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Presumption as to documents in certain cases (Sec 144)

Sec 144 Where any document—

- (i) is produced by any person under this Act or any other law for the time being in force; or
- (ii) has been seized from the custody or control of any person under this Act or any other law for the time being in force; or
- (iii) has been received from any place outside India in the course of any proceedings under this Act or any other law for the time being in force, and such document is tendered by the prosecution in evidence against him or any other person who is tried jointly with him, the court shall—

(a) unless the contrary is proved by such person, **presume**—

(i) the **truth** of the contents of such document;

(ii) (a) that the **signature** and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and

(b) in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;

(b) **admit** the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

Note –

1. Presumption means an act of accepting that something is true until it is proved not true.

Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence (Sec 145)

Sec 145(1) Notwithstanding anything contained in any other law for the time being in force,—

- (a) a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or
- (b) a facsimile copy of a document; or
- (c) a statement contained in a document and included in a printed material produced by a computer, subject to such **conditions** as may be **prescribed**; or
- (d) any information stored electronically in any device or media, including any hard copies made of such information, shall be deemed to be a document for the purposes of this Act and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence (Sec 145)

Sec 145(2) In any proceedings under this Act or the rules made thereunder, where it is desired to give a statement in evidence by virtue of this section, a certificate,—

- (a) identifying the document containing the statement and describing the manner in which it was produced;
- (b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer, shall be evidence of any matter stated in the certificate and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

Common Portal (Sec 146); Special procedure for certain processes (Sec 148);

Common Portal (Sec 146)

Sec 146 The Government may, on the recommendations of the Council, notify the Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions and for such purposes as may be **prescribed**.

CG has notified vide NN 9/2018-CT, w.e.f. 16-1-2018, www.gst.gov.in as the GST common portal for above stated functions and www.ewaybillgst.gov.in for furnishing E-way bill.

Special procedure for certain processes (Sec 148);

Sec 148 The Government may, on the recommendations of the Council, and subject to such conditions and safeguards as may be prescribed, notify certain classes of registered persons, and the special procedures to be followed by such persons including those with regard to registration, furnishing of return, payment of tax and administration of such persons.

Eg NN 66/17 dt 15-11-17 seeks to exempt all taxpayers from payment of tax on advances received in case of supply of goods.

- NN 29/2023 dt. 31-7-2023 seeks to notify special procedure to be followed by a RP pursuant to the directions of the Hon'ble SC in the case of Union of India v/s Filco Trade Centre Pvt. Ltd., SLP(C) No.32709-32710/2018 in case of TRAN-1 appeal.

- NN 30/2023 dt. 31-7-2023 seeks to notify special procedure to be followed by a RP engage in manufacture of tobacco products.

Goods and services tax compliance rating (Sec 149)

Goods and services tax compliance rating (Sec 149)

Sec 149(1) Every registered person may be assigned a goods and services tax compliance rating score by the Government based on his record of compliance with the provisions of this Act.

Sec 149(2) The goods and services tax compliance rating score may be determined on the basis of such parameters as may be prescribed.

Sec 149(3) The goods and services tax compliance rating score may be updated at periodic intervals and intimated to the registered person and also placed in the public domain in such manner as may be prescribed.

Notification u/s 148 on Special procedure for RP who are Corporate Debtors as regards Registration, Return and Input Tax Credit (NN. 11/2020-CT dt 21-3-20 as amended by NN 39/2020-CT dt 5-5-20 and Clarified through Circular No. 138/08/2020-GST dt 6-5-20)

Insolvency and Bankruptcy Code, 2016 provides for a specialized forum to oversee insolvency and liquidation proceedings for individuals, firms and Corporates. Insolvency Proceedings under the Code can be initiated against a Company (Corporate Debtor).

The trigger to initiate the Corporate Insolvency Resolution process against a Corporate Debtor is the occurrence of default. At first instance an application to initiate the Corporate Insolvency Resolution Process is made by the Creditor to the bench of the Adjudicating Authority along with the consent of the Insolvency Resolution Professional to act as the Interim Resolution Professional (**IRP**). Adjudication Authority decides the applicability of the Application within a period of 14 days from the date of application and appoints the **IRP** for a period of 30 days. **IRP** shall form a committee of creditors to evolve a resolution plan to rehabilitate the ailing corporate within a period of 180 days further extended by maximum 90 days. Committee of Creditors appoints a new or re-appoints the **IRP** as the Resolution Professional (**RP**). If the efforts fail the Corporate will be liquidated by the Adjudication Authority in a time bound manner.

NN 11/2020-CT dated 21-3-2020 notifies those registered persons (hereinafter referred to as the **erstwhile registered person**), who are corporate debtors under the provisions of the Insolvency and Bankruptcy Code, 2016, undergoing the corporate insolvency resolution process and the management of whose affairs are being undertaken by interim resolution professionals (IRP) or resolution professionals (RP), as the class of persons who shall follow the following special procedure, from the date of the appointment of the IRP/RP till the period they undergo the corporate insolvency resolution process.

Notification u/s 148 on Special procedure for RP who are Corporate Debtors as regards Registration, Return and Input Tax Credit (NN. 11/2020-CT dt 21-3-20 as amended by NN 39/2020-CT dt 5-5-20 and Clarified through Circular No. 138/08/2020-GST dt 6-5-20)

Registration.- The said class of persons shall, with effect from the date of appointment of IRP / RP, be treated as a distinct person of the corporate debtor, and shall be liable to take a new registration (hereinafter referred to as the new registration) in each of the States or Union territories where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP or by 30th June, 2020, whichever is later.

Provided that in cases where the IRP/RP has been appointed prior to the date of this notification, he shall take registration within thirty days from the commencement of this notification, with effect from date of his appointment as IRP/RP.

Provided that the said class of persons shall not include those corporate debtors who have furnished the statements under section 37 and the returns under section 39 of the said Act for all the tax periods prior to the appointment of IRP/RP.

Return.- The said class of persons shall, after obtaining registration file the first return under section 40 of the said Act, from the date on which he becomes liable to registration till the date on which registration has been granted.

Notification u/s 148 on Special procedure for RP who are Corporate Debtors as regards Registration, Return and Input Tax Credit (NN. 11/2020-CT dt 21-3-20 as amended by NN 39/2020-CT dt 5-5-20 and Clarified through Circular No. 138/08/2020-GST dt 6-5-20)

Input tax credit.- (1) The said class of persons shall, in his first return, be eligible to avail input tax credit on invoices covering the supplies of goods or services or both, received since his appointment as IRP/RP but bearing the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the said Act and the rules made thereunder, except the provisions of section 16(4) of the said Act and rule 36(4) of the CGST Rules, 2017.

(2) Registered persons who are receiving supplies from the said class of persons shall, for the period from the date of appointment of IRP / RP till the date of registration as required in this notification or 30 days from the date of this notification, whichever is earlier, be eligible to avail input tax credit on invoices issued using the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the said Act and the rules made thereunder, except the provisions of rule 36(4) of the said rules.

Cash Deposited Any amount deposited in the cash ledger by the IRP/RP, in the existing registration, from the date of appointment of IRP/RP to the date of registration in terms of this notification shall be available for refund to the erstwhile registration.

Explanation.- For the purposes of this notification, the terms “corporate debtor”, “corporate insolvency resolution professional”, “interim resolution professional” and “resolution professional” shall have the same meaning as assigned to them in the Insolvency and Bankruptcy Code, 2016 (31 of 2016).

Notification on Special procedure for RP who are Corporate Debtors as regards Registration, Return and Input Tax Credit (NN. 11/2020-CT dt 21-3-20 as amended by NN 39/2020-CT dt 5-5-20 and Clarified through Circular No. 138/08/2020-GST dt 6-5-20)

Clarified through Circular

Another doubt has been raised that the present notification has used the terms IRP and RP interchangeably, and in cases where an appointed IRP is not ratified and a separate RP is appointed, whether the same new GSTIN shall be transferred from the IRP to RP, or both will need to take fresh registration.

- i. In cases where the RP is not the same as IRP, or in cases where a different IRP/RP is appointed midway during the insolvency process, the change in the GST system may be carried out **by an amendment in the registration form**. Changing the authorized signatory is a non-core amendment and does not require approval of tax officer. However, if the previous authorized signatory does not share the credentials with his successor, then the newly appointed person can get his details added through the Jurisdictional authority as Primary authorized signatory.
- ii. The new registration by IRP/RP shall be required only once, and in case of any change in IRP/RP after initial appointment under IBC, it would be deemed to be change of authorized signatory and it would not be considered as a distinct person on every such change after initial appointment. Accordingly, it is clarified that such a change would need only change of authorized signatory which can be done by the authorized signatory of the Company who can add IRP /RP as new authorized signatory or failing that it can be added by the concerned jurisdictional officer on request by IRP/RP.

Clarification in respect of issues under GST law for companies under IBC, 2016 (Clarified through Circular No. 134/04/2020-GST dated 23-3-2020)

Clarified through Circular

How are dues under GST for pre-CIRP period be dealt?

In accordance with the provisions of the IBC and various legal pronouncements on the issue, **no coercive action can be taken against the corporate debtor with respect to the dues for period prior to insolvency commencement date.**

- The dues of the period prior to the commencement of CIRP will be treated as 'operational debt' and
- claims may be filed by the proper officer before the NCLT in accordance with the provisions of the IBC.
- The tax officers shall seek the details of supplies made / received and total tax dues pending from the corporate debtor to file the claim before the NCLT.
- Moreover, section 14 of the IBC mandates the imposition of a moratorium period, wherein the institution of suits or continuation of pending suits or proceedings against the corporate debtor is prohibited.

Should the GST registration of corporate debtor be cancelled?

It is clarified that the GST registration of an entity for which CIRP has been initiated should **not be cancelled** under the provisions of section 29 of the CGST Act, 2017.

- **The proper officer may, if need be, suspend the registration.**
- In case the registration of an entity undergoing CIRP has **already been cancelled** and it is within the period of revocation of cancellation of registration, it is advised that such cancellation may be **revoked** by taking appropriate steps in this regard.

Clarification in respect of issues under GST law for companies under IBC, 2016 (Clarified through Circular No. 134/04/2020-GST dated 23-3-2020)

Clarified through Circular

Is IRP/RP liable to file returns of pre-CIRP period?

No. In accordance with the provisions of IBC, 2016, the IRP/RP is under obligation to comply with all legal requirements for period after the Insolvency Commencement Date. Accordingly, it is clarified that IRP/RP are not under an obligation to file returns of pre-CIRP period.

During CIRP period

Should a new registration be taken by the corporate debtor during the CIRP period?

The corporate debtor who is undergoing CIRP is to be treated as a distinct person of the corporate debtor and **shall be liable to take a new registration in each State or Union territory where the corporate debtor was registered earlier**, within thirty days of the appointment of the IRP/RP. Further, in cases where the IRP/RP has been appointed prior to the issuance of notification No.11/2020-Central Tax, dated 21.03.2020, he shall take registration within thirty days of issuance of the said notification, with effect from date of his appointment as IRP/RP.

How to file First Return after obtaining new registration?

The IRP/RP will be liable to furnish returns, make payment of tax and comply with all the provisions of the GST law during CIRP period. The IRP/RP is required to ensure that the first return is filed under section 40 of the CGST Act, for the period beginning the date on which it became liable to take registration till the date on which registration has been granted.

Clarification in respect of issues under GST law for companies under IBC, 2016 (Clarified through Circular No. 134/04/2020-GST dated 23-3-2020)

Clarified through Circular

How to avail ITC for invoices issued to the erstwhile registered person in case the IRP/RP has been appointed before issuance of notification No.11/2020-CT, dated 21.03.2020 and no return has been filed by the IRP during the CIRP ?

The special procedure issued under section 148 of the CGST Act has provided the manner of availment of ITC while furnishing the first return under section 40. The said class of persons shall, in his first return, be eligible to avail input tax credit on invoices covering the supplies of goods or services or both, received since appointment as IRP/RP and during the CIRP period but bearing the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the CGST Act and rule made thereunder, except the provisions of sub-section (4) of section 16 of the CGST Act and sub-rule (4) of rule 36 of the CGST Rules. In terms of the special procedure under section 148 of the CGST Act issued vide notification No.11/2020-Central Tax, dated 21.03.2020. This exception is made only for the first return filed under section 40 of the CGST Act.

How to avail ITC for invoices by persons who are availing supplies from the corporate debtors undergoing CIRP, in cases where the IRP/RP was appointed before the issuance of the notification No.11/2020 - Central Tax, dated 21.03.2020?

Registered persons who are receiving supplies from the said class of persons shall, for the period from the date of appointment of IRP / RP till the date of registration as required in this notification or 30 days from the date of this notification, whichever is earlier, be eligible to avail input tax credit on invoices issued using the GSTIN of the erstwhile registered person, subject to the conditions of Chapter V of the CGST Act and rule made thereunder, except the provisions of sub-rule (4) of rule 36 of the CGST Rules.

Clarification in respect of issues under GST law for companies under IBC, 2016 (Clarified through Circular No. 134/04/2020-GST dated 23-3-2020)

Clarified through Circular

Some of the IRP/RPs have made deposit in the cash ledger of erstwhile registration of the corporate debtor. How to claim refund for amount deposited in the cash ledger by the IRP/RP?

Any amount deposited in the cash ledger by the IRP/RP, in the existing registration, from the date of appointment of IRP / RP to the date of notification specifying the special procedure for corporate debtors undergoing CIRP, shall be available for refund to the erstwhile registration under the head refund of cash ledger, even though the relevant FORM GSTR-3B/GSTR-1 are not filed for the said period. The instructions contained in Circular No. 125/44/2019-GST dt. 18.11.2019 stands modified to this extent.

Clarification in respect of issues under GST law for companies under IBC, 2016 (Clarified through Circular No. 134/04/2020-GST dated 23-3-2020. This clarification has been amended through Circular No. 187/19/2022-GST dated 27-12-2022)

Clarified through Circular

Clarification regarding the modalities for implementation of the order of the adjudicating authority under IBC, 2016 with respect to demand for recovery against such corporate debtor under CGST Act, 2017 as well under the existing laws where amount due to authorities under CGST has been reduced.

It has been clarified that proceeding under IBC shall be considered as proceedings under Sec 84 of the CGST Act.

As per section 84 (b) where such Government dues are reduced in such appeal, revision or in other proceedings- *(ii) the Commissioner shall give **intimation** of such reduction to him and to the appropriate authority with whom recovery proceedings is pending;*

Thus, Rule 161 of CGST Rules, 2017 prescribes **FORM GST DRC-25** for issuing intimation for such reduction of demand specified under section 84 of CGST Act. Accordingly, in cases where a confirmed demand for recovery has been issued by the tax authorities for which a summary has been issued in **FORM GST DRC-07/DRC 07A** against the corporate debtor, and where the proceedings have been finalised against the corporate debtor under IBC reducing the amount of statutory dues payable by the corporate debtor to the government under CGST Act or under existing laws, the jurisdictional Commissioner shall issue an intimation in **FORM GST DRC-25** reducing such demand, to the taxable person or any other person as well as the appropriate authority with whom recovery proceedings are pending.

Taking assistance from an expert (Sec 153); Power to take samples (Sec 154) Burden of proof (Sec 155); Persons deemed to be public servants (Sec 156)

Taking assistance from an expert (Sec 153)

Sec 153 Any officer not below the rank of Assistant Commissioner may, having regard to the nature and complexity of the case and the interest of revenue, take assistance of any expert at any stage of scrutiny, inquiry, investigation or any other proceedings before him.

Power to take samples (Sec 154)

Sec 154 The Commissioner or an officer authorised by him may take samples of goods from the possession of any taxable person, where he considers it necessary, and provide a receipt for any samples so taken.

Burden of proof (Sec 155)

Sec 155 Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person.

Persons deemed to be public servants (Sec 156)

Sec 156 All persons discharging functions under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Note – As the persons discharging official functions are deemed to be public servants, any offences against such persons and offences by such persons would be dealt with in accordance with IPC.

Protection of action taken under this Act (Sec 157)

Protection of action taken under this Act (Sec 157)

Sec 157(1) No suit, prosecution or other legal proceedings shall lie against the

- President of the Appellate Tribunal,
- State President of the Appellate Tribunal,
- Members of the Appellate Tribunal,
- officers or other employees of the Appellate Tribunal or
- any other person authorised by the said Appellate Tribunal

for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Sec 157(2) No suit, prosecution or other legal proceedings shall lie against any officer appointed or authorised under this Act for anything which is done or intended to be done in good faith under this Act or the rules made thereunder.

Note – This Section protects the GST officers and officers of GST Tribunal from legal proceedings in respect of acts done in good faith. Immunity from any legal or departmental proceedings is provided to the GST officers and officers of the Tribunal for the acts done in good faith under the provisions of this Act.

Disclosure of information by a public servant (Sec 158)

This section lays down the guidelines for non-disclosure of information obtained during the course of any proceeding and the situations when such information can be disclosed.

Information/documents to be treated as confidential

Sec 158(1) -The following shall be treated as confidential –

1. All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or
2. All particulars in any record of evidence given in the course of any proceedings under this Act (other than proceedings before a criminal court), or
3. All particulars in any record of any proceedings under this Act shall, save as provided in sub-section (3), not be disclosed.

Restrictions on Courts

Sec 158(2) Notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as otherwise provided in sub-section (3), require any officer appointed or authorised under this Act to produce before it or to give evidence before it in respect of particulars referred to in sub-section (1).

Disclosure of information by a public servant (Sec 158)

Exceptions to Sec 158(1) – Particulars that can be disclosed (Sec 158(3))

Nothing contained in this section shall apply to the disclosure of,—

1. **Required under other Law - For prosecution under IPC or Prevention of Corruption Act** - any particulars in respect of any statement, return, accounts, documents, evidence, affidavit or deposition, for the purpose of any prosecution under the Indian Penal Code or the Prevention of Corruption Act, 1988, or any other law for the time being in force; or
2. **For verification purposes - Particulars to CG, SG for carrying out the objects of the Act** - any particulars to the Central Government or the State Government or to any person acting in the implementation of this Act, for the purposes of carrying out the objects of this Act; or
3. **For service of any notice** - any particulars when such disclosure is occasioned by the lawful exercise under this Act of any process for the service of any notice or recovery of any demand; or
4. **For audit of tax receipts or refunds** - For audit of tax receipts or any particulars to any officer appointed for the purpose of audit of tax receipts or refunds of the tax imposed by this Act; or
5. **For the purpose of enabling SG/CG to levy or realise any tax or duty** - any such particulars to an officer of the Central Government or of any State Government, as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty; or
6. **For furnishing to Court in a proceeding where Govt. is a party** - any particulars to a civil court in any suit or proceedings, to which the Government or any authority under this Act is a party, which relates to any matter arising out of any proceedings under this Act or under any other law for the time being in force authorising any such authority to exercise any powers thereunder; or

Disclosure of information by a public servant (Sec 158)

Exceptions to Sec 158(1) – Particulars that can be disclosed (Sec 158(3))

(3) Nothing contained in this section shall apply to the disclosure of,—

7. **For enquiry into the conduct of GST Officer** - any particulars where such particulars are relevant for the purposes of any inquiry into the conduct of any officer appointed or authorised under this Act, to any person or persons appointed as an inquiry officer under any law for the time being in force; or
8. **Disclosure under Lawful exercise of power by Public Servant** - any particulars when such disclosure is occasioned by the lawful exercise by a public servant or any other statutory authority, of his or its powers under any law for the time being in force; or
9. **For inquiry into a charge of misconduct by any professional** - any particulars relevant to any inquiry into a charge of misconduct in connection with any proceedings under this Act against a practising advocate, a tax practitioner, a practising cost accountant, a practising chartered accountant, a practising company secretary to the authority empowered to take disciplinary action against the members practising the profession of a legal practitioner, a cost accountant, a chartered accountant or a company secretary, as the case may be; or
10. **For data entry on automated system** - any particulars to any agency appointed for the purposes of data entry on any automated system or for the purpose of operating, upgrading or maintaining any automated system where such agency is contractually bound not to use or disclose such particulars except for the aforesaid purposes; or
11. **For any other law** - any particulars to an officer of the Government as may be necessary for the purposes of any other law for the time being in force; or
12. **In public Interest** - any information relating to any class of taxable persons or class of transactions for publication, if, in the opinion of the Commissioner, it is desirable in the public interest, to publish such information.

Consent based sharing of information furnished by taxable person [Sec 158A]

158A. (1) Notwithstanding anything contained in sections 133, 152 and 158, the following details furnished by a registered person may, subject to the provisions of subsection (2), and on the recommendations of the Council, be shared by the common portal with such other systems as may be notified by the Government, in such manner and subject to such conditions as may be prescribed, namely:—

- (a) particulars furnished in the application for registration under **section 25** or in the return filed under **section 39** or under **section 44**;
- (b) the particulars uploaded on the common portal for preparation of invoice, the details of outward supplies furnished under **section 37** and the particulars uploaded on the common portal for generation of documents under **section 68**;
- (c) such other details as may be prescribed.

(2) For the purposes of sharing details under sub-section (1), the consent shall be obtained, of —

- (a) the supplier, in respect of details furnished under clauses (a), (b) and (c) of sub-section (1); and
- (b) the recipient, in respect of details furnished under clause (b) of sub-section (1), and under clause (c) of sub-section (1) only where such details include identity information of the recipient, in such form and manner as may be prescribed.

(3) Notwithstanding anything contained in any law for the time being in force, no action shall lie against the Government or the common portal with respect to any liability arising consequent to information shared under this section and there shall be no impact on the liability to pay tax on the relevant supply or as per the relevant return. **[Inserted by FA, 2023, w.e.f. 1-10-2023]**

Note –

1. The government has issued a notification no. 33/2023-CT, dated 31-7-2023, w.e.f. 1-10-2023, whereby “**Account Aggregator**” has been notified as the systems with which information may be shared by the common portal based on consent under Sec 158A of the CGST Act, 2017.

Explanation: For the purpose of this notification, “Account Aggregator” means a non-financial banking company (NBFC) which undertakes the business of an Account Aggregator in accordance with the policy directions issued by the Reserve Bank of India(RBI) under section 45JA of the RBU Act, 1934 and defined as such in the Non-Banking Financial Company -Account Aggregator (Reserve Bank) Directions, 2016.

Consent based sharing of information furnished by taxable person [Sec 158A]

Rule 163 of CGST Rules, 2017 has been inserted vide NN 38/2023-CT dated 4-8-2023, w.e.f. 1-10-2023

(1) Where a registered person opts to share the information furnished in—

- (a) **FORM GST REG-01** as amended from time to time;
- (b) return in **FORM GSTR-3B** for certain tax periods;
- (c) **FORM GSTR-1** for certain tax periods, pertaining to invoices, debit notes and credit notes issued by him, as amended from time to time, with a system referred to in sub-section (1) of section 158A (hereinafter referred to as “requesting system”), the requesting system shall obtain the consent of the said registered person for sharing of such information and shall communicate the consent along with the details of the tax periods, where applicable, to the common portal.

(2) The registered person shall give his consent for sharing of information under clause (c) of sub-rule (1) only after he has obtained the consent of all the recipients, to whom he has issued the invoice, credit notes and debit notes during the said tax periods, for sharing such information with the requesting system and where he provides his consent, the consent of such recipients shall be deemed to have been obtained.

(3) The common portal shall communicate the information referred to in sub-rule (1) with the requesting system on receipt from the said system- (a) the consent of the said registered person, and (b) the details of the tax periods or the recipients, as the case may be, in respect of which the information is required.

Publication of Information in Respect of Persons in Certain Cases (Sec 159)

| Ques | Ans |
|---|---|
| What type of information can be published? | Name of any person and any other particulars relating to any proceedings or prosecution under this Act in respect of such person |
| Who can publish such information? | The Commissioner, or any other officer authorised by him in this behalf |
| What is the manner of publication of information? | Such manner as the Commissioner/authorised officer thinks fit. |
| When can the information be published? | If the Commissioner, or any other officer authorised by him in this behalf, is of the opinion that it is necessary or expedient in the public interest to do so. |
| Is there any additional information which can be published? | In the case of firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers or managers of the company, or the members of the association, as the case may be, may also be published if, in the opinion of the Commissioner, or any other officer authorised by him in this behalf, circumstances of the case justify it. |
| What is the limitation on publication of information relating to penalty? | No publication under this section shall be made in relation to any penalty imposed under this Act until <ul style="list-style-type: none">the time for presenting an appeal to the Appellate Authority under section 107 has expired without an appeal having been presented orthe appeal, if presented, has been disposed of. |

Sec 160(1)

- No
 - assessment,
 - re-assessment,
 - adjudication,
 - review,
 - revision,
 - appeal,
 - rectification,
 - notice,
 - summons or
 - other proceedings
- of any of the provisions of this Act shall be invalid or deemed to be invalid merely by reason of any
 - mistake,
 - defect or
 - omission therein,
- if such assessment, re-assessment, adjudication, review, revision, appeal, rectification, notice, summons or other proceedings are **in substance and effect in conformity** with or according to the intents, purposes and requirements of this Act or any existing law.

Sec 160(2)

The service of any notice, order or communication shall not be called in question, if the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.

Bar on jurisdiction of civil courts (Sec 162); Levy of fee (Sec 163)

Sec 162 Save as provided in sections 117 and 118, no civil court shall have jurisdiction to deal with or decide any question arising from or relating to anything done or purported to be done under this Act.

Sec 163 Wherever a copy of any order or document is to be provided to any person on an application made by him for that purpose, there shall be paid such fee as may be prescribed.

Rounding off of tax, etc. (Sec 170)

Sec 170 The amount of tax, interest, penalty, fine or any other sum payable, and the amount of refund or any other sum due, under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.

Note –

- This provision enables the tax payers and also the departmental authorities to round off the amounts calculated as per the law, if the amounts are in fraction of a rupee.
- Amounts covered – Tax, interest, penalty, fine or any other sum payable, and refund or any other sum due, under the Act.
- The above amount shall be rounded off as under –
 - If amount contains a part of a rupee which is more than or equal to 50 paise – Must be increased to one rupee.
 - If amount contains a part of a rupee which is less than 50 paise – Part to be ignored.
- In case of the assessee, the rounding off must be done for every part of the tax contained in the invoice.
- The above provision is applicable for the assessee, for the department (while issuing show cause notice or passing the order, etc) and also for the Appellate Authorities.

Service of notice in certain circumstances.

Sec 169(1) Any decision, order, summons, notice or other communication under this Act or the rules made thereunder shall be served by any one of the following methods, namely:—

(a) Physical Delivery - Giving/tendering directly –

- a. by giving or tendering it directly or
- b. by a messenger including a courier
 - i. to the addressee or the taxable person or to his manager or
 - ii. authorised representative or an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or
 - iii. to a person regularly employed by him in connection with the business, or
 - iv. to any adult member of family residing with the taxable person; or

(b) Registered post/speed post/courier - by registered post or speed post or courier with acknowledgement due, to the person for whom it is intended or his authorised representative, if any, at his last known place of business or residence; or

(c) Email - by sending a communication to his e-mail address provided at the time of registration or as amended from time to time; or

(d) At Common Portal - by making it available on the common portal; or

(e) Publication in newspaper - by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain; or

Service of notice in certain circumstances.

(f) Affixing at place of business etc. - if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence and if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer or authority who or which passed such decision or order or issued such summons or notice.

Deemed date of serving

Sec 169(2) Every decision, order, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed in the manner provided in sub-section (1).

Deemed date of receipt

Sec 169(3) When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.

Antiprofitereing measure (Sec 171)

Sec 171(1) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.

Sec 171(2) The Central Government may, on recommendations of the Council, by **notification**, constitute an Authority (**National Anti-profitereing Authority**), or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

Sec 171(3) The Authority referred to in sub-section (2) shall exercise such **powers** and discharge such **functions** as may be **prescribed**.

Sec 171(3A) Where the Authority referred to in sub-section (2), after holding examination as required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty equivalent to 10% of the amount so profiteered:

Provided that no penalty shall be leviable if the profiteered amount is deposited within 30 days of the date of passing of the order by the Authority.

Explanation—For the purposes of this section, the expression “**profiteered**” shall mean the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit to the recipient by way of commensurate reduction in the price of the goods or services or both.

Antiprofitteering measure (Sec 171)

Note –

The government has issued NN 23/2022-CT dated 23rd Nov. 2022 and has empowered Competition Commission of India established under section 7(1) of the Competition Act, 2002 by using the powers given to it by Section 171(2)

Antiprofitereing measure (Sec 171)

Rule 122 of CGST Rules,2017 - Constitution of the Authority

Omitted vide NN 24/2022-CT, dt 23rd Nov, 2022, w.e.f. 1-12-2022

Rule 123 of CGST Rules, 2017 - Constitution of the Standing Committee and Screening Committees

(1)The Council may constitute a Standing Committee on Anti-profitereing which shall consist of such officers of the State Government and Central Government as may be nominated by it.

(2) A State level Screening Committee shall be constituted in each State by the State Governments which shall consist of-

- (a) one officer of the State Government, to be nominated by the Commissioner, and
- (b) one officer of the Central Government, to be nominated by the Chief Commissioner.

Rule 126 of CGST Rules, 2017 - Power to determine the methodology and procedure

The Authority may determine the methodology and procedure for determination as to whether the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit has been passed on by the registered person to the recipient by way of commensurate reduction in prices.

Rule 127 of the CGST Rules, 2017 – Functions of the Authority

The authority shall discharge the following functions, namely:-

- (i) to determine whether any reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has been passed on to the recipient by way of commensurate reduction in prices;
- (ii) to identify the registered person who has not passed on the benefit of reduction in the rate of tax on supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices;
- (iii) to order,
 - (a) reduction in prices;
 - (b) return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen percent. from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount not returned, as the case may be, in case the eligible person does not claim return of the amount or is not identifiable, and depositing the same in the Fund referred to in section 57;
 - (c) imposition of penalty as specified in the Act; and
 - (d) cancellation of registration under the Act.
- (iv) to furnish a performance report to the Council by the 10th day of the close of each quarter.

Antiprofitereing measure (Sec 171)

Rule 128 of the CGST Rules, 2017 - Examination of application by the Standing Committee and Screening Committee

- (1) The Standing Committee shall, within a period of **2 months** from the date of the receipt of a written application [or within such extended period not exceeding a **further period of 1 month** for reasons to be recorded in writing as may be allowed by the Authority]*,
- in such form and manner as may be specified by it,
 - from an interested party or from a Commissioner or any other person,
 - examine the accuracy and adequacy of the evidence provided in the application
 - to determine whether there is prima-facie evidence to support the claim of the applicant that the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of ITC has not been passed on to the recipient by way of commensurate reduction in prices.
- (2) All applications from interested parties on issues of local nature [or those forwarded by the Standing Committee]* shall first be examined by the State level Screening Committee and the Screening Committee shall, [**within 2 months** from the date of receipt of a written application, or within such extended period not exceeding a **further period of 1 month** for reasons to be recorded in writing as may be allowed by the Authority]*, upon being satisfied that the supplier has contravened the provisions of section 171, forward the application with its recommendations to the Standing Committee for further action.

* Inserted vide Notification No. 31/2019 dated 28th June, 2019 w.e.f. 28-6-2019.

Antiprofitereing measure (Sec 171)

Rule 129 of the CGST Rules, 2017 - Initiation and conduct of proceedings

- (1) **Where the Standing Committee is satisfied that there is a prima-facie evidence to show that the supplier has not passed on the benefit of reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, it shall refer the matter to the Director General of Anti-profitereing (DGAP) for a detailed investigation.**
- (2) The Director General of Anti-profitereing (DGAP) shall conduct investigation and collect evidence necessary to determine whether the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has been passed on to the recipient by way of commensurate reduction in prices.
- (3) The DGAP shall, before initiation of the investigation, issue a notice to the interested parties
- (4) The DGAP may also issue notices to such other persons as deemed fit for a fair enquiry into the matter.
- (5) The DGAP shall make available the evidence presented to it by one interested party to the other interested parties, participating in the proceedings.
- (6) The DGAP shall complete the investigation within a period of ~~3 months~~ 6 months ('3 months' substituted by '6 months' by NN 31/2019-CT, w.e.f. 28-6-2019) of the receipt of the reference from the Standing Committee or within such extended period not exceeding a further period of 3 months for reasons to be recorded in writing as may be allowed by the ~~Standing Committee~~ Authority ('Standing Committee' substituted by 'Authority' by NN 14/2018-CT, w.e.f. 23-3-2018) and, upon completion of the investigation, furnish to the Authority, a report of its findings along with the relevant records.

Antiprofitereing measure (Sec 171)

Rule 130 of the CGST Rules, 2017 - Confidentiality of information

- (1) Notwithstanding anything contained in sub-rules (3) and (5) of rule 129 and sub-rule (2) of rule 133, the provisions of section 11 of the Right to Information Act, 2005 (22 of 2005), shall apply mutatis mutandis to the disclosure of any information which is provided on a confidential basis.
- (2) The DGAP may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of the party providing such information, the said information cannot be summarised, such party may submit to the DGAP a statement of reasons as to why summarisation is not possible.

Rule 131 of the CGST Rules, 2017 - Cooperation with other agencies or statutory authorities

Where the DGAP deems fit, he may seek opinion of any other agency or statutory authorities in the discharge of his duties.

Rule 132 of the CGST Rules, 2017 - Power to summon persons to give evidence and produce documents

- (1) The Authority, DGAP, or an officer authorised by him in this behalf, shall be deemed to be the proper officer to exercise the power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing under section 70 and shall have power in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908.
- (2) Every such inquiry referred to in sub-rule (1) shall be deemed to be a judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code.

Antiprofitereing measure (Sec 171)

Rule 133 of CGST Rules, 2017 - Order of the Authority

- 1) The Authority shall, within a period of 3 months 6 months ('3 months' substituted by '6 months' by NN 31/2019-CT, w.e.f. 28-6-2019) from the date of the receipt of the report from the DGAP determine whether a registered person has passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices.
- 2) An opportunity of hearing shall be granted to the interested parties by the Authority where any request is received in writing from such interested parties.

[(2A) The Authority may seek the clarification, if any, from the DGAP on the report submitted under sub-rule (6) of rule 129 during the process of determination under sub-rule (1).][**Inserted vide NN 31/2019-CT, w.e.f. 28-6-2019**]

Antiprofitereing measure (Sec 171)

- 3) Where the Authority determines that a registered person has not passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, the Authority may order-
- (a) reduction in prices;
 - (b) return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of 18% from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount including interest not returned, as the case may be;
 - (c) the deposit of an amount equivalent to 50% of the amount determined under the above clause [along with interest at the rate of 18% from the date of collection of the higher amount till the date of deposit of such amount] **[Inserted vide NN 31/2019-CT, w.e.f. 28-6-2019]** in the Fund constituted under section 57 and the remaining 50% of the amount in the Fund constituted under section 57 of the GST Act, 2017 of the concerned State, where the eligible person does not claim return of the amount or is not identifiable;
 - (d) imposition of penalty as specified under the Act; and
 - (e) cancellation of registration under the Act.

Explanation: For the purpose of this sub-rule, the expression, “concerned State” means the State or Union Territory in respect of which the Authority passes an order.

Antiprofitereing measure (Sec 171)

(4) If the report of the DGAP referred to in rule 129(6) recommends that there is contravention or even non-contravention of the provisions of section 171 or these rules, but the Authority is of the opinion that further investigation or inquiry is called for in the matter, it may, for reasons to be recorded in writing, refer the matter to the DGAP to cause further investigation or inquiry in accordance with the provisions of the Act and these rules.

(5)

(a) Further, where upon receipt of the report of the DGAP, the Authority has reasons to believe that there has been contravention of the provisions of section 171 in respect of goods or services or both **other than those covered in the said report**, it may, for reasons to be recorded in writing, within 6 months, direct the DGAP to cause investigation or inquiry with regard to such other goods or services or both, in accordance with the provisions of the Act and these rules.

(b) The investigation or enquiry under clause (a) shall be deemed to be a new investigation or enquiry and all the provisions of rule 129 shall mutatis mutandis apply to such investigation or enquiry. **[Rule 133(5) inserted vide NN 31/2019-CT, w.e.f. 28-6-2019]**

Antiprofitereing measure (Sec 171)

Rule 134 of the CGST Rules, 2017 - Decision to be taken by the majority

Omitted vide NN 24/2022-CT, dt 23rd Nov, 2022, w.e.f. 1-12-2022

Rule 135 of the CGST Rules, 2017 - Compliance by the registered person

Any order passed by the Authority under these rules shall be immediately complied with by the registered person failing which action shall be initiated to recover the amount in accordance with the provisions of the IGST Act or the CGST Act or the UTGST Act or the SGST Act of the respective States, as the case may be.

Rule 136 of the CGST Rules, 2017 - Monitoring of the order

The Authority may require any authority of central tax, State tax or Union territory tax to monitor the implementation of the order passed by it.

Antiprofitereing measure (Sec 171)

Rule 137 of the CGST Rules, 2017 – Tenure of Authority

~~The Authority shall cease to exist after the expiry of [five years]~~~~[Substituted vide NN 37/2021-CT dated 1-12-2021, w.e.f. 30-11-2021, earlier read as “four years”]~~ from the date on which the Chairman enters upon his office unless the Council recommends otherwise.**[Omitted vide NN 24/2022-CT, dt 23rd Nov, 2022, w.e.f. 1-12-2022]**

Explanation.- For the purposes of this Chapter,

- (a) “Authority” means the Authority notified under sub-section (2) of section 171 of the Act; **[Substituted vide Omitted vide NN 24/2022-CT, dt 23rd Nov, 2022, w.e.f. 1-12-2022, it earlier read as National Anti-profitereing Authority constituted under rule 122;]**
- (b) “Committee” means the Standing Committee on Anti-profitereing constituted by the Council in terms of sub-rule (1) of rule 123 of these rules;
- (c) any other person alleging, under sub-rule (1) of rule 128, that a registered person has not passed on the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices.**[Clause (c) substituted vide NN 14/2018-CT, dated 23-3-2018]**
- (d) “Screening Committee” means the State level Screening Committee constituted in terms of sub-rule (2) of rule 123 of these rules.

Omission and Repeal of Earlier Laws (Sec 173 and Sec 174)

Sec 173 – Amendment of Act 32 of 1994.

Save as otherwise provided in this Act, Chapter V of the Finance Act, 1994 shall be omitted.

Sec 174 - Repeal and saving

Sec 174(1) Save as otherwise provided in this Act, on and from the date of commencement of this Act, the Central Excise Act, 1944 (except as respects goods included in entry 84 of the Union List of the 7th Schedule to the Constitution), the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978, and the Central Excise Tariff Act, 1985 (hereafter referred to as the repealed Acts) are hereby repealed.

Sec 174(2) The repeal of the said Acts and the amendment of the Finance Act, 1994 (hereafter referred to as “such amendment” or “amended Act”, as the case may be) to the extent mentioned in the sub-section (1) or section 173 shall **not**—

(a) No new effect - revive anything not in force or existing at the time of such amendment or repeal; Eg, if a person has not taken credit in the earlier regime due to restrictions on time limit, he does not get a chance to claim it after such time limit is removed due to repeal of ST law; or

Omission and Repeal of Earlier Laws (Sec 173 and Sec 174)

- b) **No effect on previous position** - affect the previous operation of the amended Act or repealed Acts and orders or anything duly done or suffered thereunder; Eg, if a person has duly filed returns under the old regime it cannot be questioned now by the department. or
- c) **No effect on rights or liabilities under previous law** - affect any right, privilege, obligation, or liability acquired, accrued or incurred under the amended Act or repealed Acts or orders under such repealed or amended Acts: Eg, a right of appeal, which accrues under the old regime and duly exercised before the CESTAT or Commissioner (Appeals) does not fail due to restricted application of the old laws. **Provided** that any tax exemption granted as an incentive against investment through a notification shall not continue as privilege if the said notification is rescinded on or after the appointed day; or
- d) **No effect on tax etc. due under previous law** - affect any duty, tax, surcharge, fine, penalty, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed against the provisions of the amended Act or repealed Acts; Eg, if a Central Excise case is decided by the Supreme Court after enactment of GST and the party's appeal is rejected then the liabilities can still be enforced even though the CE Act may be repealed or applied in a restricted manner. or

Omission and Repeal of Earlier Laws (Sec 173 and Sec 174)

- e) **No effect on legal proceedings and tax, penalty etc. under previous law** - affect any investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and any other legal proceedings or recovery of arrears or remedy in respect of any such duty, tax, surcharge, penalty, fine, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and other legal proceedings or recovery of arrears or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, fine, interest, forfeiture or punishment may be levied or imposed as if these Acts had not been so amended or repealed; Eg, if on the date of enactment of GST law, the matter is under investigation, it can be continued and the SCN can be issued subsequently invoking the old provisions.
- f) **No effect on any appellate proceeding under previous law** - affect any proceedings including that relating to an appeal, review or reference, instituted before on, or after the appointed day under the said amended Act or repealed Acts and such proceedings shall be continued under the said amended Act or repealed Acts as if this Act had not come into force and the said Acts had not been amended or repealed. Eg, all the pending matters before the Commissioner (Appeals), Revisionary Authority, CESTAT, High Court and Supreme Court, would be continued and would not abate due to introduction of GST.

Sec 174(3) The mention of the particular matters referred to in sub-sections (1) and (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

Omission and Repeal of Earlier Laws (Sec 173 and Sec 174)

Sec 174(3) The mention of the particular matters referred to in sub-sections (1) and (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

Section 6 of the General Clauses Act, 1897

Effect of repeal—Where this Act, or any Central Act or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not--

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed.

Sec 17 - Apportionment of tax and settlement of funds

Sec 17(1) of IGST Act, 2017 – Apportionment of IGST paid on supplies where ITC cannot be availed

Section 17(1) lays down that in respect of the IGST paid on the following supplies of goods and/or services, the IGST shall be apportioned to the CG (by calculating amount calculated at the rate equivalent to the CGST on similar intra-states supplies) -

- (a) in respect of inter-State supplies to an unregistered person or to a registered person paying tax under section 10 of the CGST Act;
- (b) in respect of inter-State supplies where the registered person is not eligible for input tax credit;
- (c) in respect of inter-State supplies made in a financial year to a registered person, where he does not avail of the input tax credit within the specified period and thus remains in the integrated tax account after expiry of the due date for furnishing of annual return for such year in which the supply was made;
- (d) in respect of import by an unregistered person or by a registered person paying tax under section 10 of the CGST Act;
- (e) in respect of import where the registered person is not eligible for input tax credit;
- (f) in respect of import made in a financial year by a registered person, where he does not avail of the said credit within the specified period and thus remains in the integrated tax account after expiry of the due date for furnishing of annual return for such year in which the supply was received,

Apportionment of Tax and Settlement of Funds (Chapter VIII of IGST Act)

Sec 17(2) of IGST Act, 2017 The **balance amount** of integrated tax remaining in the integrated tax account in respect of the supply for which an apportionment to the CG has been done under sub-section (1) shall be apportioned to the,—

- (a) State where such supply takes place; and
- (b) CG where such supply takes place in a Union territory:

Provided that where the place of such supply made by any taxable person cannot be determined separately, the said balance amount shall be apportioned to, —

- (a) each of the States; and
- (b) Central Government in relation to Union territories, in proportion to the total supplies made by such taxable person to each of such States or Union territories, as the case may be, in a financial year:

Provided further that where the taxable person making such supplies is not identifiable, the said balance amount shall be apportioned to all States and the Central Government in proportion to the amount collected as State tax or, as the case may be, Union territory tax, by the respective State or, as the case may be, by the Central Government during the immediately preceding financial year.

Sec 17(2A) of IGST Act, 2017 The amount not apportioned under sub-section (1) and sub-section (2) may, for the time being, on the recommendations of the Council, be apportioned at the rate of 50% to the Central Government and 50% to the State Governments or the Union territories, as the case may be, on ad hoc basis and shall be adjusted against the amount apportioned under the said sub-sections.

Apportionment of Tax and Settlement of Funds (Chapter VIII of IGST Act)

Sec 17(3) of IGST Act, 2017 The provisions of sub-sections (1) and (2) relating to apportionment of integrated tax shall, mutatis mutandis, apply to the apportionment of interest, penalty and compounding amount realised in connection with the tax so apportioned.

Sec 17(4) of IGST Act, 2017 Where an amount has been apportioned to the Central Government or a State Government under sub-section (1) or sub section (2) or sub-section (3), the amount collected as integrated tax shall stand reduced by an amount equal to the amount so apportioned and the Central Government shall transfer to the central tax account or Union territory tax account, an amount **equal to** the respective amounts apportioned to the Central Government and shall transfer to the State tax account of the respective States an amount equal to the amount apportioned to that State, in such manner and within such time as may be prescribed.

Sec 17(5) of IGST Act, 2017 Any integrated tax apportioned to a State or, as the case may be, to the Central Government on account of a Union territory, if subsequently found to be refundable to any person and refunded to such person, shall be reduced from the amount to be apportioned under this section, to such State, or Central Government on account of such Union territory, in such manner and within such time as may be prescribed.

Sec 18 - Transfer of input tax credit

On utilisation of credit of integrated tax availed under this Act for payment of,—

- (a) central tax in accordance with the provisions of sub-section (5) of section 49 of the CGST Act, the amount collected as integrated tax shall stand reduced by an amount equal to the credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the integrated tax account to the central tax account in such manner and within such time as may be prescribed;
- (b) Union territory tax in accordance with the provisions of section 9 of the UTGST Act, the amount collected as integrated tax shall stand reduced by an amount equal to the credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the integrated tax account to the Union territory tax account in such manner and within such time as may be prescribed;
- (c) State tax in accordance with the provisions of the respective SGST Act, the amount collected as integrated tax shall stand reduced by an amount equal to the credit so utilised and shall be apportioned to the appropriate State Government and the Central Government shall transfer the amount so apportioned to the account of the appropriate State Government in such manner and within such time as may be prescribed.

Explanation—For the purposes of this Chapter, “appropriate State” in relation to a taxable person, means the State or Union territory where he is registered or is liable to be registered under the provisions of the Central Goods and Services Tax Act.