDS-1% on net value of taxable supplies

The deductors have to deduct tax at the rate of 1% from the payment made or credited to the supplier of taxable goods and/or services.



**It may be noted that Section 20 of IGST Act provides that in the case of tax deducted at source, the deductor shall deduct tax at the rate of 2% from the payment made or credited to the supplier.**

**Further, the value of a supply shall include any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier:**

 **No TDS**

The Proviso to Section 51(1) lays down that when the location of the supplier and the place of supply is in a State/ Union territory which is different from the State/ Union territory of registration of the recipient, there will be no TDS.

The above statement can be explained in the following situations:

**(a) Supplier, place of supply and recipient are in the same state.**

It would be intra-State supply and TDS (Central plus State tax) shall be deducted. It would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.

**(b) Supplier as well as the place of supply are in different states.**

In such cases, Integrated tax would be levied. TDS to be deducted would be TDS (Integrated tax) and it would be possible for the supplier (i.e. the deductee) to take credit of TDS in his electronic cash ledger.

**(c) Supplier as well as the place of supply are in State A and the recipient is located in State B.**

The supply would be intra-State supply and Central tax and State tax would be levied. In such case, transfer of TDS (Central tax + State tax of State B) to the cash ledger of the supplier (Central tax + State tax of State A) would be difficult. So, in such cases, TDS would not be deducted.

Thus, when both the supplier as well as the place of supply are different from that of the recipient, no tax deduction at source would be made.

 **Value of Supply**

The amount indicated in the invoice excluding the Central tax, State tax, Union territory tax, Integrated tax and cess element, is the value of supply.

**Value of supply shall  
exclude tax & cess**

 **Deposit of TDS with the Government**

The amount of tax deducted at source should be deposited to the Government account by deductor by 10th of the succeeding month.

 **TDS Certificate**

A TDS certificate is required to be issued by deductor (the person who is deducting tax) in prescribed form to the deductee (the supplier from whose payment TDS is deducted).



# TDS Certificate

|   |  |
|---|--|
| <p><b>+</b> <u>Includes</u></p> <ul style="list-style-type: none"> <li>- contract value</li> <li>- rate of deduction</li> <li>- amount deducted</li> <li>- amount paid to the appropriate Government</li> <li>- any other particulars as may be prescribed</li> </ul> | <p><b>→</b> <u>TDS certificate to be furnished</u></p> <p>within <b>5 days</b> of remittance to Government</p> |
|---|--|



The Municipal Corporation of Chennai deducts CGST at source @1% from the payment to be made to a notified supplier on 4<sup>th</sup> July. This TDS amount has to be remitted into the Treasury on or before 10<sup>th</sup> August. The TDS certificate with the above mentioned details has to be issued on before 15<sup>th</sup> of August.



## Certificate not furnished by the deductor

If the deductor does not furnish the certificate of deduction-cum- remittance within 5 days of the remittance, the deductor has to pay a late fee of ₹ 100/day from the expiry of the 5<sup>th</sup> day until the day he furnishes the certificate. This late fee would not be more than ₹ 5000/-.



## Non- remittance by the deductor

If the deductor has not remitted the amount deducted as TDS to the Government within the prescribed time limit, he is liable to pay penal interest under Section 50 in addition to the amount of tax deducted.



## Reflection of amount of TDS

The amount of tax deducted is reflected in

- Electronic Cash Ledger of deductee.
- Return filed by deductor under section 39(3).

The deductee can claim credit of the tax deducted, in his electronic cash ledger. This provision enables the Government to cross check whether the amount

deducted by the deductor is correct and that there is no mis-match between the amount reflected in the electronic cash ledger and the amount shown in the return filed by deductor.

This is similar to existing practice in income tax relating to E-TDS returns filed by deductor and 26AS statement available for viewing the TDS remitted in respect of transactions by deductee.



### Refund on excess/erroneous deduction

The deductor or the deductee can claim refund of excess deduction or erroneous deduction. The provisions of section 54 relating to refunds would apply in such cases. However, if the deducted amount is already credited to the electronic cash ledger of the supplier, the same shall not be refunded.



### Other Key concepts relating to TDS



**Registration of TDS deductors<sup>1</sup>:** A TDS deductor has to compulsorily register without any threshold limit. The deductor has a privilege of obtaining registration under GST without requiring PAN. He can obtain registration using his Tax Deduction and Collection Account Number (TAN) issued under the Income Tax Act, 1961.



**TDS Return:** The deductor is also required to file a return in Form GSTR-7 within 10 days from the end of the month. If the supplier is unregistered, name of the supplier rather than GSTIN shall be mentioned in the return.

The details of tax deducted at source furnished by the deductor in FORM GSTR-7 shall be made available to each of the suppliers in Part C of FORM GSTR-2A electronically through the common portal and the said supplier may include the same in FORM GSTR-2. The amounts deducted by the deductor get reflected in the GSTR-2 of the supplier (deductee).

The supplier can take this amount as credit in his electronic cash register and use the same for payment of tax or any other liability.



Suppose a supplier makes a supply worth ₹ 1000/- to a recipient and the GST at the rate of 18% is required to be paid. The recipient, while making the payment of ₹1000/- to the supplier, shall deduct 1% viz ₹ 10/- as TDS.


<sup>1</sup> The provisions relating to Registration have already been discussed in detail in Chapter-9.

The value for TDS purpose shall not include 18% GST. The TDS, so deducted, shall be deposited in the account of Government by 10<sup>th</sup> of the succeeding month.

The TDS so deposited in the Government account shall be reflected in the electronic cash ledger of the supplier (i.e. deductee) who would be able to use the same for payment of tax or any other amount. The purpose of TDS is just to enable the Government to have a trail of transactions and to monitor and verify the compliances



#### 4. COLLECTION OF TAX AT SOURCE [SECTION 52 OF CGST ACT]

|   |               |  |  |
|---|---------------|--|--|
|  |               | <b>STATUTORY PROVISIONS</b>  |  |
| <b>Section 52</b>   |               | <b>Collection of Tax at Source</b>   |  |
| <b>Sub-Section</b>  | <b>Clause</b> | <b>Particulars</b>   |  |
| (1)   |               | <p><i>Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the "operator"), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.</i></p> |  |
|   |               | <p><i>Explanation.—For the purposes of this sub-section, the expression "net value of taxable supplies" shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.</i></p>   |  |

|     |  |
|-----|--|
| (2) | <i>The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.</i>  |
| (3) | <i>The amount collected under sub-section (1) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed.</i>  |
| (4) | <i>Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month.</i>  |
| (5) | <i>Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, before the thirty first day of December following the end of such financial year.</i>   |
| (6) | <i>If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50:<br/><br/><i>Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of statement for the month of September following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.</i></i> |

|             |   |
|-------------|---|
| <b>(7)</b>  | <i>The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-section (4), in such manner as may be prescribed.</i>   |
| <b>(8)</b>  | <i>The details of supplies furnished by every operator under sub-section (4) shall be matched with the corresponding details of outward supplies furnished by the concerned supplier registered under this Act in such manner and within such time as may be prescribed.</i>  |
| <b>(9)</b>  | <i>Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under section 37, the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed.</i>  |
| <b>(10)</b> | <i>The amount in respect of which any discrepancy is communicated under sub-section (9) and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated in such manner as may be prescribed.</i> |
| <b>(11)</b> | <i>The concerned supplier, in whose output tax liability any amount has been added under sub-section (10), shall pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of section 50 on the amount so added from the date such tax was due till the date of its payment.</i>   |
| <b>(12)</b> | <i>Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to—</i>  |

|   |  |   |
|---|--|---|
|   | (a)  | supplies of goods or services or both effected through such operator during any period; or  |
|   | (b)  | stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers, |
|   | as may be specified in the notice.   |   |
| (13)  | Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice.   |   |
| (14)  | Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any action that may be taken under section 122, be liable to a penalty which may extend to twenty-five thousand rupees. |   |
| <p><b>Explanation.</b>—For the purposes of this section, the expression “concerned supplier” shall mean the supplier of goods or services or both making supplies through the operator.</p> |  |   |



## ANALYSIS

# Overview of TCS

TCS<sup>2</sup> refers to the tax which is collected by the electronic commerce operator when a supplier supplies some goods or services through its portal and the payment for that supply is collected by the electronic commerce operator. The nature of working of electronic commerce operator can be better understood with the following example.



There are many e-Commerce operators [hereinafter referred to as an Operator], like Amazon, Flipkart, Jabong, etc. operating in India. These

<sup>2</sup> The provisions relating to TCS have not been made effective as of now.

operators display on their portal products as well as services which are actually supplied by some other person to the consumer.

The goods or services belonging to other suppliers are displayed on the portals of the operators and consumers buy such goods/services through these portals. On placing the order for a particular product/service, the actual supplier supplies the selected product/service to the consumer.

The price/consideration for the product/ service is collected by the Operator from the consumer and passed on to the actual supplier after the deduction of commission by the Operator.

Let us now have a look at the statutory provisions relating to TCS.

Section 52 has 14 sub-sections.

### Who is liable to collect TCS ?

Every Electronic Commerce Operator (ECO), not being an agent, has been mandated to collect tax at source (TCS) from the net value of taxable supplies made through it by other suppliers, whenever the ECO collects the consideration on behalf of the supplier.

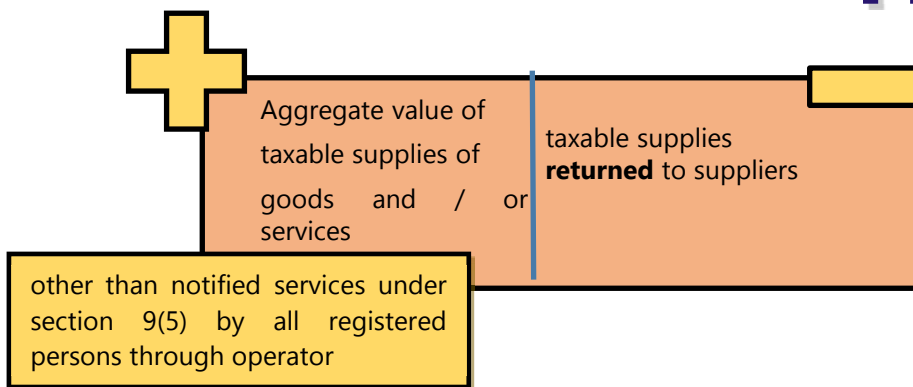
### Rate of TCS

Not exceeding 1% as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies. [Sub-section (1)]



Suppose a certain product is sold at ₹ 1000/- through an Operator by a supplier. The operator would collect tax @ 1% of the net value of ₹ 1,000/- i.e. ₹ 10/-.

## Net Value of Taxable Supplies






*It may be noted that Section 20 of IGST Act provides that in case of tax collected at source, the operator shall collect tax at such rate not exceeding two per cent, as may be notified on the recommendations of the Council, of the net value of taxable supplies:*

*Further, the value of a supply shall include any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier:*

Further, the power conferred on the e-commerce operator to collect tax at source, is without prejudice to other modes of recovery from operator. This Sub-section establishes that the powers of e-commerce operator is restricted only to the extent of tax collection at source under circumstances specified therein and nothing more. [Sub-section (2)]


#### **Deposit of TCS by ECO to Government**


 The TCS amount collected by the ECO has to be remitted to the Government Treasury within 10 days after the end of the month in which the collection was made. [Sub-section (3)]




If the TCS has been collected in the month of July, the amount has to be remitted into the Government Treasury on or before 10<sup>th</sup> August.

#### **Filing of Monthly & Annual Statements by ECO**

 An **electronic statement** has to be filed by the ECO containing details of the outward supplies of goods and/ or services effected through it, including the supplies returned through it and the amount collected by it as TCS during the month within 10 days after the end of the each month in which supplies are made. [Sub-section (4)]

 Additionally, the ECO is also mandated to file an **Annual Statement** on or before 31<sup>st</sup> day of December following the end of the financial year. [Sub-section (5)]

#### **Rectification in Monthly Statement by ECO**

 If the ECO discovers any discrepancy on his own not being the result of any scrutiny, inspection or enforcement proceedings, he has to rectify the statement. However, the limit for rectification is **earlier** of the two:-



- (i) due date for filing statement for the month of September following the end of the financial year.

OR

- (ii) Actual date of furnishing of relevant annual statement.

Interest provisions are applicable. [Sub-section (6)]

### **Claim of Credit by Supplier**

Supplier can claim credit of the TCS amount in his electronic cash ledger. This amount should reflect in the monthly statement filed by the e-commerce operator. [Sub-section (7)]


### **Matching of details of supplies**


The details of the supplies, including the value of supplies, submitted by every operator in the statements will be matched with the details of supplies submitted by all such suppliers in their returns. [Sub-section (8)]


If there is any discrepancy in the value of supplies, the same would be communicated to both of them. If such discrepancy in value is not rectified within the given time, then such amount would be added to the output tax liability of such supplier succeeding the calendar month in which the discrepancy is communicated, where outward supplies furnished by operator is more than the value as shown by supplier.

The supplier will have to pay the differential amount of output tax along with interest from the date such tax was due till the date of its payment. [Sub-sections 9 To 11]


### **Notice to the Operator**


 An officer not below the rank of Deputy Commissioner can issue notice to an operator, asking him to furnish details relating to volume of the goods/services supplied, stock of goods lying in warehouses/godowns etc. [Sub-section (12)]

 The operator is required to furnish such details within 15 working days. [Sub-section (13)]

 In case an operator fails to furnish the information, besides being liable for penal action under section 122, it shall also be liable for penalty up to ₹ 25,000. [Sub-section (14)]

 **Other key concepts relating to TCS**

 **Registration<sup>3</sup>:** The e-commerce operator as well as the supplier supplying goods or services through an operator need to compulsorily register under GST. The threshold limit of ₹ 20 lakhs (₹ 10 lakhs for special category states) is not applicable to them. Section 24(x) of the CGST Act, 2017 makes it mandatory for every e-commerce operator to get registered under GST. Similarly, section 24(ix) of the CGST Act, 2017 makes it mandatory for every person who supplies goods/services through an operator to get registered under GST.

 **TCS Statement:** The amount of tax collected by the operator is required to be deposited by the 10<sup>th</sup> of the following month, during which such collection is made. The operator is also required to furnish a monthly statement in Form GSTR-8 by the 10<sup>th</sup> of the following month. The operator is also required to file an Annual statement in prescribed form by the 31<sup>st</sup> of December following the end of every financial year. The operator can rectify errors in the statements filed, if any, latest by the return to be filed for the month of September, following the end of every financial year.

The details furnished by the operator in GSTR-8 shall be made available electronically to each of the suppliers in Part C of FORM GSTR-2A on the common portal after the due date of filing of FORM GSTR-8.

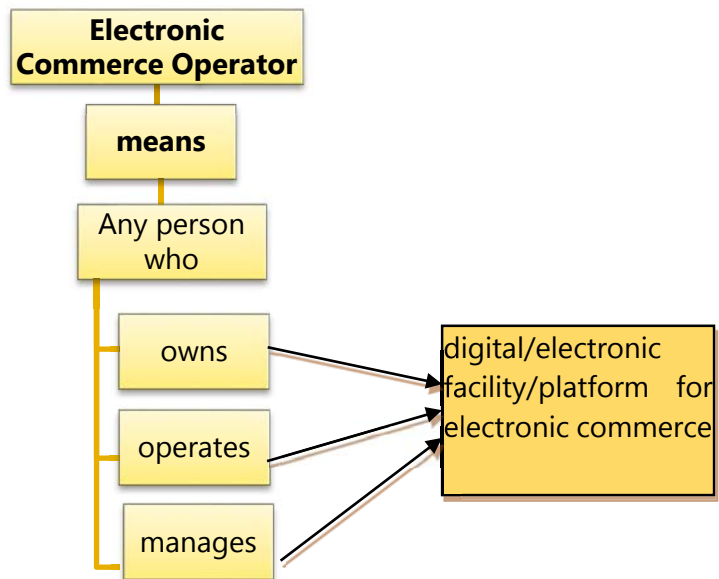
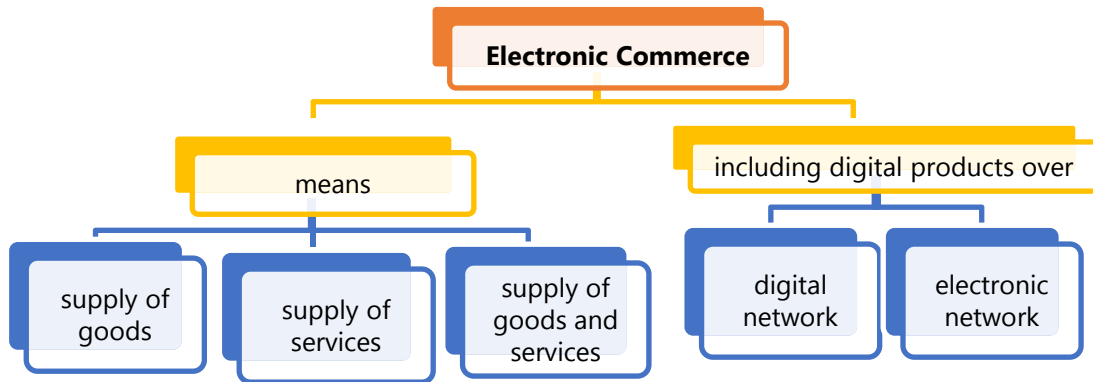
## LET US RECAPITULATE

The provisions relating to TDS & TCS have been summarised by way of table and diagrams to help students remember and retain the provisions in a better and effective manner:-

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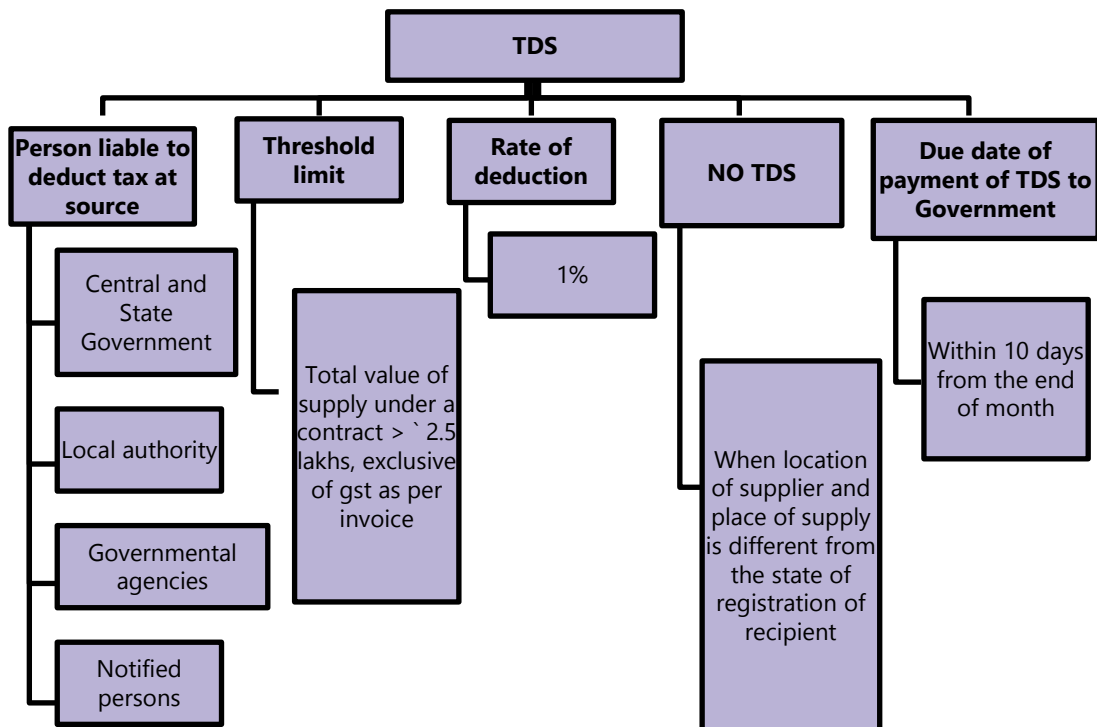
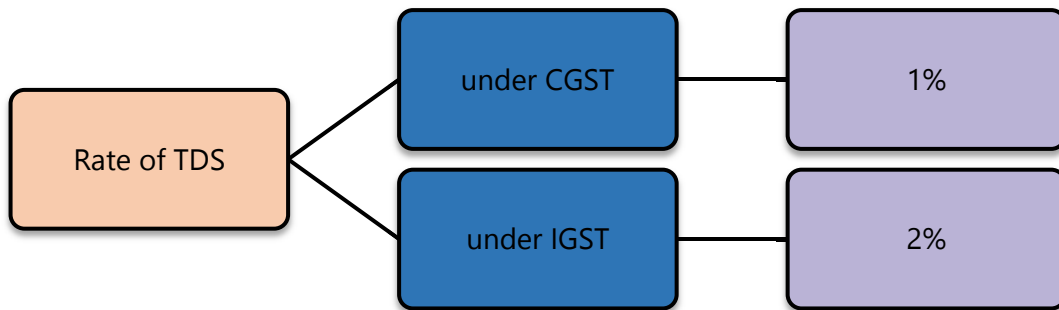
<sup>3</sup> The provisions relating to Registration have already been discussed in detail in Chapter-9.

# Definition of Key terms



# TDS

## RATE OF TDS

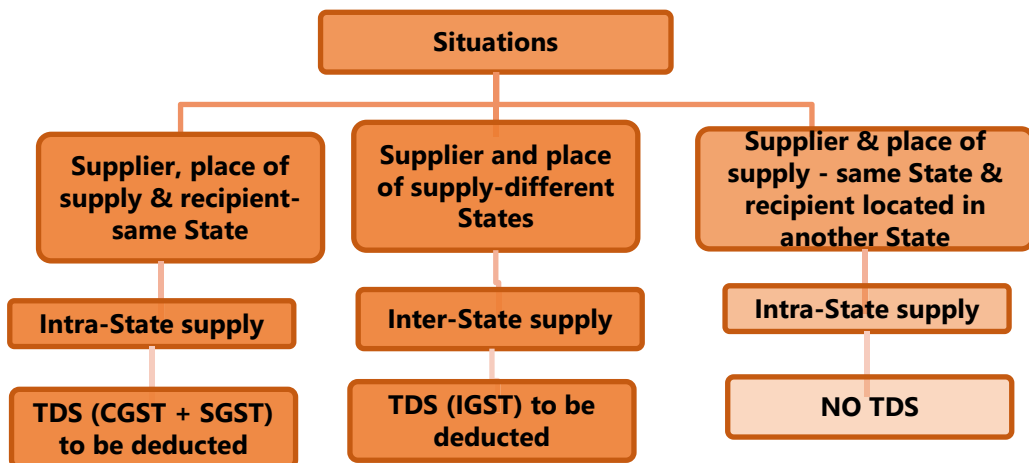


**MANNER OF ACCOUNT OF TDS BY TDS DEDUCTOR**

|    |   |
|----|---|
| 1. | Such deductors needs to get compulsorily registered under section 24 of the CGST/SGST Act.  |
| 2. | They need to remit such TDS collected by the 10 <sup>th</sup> day of the month succeeding the month in which TDS was collected.   |
| 3. | The amount deposited as TDS will be reflected in the electronic cash ledger of the supplier.  |
| 4. | They need to issue certificate of such TDS to the deductee within 5 days of deducting TDS failing which fees of ₹ 100 per day subject to maximum of ₹ 5,000/- will be payable by such deductor. |

**MANNER OF ACCOUNT OF TDS BY SUPPLIER**

- ❖ Any amount shown as TDS will be reflected in the electronic cash ledger of the concerned supplier.
- ❖ He can utilize this amount towards discharging his liability towards tax, interest fees and any other amount.

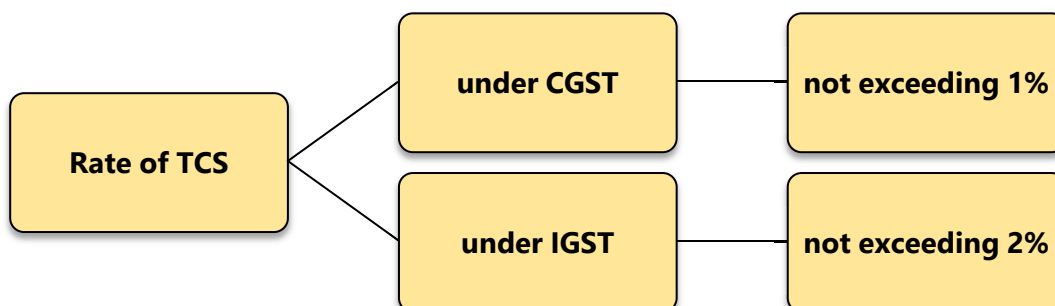
**APPLICABILITY OF TDS**

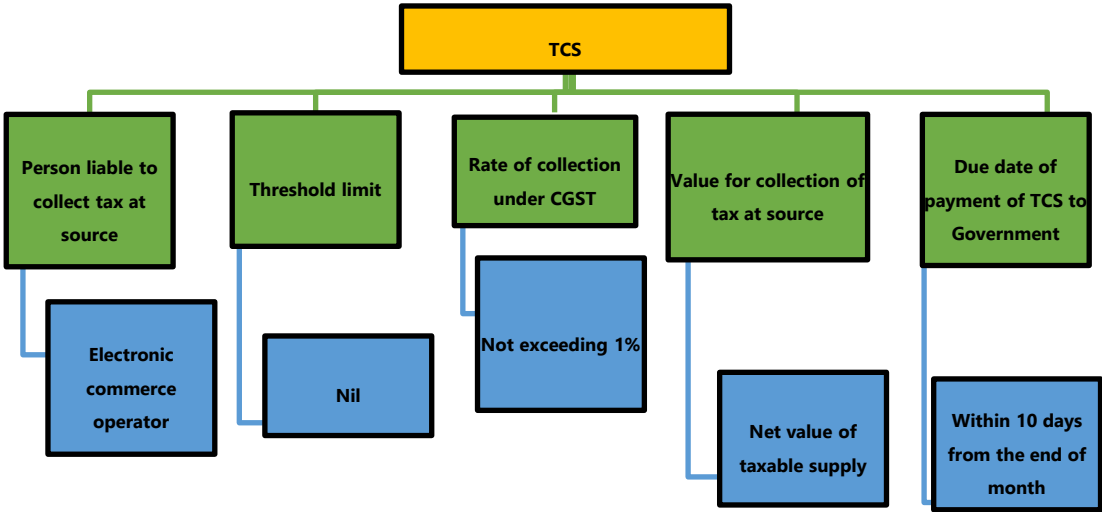
## CONSEQUENCES OF NOT COMPLYING WITH TDS PROVISIONS

| S. No. | Event   | Consequence   |
|--------|---|---|
| 1.     | TDS not deducted  | Interest to be paid along with the TDS amount; else the amount shall be determined and recovered as per the law |
| 2.     | TDS certificate not issued or delayed beyond the prescribed period of five days             | Late fee of ₹ 100/- per day subject to a maximum amount of ₹ 5000/-   |
| 3.     | TDS deducted but not paid to the Government or paid later than 10th of the succeeding month | Interest to be paid along with the TDS amount; else the amount shall be determined and recovered as per the law |
| 4.     | Late filing of TDS returns  | Late fee of ₹ 100/- for every day during which such failure continues, subject to a maximum amount of ₹ 5,000.  |

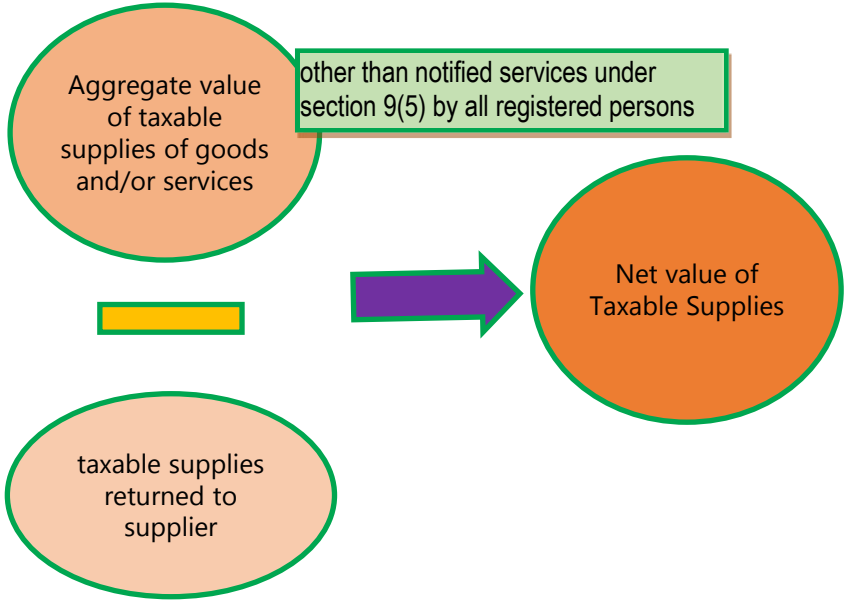
# TCS

## RATE OF TCS

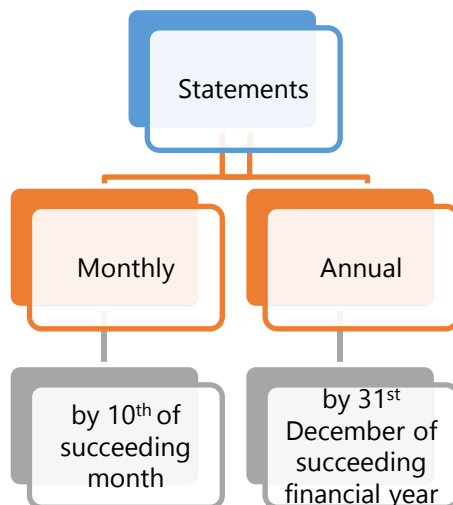




**NET VALUE OF TAXABLE SUPPLIES**



## FILING OF STATEMENTS

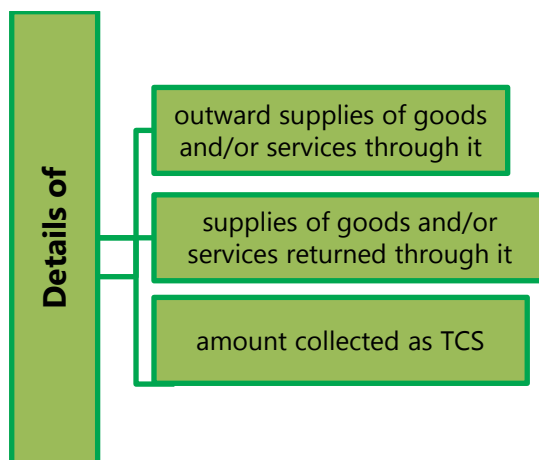


## KEY POINTS RELATING TO TCS

**(a) Every e-commerce operator is required to collect tax on behalf of actual supplier, where consideration with respect to the supply is being collected by the e-commerce operator.**

**(b) The e-commerce operator should make the collection during the month in which supply was made.**

## CONTENT OF MONTHLY &amp; ANNUAL STATEMENTS FURNISHED BY OPERATOR





## TEST YOUR KNOWLEDGE

1. Who is liable to pay GST?
2. What will happen if the deductor fails to issue TDS Certificate within the time prescribed?
3. Whether the rate of tax of 1% specified in section 52 is CGST or SGST or a combination of both CGST and SGST?
4. Explain matching concept for electronic commerce operator with suitable real life example?
5. What will be the availment of input tax credit in case of default in filing of return and payment of tax?
6. State whether Tax collected at source under section 52 of CGST Act, will be applicable in below mentioned scenarios -
  - (a) Titan sells watch on his own through its own website?
  - (b) ABC limited who is dealer of Titan brand sells watches through flipkart, amazon etc.?

## ANSWERS /HINTS

1. General rule - Supplier of goods or services is liable to pay GST.  
Specific circumstances –
  - Import supplies – Recipient of goods or services has to pay tax under reverse charge
  - The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies, of which shall be paid by the electronic commerce operator, if such services are supplied through it
  - TDS – If total value of supply under contract > ₹ 2.5 lakhs, then Central and State Government, Local authority, Government agencies is liable to deduct TDS and pay the same to the government
  - TCS - E-commerce operators are required to collect tax (TCS) on the aggregate value of supply reduced by returns in a month
2. As per section 51(4) of the CGST Act, 2017, if any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by

way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees.

3. The rate of TCS as specified in CGST Act, 2017 is payable under CGST and the equal rate of TCS is expected under the SGST Act also, in effect aggregating to 2%.
4. As per section 52(8) of CGST Act, the details of outward supplies furnished by every operator for the month of tax collected shall be matched with the corresponding details of outward supplies furnished by concerned supplier.

Example: PQR limited sold iphone 6S mobile via shopkart (e-commerce operator) to customers worth ₹ 55,60,000 for the month of November and some customers returned iphone worth ₹ 9,60,000, so net supply for the month of November would be ₹ (55,60,000-9,60,000) = ₹ 46,00,000.

Now, as per section 52(4) of CGST Act, Shopkart will have to furnish statement, electronically, containing the net outward supply worth ₹ 46,00,000 up to 10<sup>th</sup> December which is to be matched with the details of outward supply furnished by PQR limited under section 39.

5. If there is default in payment of tax and filing of returns, input tax credit will become ineligible as per Section 16(2)(d) of the CGST Act, and interest will be calculated on gross tax payable.
6. Answers for both the scenarios is as follows:

As per Section 52 of CGST Act, every electronic commerce operator not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of

- a. the Council, of the net value of taxable supplies made through it *by other suppliers* where the consideration with respect to such supplies is to be collected by the operator.

Hence, if the person sells on his own, TCS won't be applicable.

- b. If ABC limited who is dealer of Titan brand sells watches through Flipkart, Amazon etc., then the provision of TCS will be applicable to flipkart, amazon.