

Queries relating to GST received from various Sectors have been scrutinised and developed into short FAQs.

The Fifth part, containing 50 questions and their answers, is given below.

Part-5

Levy

- Q 1. What is the taxable treatment of the services provided by a Service Provider in respect of such services which are covered under notification 25/2012-Mega Exemption Notification for Government, railways and other Departments? Such Services are exempt from Service Tax, hence who will bear the GST tax element of 18%, the Service Provider or the Principal Employer?**  
**Ans.** Exemption notification for services have been notified. Refer Not. No. 12/2017- Central Tax (rate) & Not. No. 9/2017-Integrated Tax (rate).
- Q 2. Normally the Service Provider does not issue invoice in Government Jobs. The Sectional/departmental engineers prepare the measurement books and record the details of work done on a subsequent date. Hence how Point of Service will be reckoned since the Service Provider does not raise the invoice?**  
**Ans.** Time of supply of services has been explained in Section 13 of CGST Act. The supplier of services will have to issue a tax invoice within 30 days of supply of service (the measurement is finalized by the departmental engineers or service provider whichever is earlier.) In case of reverse charge, Government Department will raise invoice accordingly [refer Section 13(3)].
- Q 3. In construction work, after raising of the invoice, physical verification of the same is done by the Engineers of the Client and this work is delayed abnormally. In some instances the period taken goes up to two months, then how the Point of Service will be determined?**  
**Ans.** Time of supply of services has been explained in Section 13 of CGST Act. The date of issue of invoice will be the time of supply.
- Q 4. Is it practically feasible that Service Provider submits an invoice after execution of work and the Principal Employer makes arrangement for payment of the bill after three months whereas as per point of service rule, the Point of Service stands for one month from the date of issue of raise invoice or services whichever is earlier and the Service Provider has to pay Service Tax @ 18% on value of work done although he has not received any payment from the client till date?**  
**Ans.** Time of supply of services has been explained in Section 13 of CGST Act. The terms for payment do not decide the taxability of a particular transaction. So even if payment for a particular supply has not been received it will still be liable for GST.
- Q 5. Intermediary services and services provided by Banking Company to its Account Holders – Intra-State or Inter-State supply?**  
**Ans.** Place of supply provisions in Sub-Section (12) of Section 12 of IGST Act may be referred to.
- Q 6. Cross border services provided by an Indian branch to offshore branch /HO which are not “Intermediary Services” – are they exempted?**  
**Ans.** Section 13 of IGST Act, 2017 may be referred. The place of supply is outside India but as the supplier is located in India, it is a case of Inter-State supply and subject to IGST. It will be zero rated if the sale proceeds are realized in convertible foreign exchange.
- Q 7. Pure Agent – Issuance of a circular similar to CBEC Circular on STT/Stamp duty dated 17th Sept, 2010?**  
**Ans.** Detailed Rule provided. Please see Rule 33 of CGST Rules.
- Q 8. Charging of GST in case of travel by a passenger to beyond India's border viz., to Pakistan or Bangladesh?**  
**Ans.** The place of supply is the place of embarkation for the continuous journey. If a passenger embarks at Amritsar for journey to a place in Pakistan, it is taxable because the place of embarkation is in the taxable territory.
- Q 9. Levy of GST in respect of ticket booked in India if place of boarding is outside India?**  
**Ans.** The place of supply is outside India but as the supplier is located in India, it is a case of Inter-State supply and subject to IGST. It will be zero rated if the sale proceeds are realized in convertible foreign exchange.

Reverse Charge

- Q 10. If an Assessee pays GST on behalf of an unregistered supplier/SSI/exempted unit, will he be able to take Input Tax Credit of the GST paid on reverse charge basis?**  
**Ans.** Yes, input tax credit of tax paid on reverse charge basis by the recipient is allowed to the recipient and the credit can be taken even in the same month.
- Q 11. Whether, any Indian providing services to a U.S. based company on contract basis is required to pay reverse charges on charges deducted by a U.S. based company?**  
**Ans.** It depends on the nature of charges deducted. The place of supply is outside India but as the supplier is located in India, it is a case of Inter-State supply and subject to IGST. It will be zero rated if the sale proceeds are realized in convertible foreign exchange.
- Q 12. Under the new GST Act, the liability or payment of GST still with consignee or consignor?**  
**Ans.** Reverse charge mechanism has been provided in GST law for GTA and the recipient of GTA service (he may be consignor or consignee) is required to pay GST. Notification No 13/2017-Central tax (rate) may be referred to.
- Q 13. Whether RCM is applicable on payments made for hiring of transport from unregistered GST traders?**  
**Ans.** RCM under Section 9(3) is applicable for GTA and not for transport of goods. Where the vehicle is taken on rent or lease, it will be supply of service under 9966 or 9973 and supply of service will be taxable under RCM under Section 9(4).
- Q 14. We are also paying small payments like unloading charges, detention charges and under miscellaneous payments to petty contractors. Is GSTN under reverse charge applicable for these payments?**  
**Ans.** If you are not registered, payment on reverse charge under Section 9(4) of CGST Act, 2017 is not required. That said, if such services availed fall within the domain of any service that is subject to reverse charge under Section 9(3) of CGST Act, 2017 you have to get yourself registered and GST has to be paid.
- Q 15. Can any unregistered transporter having a turnover below Rs. 20 lakh carry the goods for a registered dealer?**  
**Ans.** Yes, GTA can carry the goods. GST on GTA services is liable to be paid on RCM basis by the recipient. The supply of services of goods transport by road transporter other than a GTA and a courier is exempted under Notification No. 9/2017- Central Tax (rate).
- Q 16. Whether re-imbursment of expenses to staff comes under RCM?**  
**Ans.** Re-imbursment is an expense in the course or furtherance of business and if the same is against a taxable supply taken from an unregistered supplier, RCM will apply.
- Q 17. Whether tax under RCM is applicable for expenses incurred towards doctor sponsorship programme?**  
**Ans.** As per notification no. 13/2017-Central Tax (rate), Sl. No. 4 sponsorship to anybody Corporate/Partnership firm comes under RCM.

Registration

- Q 18. Do dealers having turnover below Rs. 20 lakh need to compulsorily register if they are supplying through online portals?**  
**Ans.** Yes, as per Section 24(ix) of the CGST Act 2017, persons who supply goods or services or both, other than supplies specified under Sub-Section (5) of Section 9, through such electronic commerce operator who is required to collect tax at source under Section 52, shall be compulsorily required to register under the Act.
- Q 19. Does a Medical Service Provider needs to get registered under GST if his aggregate turnover [u/s 2(6)] is more than Rs. 20 lakh but has taxable supply of only an amount of Rs. 2.4 lakh p.a.?**  
**Ans.** Yes, he should get registered and also pay GST on taxable supply.
- Q 20. Whether the registration under GST is compulsory by Transport Service Provider.**  
**Ans.** No, if the entire services supplied by the transporter are covered under the reverse charge mechanism under Section 9(3).
- Q 21. Will from 1/7/17, my corner kirana wala charge me GST on goods or services depending on his turnover or both and give me an authentic/printed memo for purchases?**  
**Ans.** Liability for registration under GST arises if the aggregate turnover is more than Rs. 20 Lakh. If the corner kirana wala has turnover greater than Rs. 20 lakh in the preceding financial year he is liable to be registered, charge GST and provide you an invoice for your purchase.
- Q 22. How will I know if his turnover is below Rs. 20 lakh and if he is exempt from GST and that he will not charge me any GST?**  
**Ans.** Person having turnover over Rs. 20 lakh will take registration and registration certificate will be displayed at a prominent location along with GSTIN on the name board. If you suspect that he has not taken registration, a complaint can be made and suo-moto registration will be given under Rule 16 of CGST Rules, 2017.
- Q 23. Will all establishments display a certificate from government (displaying his turnover category) and their GST Registration No. which should appear on all his cash memos/bills?**  
**Ans.** Yes. For details, Rule 18 of CGST Rules, 2017 may be referred to.
- Q 24. Does a trader who has turnover of less than Rs. 20 lakh and are selling on e-commerce websites, have to register for GST?**  
**Ans.** Yes, if such e-commerce operator is required to collect tax at source. Please see Section 24 of CGST Act, 2017.
- Q 25. Can a trader whose account has been blocked by ecommerce portal apply for GST and still be eligible to sell for some period of time without GST, till they get their GST registrations completed?**  
**Ans.** Supply can take place during the process of registration and revised invoices can be issued in accordance with the provisions of Section 31(3) of the CGST Act, 2017.
- Q 26. Do traders having turnover less than Rs. 20 lakh need to get registered under GST? If not, how can they purchase primary goods from other states without having GST Registration No?**

- Ans.** Traders having turnover of less than Rs. 20 lakh can buy from other States also without registration except in case of those goods which are subject to reverse charge.
- Q 27. Do I, a Mutual fund Distributor working in Delhi, need to register under GST, having income Less than Rs. 20 lakh but working for offices that are registered in Mumbai and have branch offices in Delhi?**  
**Ans.** If you are supplying services to the branch office in the same State, it will be Intra-State supply and you will not be liable for registration. If you are making Inter-State supply, you will be liable for registration and benefit of threshold exemption would not be admissible.
- Q 28. We are a private ltd. Co. having Head Office at Mumbai and Branch Office in Gujarat and U.P. dealing in products having Tax Rate @0% dealing intra state and interstate supply. Since the products are 0% GST products are we require to register under GST if turnover is above Rs. 20 lakh?**  
**Ans.** No.
- Q 29. We are purchasing from Haryana and selling in Haryana and also interstate sales. Currently we do not have any GST registration in Haryana. Since the Product is 0% GST are we suppose to register in Haryana?**  
**Ans.** No. Registration is not required as you are dealing exclusively in products that are wholly exempted.
- Q 30. We are paying freight charges to our GTA for which currently we are paying service tax at applicable rate. In case of GST what we understand is GTA is exempt from obtaining GST registration no. Are we required to pay GSTN @5% on freight for transportation of goods which are 0%. In case we are not required to obtain registration under GST if we are under 0% products how do we make payment for the same?**  
**Ans.** As you are business entity and availing GTA services you are liable to pay GST on GTA services on reverse charge basis and therefore liable to be registered. Section 24 of CGST Act, 2017 may be referred.
- Q 31. Please clarify the position of GST in case of licensed Tour Guides having registered office in one state but providing services Pan India?**  
**Ans.** If the presence of tour guide is required in each State and he is supplying services from those States then registration requirement in each state would be there.
- Q 32. If I already have a GSTIN, do I need to register separately as an Input Service Distributor?**  
**Ans.** Yes, as per Section 24(viii) of the CGST Act 2017, an Input Service Distributor is required to take separate registration under the Act.

Transition

- Q 33. How the deemed credit of available stock and Work in progress (WIP) to be availed by an Assessee ?**  
**Ans.** The provisions relating to deemed credit are contained in the proviso to section 140(3) of the CGST Act, 2017 and Rule 117 (4) of the CGST Rules, 2017. ITC at the rate of 60% is allowed where the Central Tax rate on goods is 9% or more; it is allowed at the rate of 40% in other cases. It is allowed only after the payment of applicable tax. It can be taken in the first six tax periods only. Deemed credit is allowed only to traders and not to manufacturers.
- Q 34. Is there any provision/instruction under the CGST Act for taking/verifying the physical stock of the units as on 30th June 2017. It is pertinent to mention here that some State Excise & Taxation department are undertaking the exercise of stock taking/verification of the units which were earlier registered with them. Matter may please be clarified.**  
**Ans.** There is no such bar under the CGST Act, 2017.
- Q 35. Till the time E-way bill system is fully developed which documents/procedure should be followed for inter-state supply of goods?**  
**Ans.** The goods can be transported with documents like tax invoice, bill of supply and delivery challan. Document as may be prescribed under Rule 138 of the SGST Rules, 2017 will also have to be carried by the person in charge of the conveyance.
- Q 36. Government has allowed increase in MRP due to additional incidence of GST. Can it be done for stock lying with dealers & retailers or only for stock lying with manufacturer or importers?**  
**Ans.** The prices can be revised where the incidence of tax has increased under the GST. However, one should adhere to the requirements under other statutes like the Legal Metrology Act also.
- Q 37. Does tax need to be paid on advances in hand as of June 30th for goods to be supplied from July 1?**  
**Ans.** No.
- Q 38. Builder is demanding balance money due to tax rate changed under GST. Do we have to pay service tax on entire amount of registration under GST, also if abatement provided before GST is available or not?**  
**Ans.** GST is operational from 01.07.2017. Only on the balance amount GST will be applicable on future payments. For tax paid under the earlier law, Section 142(11) of the CGST Act, 2017 may be referred to.
- Q 39. How to avail credit on raw material and packing materials stored outside factory on which credit could not have been availed due to the specific restriction in the permission given by the Excise department? Whether these goods can be treated as “in-transit” and credit be availed under Section 140(5) within 30 days of GST implementation?**  
**Ans.** Goods can be treated in transit only when the same have not been received by the recipient which is not the case in this scenario.
- Q 40. Clarity is needed on the period for which details of turnover needs to be given in Table 5(b) and 5(c) of Form GST TRAN-1.**  
**Ans.** Period is given in the form itself i.e. 01.04.2015 to 30.06.2017.
- Q 41. The tax paid in excess in one month is allowed to be adjusted against the tax liability due for the next month. What would be treatment of such excess payment of tax (service tax/ VAT) for the last month prior to appointed date?**  
**Ans.** Under transitional provisions all such excess ITC and Cash can be carried forward and GST can be paid from this amount.
- Q 42. Will the facility of deemed credit of 60/40 percent of CGST under Rule 117(4) CGST Rules be available to both traders and manufacturers?**  
**Ans.** The facility will be available to all persons other than manufacturers or supplier of services. Proviso to Section 140(3) of CGST Act, 2017 refers.
- Q 43. There is a GST of 28% on a product of MRP Rs.100 and the costing price of that product is Rs. 90.90/- (taxable value + 14.5% VAT) so the taxable value of that product will be 79.38 and if the GST of 28% will be added to the amount without adding any profit then it will be 79.38+22.22 (28% GST) and the total value of the product will be Rs. 101.60/- which is higher than MRP. So how it will be sold at the value higher than the MRP?**  
**Ans.** MRP can be revised albeit with certain precautions and for only for certain time period. Press Note of Ministry of Consumer Affairs, Food & Public Distribution dated 04.07.17 may be referred to.
- Q 44. Section 16 of IGST Act, 2017 has a provision for Zero Rated supply under GST for supply of goods and services to SEZ Units – Need explicit clarity whether this also covers for supply of goods and services by one SEZ unit to another SEZ unit. E.g. Exchange levying fees and penalty to its trading members who are also IFSC Units.**  
**Ans.** Yes, supply of goods and services by one SEZ unit to another SEZ unit would be considered zero rated supplies under Section 16 of the IGST Act, 2017, which deals with zero rated supplies. Section 16 provides for zero rating of “supply of goods or services or both to a SEZ developer or a SEZ Unit”. As supply in the question is to a SEZ developer or a SEZ unit, it is covered under Section 16.
- Q 45. What shall be impact of tax on the works after 30.06.2017 for which tenders have been processed but acceptance letters not issued?**  
**Ans.** GST is payable on services supplied after 01.07.2017.
- Q 46. Certain fabrics were exempt from payment of central excise duty vide Notification No. 30/2004-CE dated 09-07-2004. This exemption was subject to the condition that the manufacturer has not availed Cenvat credit of duty paid on inputs. Thus the said exemption was not unconditional. Will ITC @40% of CGST be admissible to the taxable person in respect of such fabrics held in stock?**  
**Ans.** Yes, ITC would be admissible.

Miscellaneous

- Q 47. When would advance ruling applications submission begin?**  
**Ans.** The Government is in the process of constituting the Authority, it would be notified soon.
- Q 48. When are the recommendations of the sector wise task force expected to be submitted to the GST Council. Can representations still be made to the sectoral task force?**  
**Ans.** Representation can be submitted to the sectoral working groups.
- Q 49. How will I know whatever GST I pay is really paid to government by various makers/sellers and not pocketed by the seller?**  
**Ans.** Person, selling to you, would have purchased his products/inputs from some supplier. That supplier while filing his outward supply details (GSTR-1) will quote the GSTIN of the your seller. And he will have to accept the same in his GSTR-2. Therefore the system captures the data of your seller. Action can be subsequently taken in case of evasion of tax.
- Q 50. Is stock transfer possible without paying GST in case of takeover of a Partnership firm by a Private Limited Company?**  
**Ans.** One has to see the conditions given in entry 4 of Schedule II of the CGST Act, 2017. If it is a supply as per this entry, it is taxable.

Disclaimer: The replies given above are only for educational and guidance purposes and do not hold any legal validity.