

CHAPTER 3 – CHARGE

Relevant Sections

Section 9	:	Levy and collection.
Section 10	:	Composition levy.

1. RELEVANT DEFINITIONS

1. **Central tax:** means the central goods and services tax levied under section 9 [Section 2(21) of the CGST Act].
2. **Integrated tax:** means the integrated goods and services tax levied under the Integrated Goods and Services Tax Act [Section 2(58) of the CGST Act].
3. **State tax:** means the tax levied under any State Goods and Services Tax Act [Section 2(104) of the CGST Act]. State includes a Union territory with Legislature viz. Delhi, Puducherry and Jammu & Kashmir
4. **Union Territory Goods and Services Tax** levied in Union territories of the Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli and Daman and Diu, Ladakh, Chandigarh and other territory, i.e. the Union Territories without Legislature. This is governed by Union Territory Goods and Services Tax Act, 2017
5. **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.
Provided that a person who organises or arranges, directly or indirectly, supply of specified actionable claims, including a person who owns, operates or manages digital or electronic platform for such supply, shall be deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him and whether consideration in money or money's worth, including virtual digital assets, for supply of such actionable claims is paid or conveyed to him or through him or placed at his disposal in any manner, and all the provisions of this Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims; [Section 2(105) of CGST Act]
6. **Recipient:** of supply of goods and/or services 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) of CGST Act]
7. **Reverse charge:** means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under section 9(3)/9(4), or under section 5(3)/5(4) of the IGST Act [Section 2(98) of CGST Act].

8. **India:** “India” means-
 - a. territory of India as referred to in article 1 of the Constitution
 - b. its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976
 - c. the air space above its territory and territorial waters
9. **Electronic Commerce:** means the supply of goods or services or both including digital products over digital or electronic networks.
10. **Electronic Commerce Operator:** means any person who owns, operates or manages a digital or electronic facility or platform for electronic commerce.

2. TYPE OF CHARGE

Intra-State Supply

where the location of the supplier and the place of supply of goods or services are in the same State/Union territory, it is treated as intra-State supply of goods or services respectively. In this case CGST & SGST is levied.

Inter-State supply

Where the location of the supplier and the place of supply of goods or services are in (i) two different States or (ii) two different Union Territories or (iii) a State and a Union territory, it is treated as inter-State supply of goods or services respectively. In this case IGST is levied.

3. EXTENT & COMMENCEMENT OF GST LAW

1. **Central Goods and Services Tax Act, 2017** extends to the whole of India including Jammu and Kashmir.
2. **State GST** law of the respective State/Union Territory with Legislature extends to whole of that State/Union Territory.
3. **Union Territory Goods and Services Tax Act, 2017** extends to the Union territories of India
4. **Integrated Goods and Services Tax Act, 2017** extends to the whole of India including Jammu and Kashmir.

4. LEVY & COLLECTION OF CGST & IGST [SECTION 9 OF THE CGST ACT & SECTION 5 OF THE IGST ACT]

(1) Subject to the provisions of sub-section (2), there shall be levied a **tax called the central goods and services tax on all intra-State supplies** of goods or services or both, **except on the supply of alcoholic liquor for human consumption and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption,** on the value determined under section 15 and at such rates, **not exceeding twenty per cent.,** as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

(2) The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

(3) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

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

(5) 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, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also, he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

5. TAX PAYABLE ON SUPPLY OF GOODS OR SERVICES OR BOTH UNDER REVERSE CHARGE

- ✓ Reverse charge means the liability to pay tax is on the recipient of supply of goods or services instead of the supplier of such goods or services in respect of notified categories of supply.
- ✓ All the provisions of the CGST/IGST Act shall apply to the recipient in the aforesaid cases as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.
- ✓ **There are two type of reverse charge scenarios provided in law.**
 - Supply of specified categories of goods or services, covered by [section 9\(3\)](#) of the CGST/ SGST (UTGST) Act. Similar provisions are contained under section 5(3) of the IGST Act.
 - Supply of specified categories of goods or services **made by an unregistered supplier** to specified class of registered recipients, covered by [section 9\(4\)](#) of the CGST Act. Similar provisions are contained under section 5(4) of the IGST Act.

6. GOODS AND SERVICES NOTIFIED UNDER REVERSE CHARGE MECHANISM UNDER SECTION 9(3) OF THE CGST ACT/ SECTION 5(3) OF THE IGST ACT

SUPPLIES OF GOODS TAXABLE UNDER REVERSE CHARGE, I.E. THE GOODS WHERE TAX IS PAYABLE BY THE RECIPIENT:

Goods like cashew nuts [not shelled/peeled], bidi wrapper leaves, tobacco leaves, supply of lottery, silk yarn, used vehicles, seized and confiscated goods, old and used goods, waste and scrap, raw cotton, etc. are taxable under reverse charge. [Details of Goods on which tax is payable on reverse charge basis not in syllabus.]

SUPPLY OF SERVICES TAXABLE UNDER REVERSE CHARGE UNDER SECTION 9(3) OF THE CGST ACT, I.E. THE SERVICES WHERE TAX IS PAYABLE BY THE RECIPIENT [NOTIFICATION NO. 13/2017- CENTRAL TAX (RATE)]

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
1	Supply of Services by a goods transport agency (GTA) in respect of transportation of goods by road to- (a) any factory registered under or governed by the Factories Act, 1948; or (b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) any body corporate established, by or under any law; or	Goods Transport Agency (GTA)	(a) Any factory registered under or governed by the Factories Act, 1948 (63 of 1948); or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not

	(f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person.		under any law including association of persons; or (g) any casual taxable person; located in the taxable territory.
<p>However, reverse charge mechanism (RCM) shall not apply to services provided by a GTA, by way of transport of goods in a goods carriage by road to-</p> <p>(a) a Department/ establishment of the Central Government/ State Government/ Union territory; or</p> <p>(b) local authority; or</p> <p>(c) Governmental agencies,</p> <p>which has taken registration under the CGST Act only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.</p> <p>Further, nothing contained in this entry shall apply where, -</p> <p>1. the supplier has taken registration under the CGST Act, 2017 and exercised the option to pay tax on the services of GTA in relation to transport of goods supplied by him under forward charge; and</p> <p>2. the supplier has issued a tax invoice to the recipient charging CGST at the applicable rates and has made the prescribed declaration on such invoice issued by him.</p>			
2	Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly. Explanation. - "legal service" means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.	An individual advocate including a senior advocate or firm of advocates.	Any business entity located in the taxable territory.
3	Services supplied by an arbitral tribunal to a business entity.	An arbitral tribunal.	Any business entity located in the taxable territory.
4	Services provided by way of sponsorship to any body-corporate or partnership firm.	Any person other than a body corporate	Any body-corporate or partnership firm located in the taxable territory.
5	Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, - (1) renting of immovable property, and	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory.

	<p>(2) services specified below-</p> <p>(i) services by the Department of Posts and the Ministry of Railways (Indian Railways)</p> <p>(ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) transport of goods or passengers.</p>		
5A	Services supplied by the Central Government excluding the Ministry of Railways (Indian Railways), State Government, Union territory or local authority by way of renting of immovable property to a person registered under the Central Goods and Services Tax Act, 2017 (12 of 2017).	Central Government, State Government, Union territory or local authority	Any person registered under the Central Goods and Services Tax Act, 2017.]
5AA	Service by way of renting of residential dwelling to a registered person	Any person	Any registered person
5AB	Services by way of renting of any immovable property other than residential dwelling.	Any unregistered person	Any registered person other than a person who has opted to pay tax under composition levy
5B	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person	Promoter
5C	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.	Any person	Promoter
6	Services supplied by a director of a company or a body corporate to the said company or the body corporate.	A director of a company or a body corporate	The company or a body corporate located in the taxable territory.

7	Services supplied by an insurance agent to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business, located in the taxable territory.
8	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company.	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory.
9	Supply of services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like.	Music composer, photographer, artist, or the like	Music company, producer or the like, located in the taxable territory.
9A	Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher.	Author	<p>Publisher located in the taxable territory:</p> <p>Provided that nothing contained in this entry shall apply where, -</p> <p>(i) the author has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017), and filed a declaration, in the form at Annexure I, within the time limit prescribed therein, with the jurisdictional CGST or SGST commissioner, as the case may be, that he exercises the option to pay central tax on the service specified in column (2), under forward charge in accordance with Section 9 (1) of the Central Goods and Service Tax Act, 2017 under forward charge, and to comply with all the provisions of Central Goods and Service Tax Act, 2017 (12 of 2017) as they apply to a person liable for paying the tax in relation to the supply of any goods or services or</p>

			<p>both and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;</p> <p>(ii) the author makes a declaration, as prescribed in Annexure II on the invoice issued by him in Form GST Inv-I to the publisher.]</p>
10	Supply of services by the members of Overseeing Committee to Reserve Bank of India (RBI)	Members of Overseeing Committee constituted by the Reserve Bank of India	Reserve Bank of India
11	Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm to bank or non-banking financial company (NBFCs)	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm.	A banking company or a non-banking financial company, located in the taxable territory.
12	Services provided by business facilitator (BF) to a banking company	Business facilitator (BF)	A banking company, located in the taxable territory
13	Services provided by an agent of business correspondent (BC) to business correspondent (BC)	An agent of business correspondent (BC)	A business correspondent, located in the taxable territory.
14	<p>Security services (services provided by way of supply of security personnel) provided to a registered person:</p> <p>Provided that nothing contained in this entry shall apply to, -</p> <p>(i) (a) a Department or Establishment of the Central Government or State Government or Union territory; or</p> <p>(b) local authority; or</p>	Any person other than a body corporate	A registered person, located in the taxable territory.

	<p>(c) Governmental agencies;</p> <p>which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or</p> <p>(ii) a registered person paying tax under section 10 of the said Act.</p>		
15	<p>Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate.</p>	<p>Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging central tax at the rate of 6 per cent. to the service recipient</p>	<p>Any body corporate located in the taxable territory.</p>
16	<p>Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India ("SEBI"), as amended.</p>	<p>Lender i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI</p>	<p>Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI.</p>

For purpose of this notification, -

- a) The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.
- b) Body Corporate: has the same meaning as assigned to it in clause (11) of section 2 of the Companies Act, 2013.
As per section 2(11) of the Companies Act, 2013, body corporate or corporation includes a company incorporated outside India, but does not include—
 - (i) a co-operative society registered under any law relating to co-operative societies; and
 - (ii) any other body corporate (not being a company as defined in this Act), which the Central Government may, by notification, specify in this behalf.
- c) the business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services for the purpose of this notification.
- d) Limited Liability Partnership formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a partnership firm or a firm.
- e) Insurance agent means an insurance agent licensed under section 42 of the Insurance Act, 1938 who receives agrees to receive payment by way of commission or other remuneration in consideration of his soliciting or procuring insurance business including business relating to the continuance, renewal or revival of policies of insurance [Section 2(10) of the Insurance Act, 1938].
- f) Renting of immovable property means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property.
- g) the provisions of this notification, in so far as they apply to the Central Government, State Government, shall also apply to the Parliament and State Legislature, Courts and Tribunals.

Clarification whether DDA can be treated as local authority?

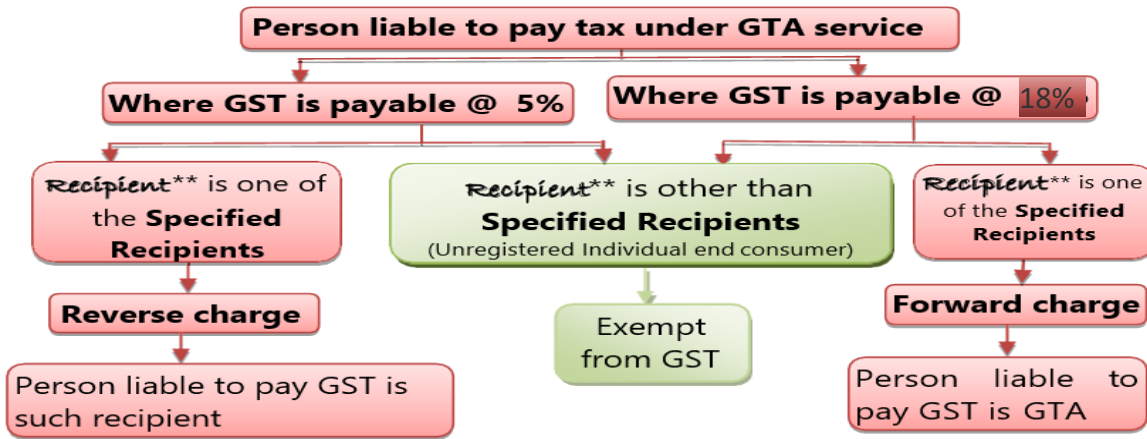
It has been clarified that DDA cannot be treated as local authority under GST law as DDA does not meet requirement of local authority as per section 2(69) of the CGST Act, 2017 [Circular no 245/02/2025-GST]

TAX LIABILITY IN CASE OF GOODS TRANSPORT AGENCY [GTA]

GTA services are taxable at the following two rates:

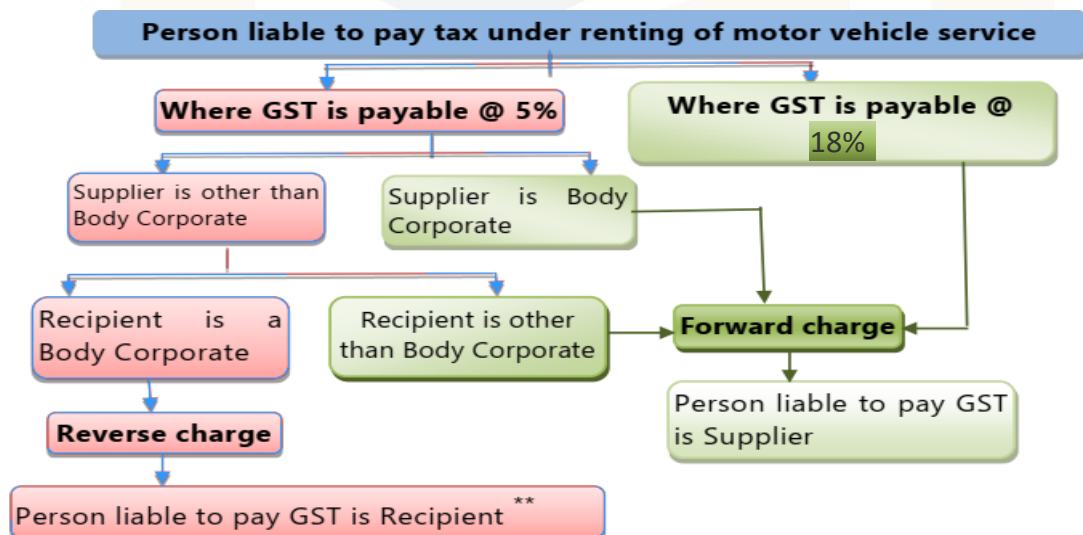
- a) @ 5% (2.5% CGST+2.5% SGST/UTGST or 5% IGST) provided GTA has not taken the Input Tax Credit (ITC) on goods and services used in supplying GTA service or
- b) @ 18% (9% CGST+9% SGST/UTGST or 18% IGST) where GTA opts to pay GST at said rate on all the services of GTA supplied by it. In this case, there is no restriction on availing ITC on goods and services used in supplying GTA service by GTA.

Recipient of GTA service is the person who pays/is liable to pay freight for transportation of goods by road in goods carriage, located in the taxable territory.



TAX LIABILITY IN CASE OF RENTING OF MOTOR VEHICLE

- GST Rate in case of service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient are taxable at the following two rates:
 - @ 5% (2.5% CGST+2.5% SGST/UTGST or 5% IGST) provided supplier of services has taken only the limited ITC (of input services in the same line of business) or
 - @ 18% (9% CGST+9% SGST/UTGST or 18% IGST) where supplier of services opts to pay GST at said rate. In this case, there is no restriction on availing ITC on goods or services used in supplying renting of motor vehicles service by the supplier of service.
- Now, who is liable to pay GST in such case is explained as under



- It is important to note here that RCM is applicable here only when the supplier does not issue an invoice charging GST @18%
- Now there may arise a doubt as to whether RCM is applicable on:
 - service of renting of motor vehicle designed to carry passengers
Or
 - service of transportation of passengers.

The two services fall under two different headings in the Tariff.

- 1) Services of renting of motor vehicles designed to carry passengers covers:
 - a. renting of motor vehicle
 - b. for transport of passengers
 - c. for a period of time
 - d. where the renter defines how and when the vehicles will be operated, determining schedules, routes and other operational considerations.
- 2) 'Passenger transport services' covers passenger transport services over pre-determined routes on pre-determined schedules. Accordingly, where the body corporate hires the motor vehicle (for transport of employees etc.) for a period of time, during which the motor vehicle shall be at the disposal of the body corporate, the service would fall under 'services of renting of motor vehicles designed to carry passengers', and the body corporate shall be liable to pay GST on the same under RCM.

7. TAX PAYABLE BY ECOMMERCE OPERATOR [ECO] ON NOTIFIED SERVICES [SECTION 9(5)]

1. Electronic Commerce Operator (ECO) is any person who owns/operates/manages an electronic platform for supply of goods/services/both.
2. Sometimes, ECO itself supplies the goods or services through its electronic portal. However, many a times, the products/services displayed on the electronic portal are actually supplied by some other person to the consumer. When a consumer places an order for a particular product/ service on this electronic portal, the actual supplier supplies the selected product/ service to the consumer. The price/ consideration for the product/ service is collected by the ECO from the consumer and passed on to the actual supplier after the deduction of commission by the ECO.
3. The Government may, on the recommendations of the GST Council, notify specific categories of services the tax [CGST/SGST/IGST] on supplies of which shall be paid by the electronic commerce operator (ECO) if such services are supplied through it. ***Following supplies have been notified*** vide Notification No. 17/2017 CT (R) / Notification No. 14/2017 IT (R):
 - a. services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motorcycle, or any other motor vehicle except omnibus;
 - b. Services by way of transportation of passengers by an omnibus except where the person supplying such service through ECO is a company.
 - c. services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1).
 - d. services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section 22(1).
 - e. supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.
 - f. services by way of local delivery except where the person supplying such services through electronic commerce operator is liable for registration under sub section (1) of section 22 of the Central Goods and Services Tax Act, 2017.

8. CLASSIFICATION & RATES OF GOODS

Broadly, 7 rates of CGST have been notified for goods, viz., 0.125%, 0.75%, 1.5%, 2.5%, 6%, 9%, 14% & 20%. SGST/ UTGST at the equivalent rate is also leviable. Some other specified rates also have been notified for specified goods.

Classification of goods means identification of the tariff item, sub-heading, heading and chapter in which a particular product will be classified.

Tariff item, sub-heading, heading and chapters referred in the Schedules of rate notification for goods under GST are the Tariff item, sub-heading, heading and chapters of the First Schedule to the Customs Tariff Act, 1975. Indian Customs Tariff is based on HSN. HSN stands for Harmonized System of Nomenclature. It is a multipurpose international product nomenclature developed by the World Customs Organization (WCO) for the purpose of classifying goods across the World.



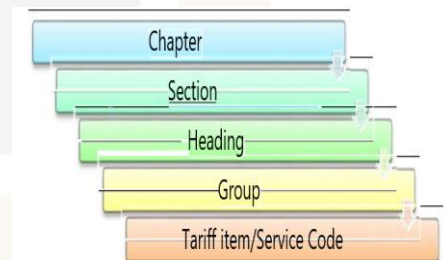
9. CLASSIFICATION & RATES OF SERVICES

Broadly, 2 rates of CGST have been notified for services, viz., 2.5% & 9%. Equivalent rate of SGST/ UTGST will also be levied. For certain specified services, special rates of tax have been notified. Services not covered under any specific heading are taxed at the rate of 18% (CGST @ 9% and SGST @9% or IGST @ 18%).

A new Scheme of Classification of Services has been devised under GST. It is a modified version of the United Nations Central Product Classification. Under this scheme, the services of various descriptions have been classified under various sections, headings and groups. Chapter 99 has been assigned for services. This chapter has following sections:

- ✓ Section 5 Construction Services
- ✓ Section 6 Distributive Trade Services; Accommodation, Food and Beverage Service; Transport Services; Gas and Electricity Distribution Services
- ✓ Section 7 Financial and related services; real estate services; and rental and leasing services
- ✓ Section 8 Business and Production Services
- ✓ Section 9 Community, social and personal services and other miscellaneous services

Each section is divided into various headings which is further divided into Groups. Its further division is made in the form of 'Tariff item'/ Service Codes.



10. GST RATES IN REAL ESTATE SECTOR

The effective rate of GST on real estate sector for the new projects by promoters are as follows:

- i. 1% without ITC on construction of affordable houses (area 60 sqm in metros/ 90 sqm in non-metros and value upto 45 lakh).
- ii. 5% without ITC is applicable on construction of:
 - a. all houses other than affordable houses, and
 - b. commercial apartments such as shops, offices etc. in a residential real estate project (RREP) in which the carpet area of commercial apartments is not more than 15% of total carpet area of all apartments.

iii. **Conditions:**

Above tax rates shall be available subject to following conditions:

- a. ITC shall not be available.
- b. 80% of inputs and input services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], used in supplying the service shall be purchased from registered persons.
- c. inputs and input services on which tax is paid on reverse charge basis shall be deemed to have been purchased from registered person

However, if value of inputs and input services purchased from registered supplier is less than 80%, promoter has to pay GST on reverse charge basis, under **section 9(4)** of the CGST Act, at the rate of 18% on all such inward supplies (to the extent short of 80% of the inward supplies from registered supplier).

Further, where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement on reverse charge basis, under **section 9(4)** of the CGST Act, at the applicable rate which is 18% (CGST 9% + SGST 9%) at present.

Moreover, GST on capital goods shall be paid by the promoter on reverse charge basis, under section 9(4) of the CGST Act at the applicable rates.

11. COMPOSITION LEVY [SECTION 10 OF THE CGST ACT]

The composition levy is an alternative method of levy of tax designed for small taxpayers whose turnover is up to prescribed limit.

TURNOVER LIMIT FOR COMPOSITION LEVY [SECTION 10(1)]

Section 10 of the CGST Act provides the turnover limit of 50 lakh for becoming eligible for composition levy. However, proviso to section 10(1) empowers the Government to increase the said limit of 50 lakh upto 1.5 crore, on the recommendation of the Council.

In view of said power of the Government to increase the turnover limit for Composition Levy as granted by first proviso to section 10(1), the turnover limit for Composition Levy has been increased from 50 lakh to 1.5 crore.

However, the said notification further stipulates that the turnover limit for composition levy shall be 75 lakh in respect of 8 of the Special Category States namely Arunachal Pradesh, Mizoram, Uttarakhand, Nagaland, Manipur, Sikkim, Meghalaya, Tripura

While computing the threshold limit of 1.5 crore, inclusions in and exclusions from 'aggregate turnover' are as follows:

Includes	Excludes
Value of all outward supplies --Taxable supplies --Exempt supplies --Exports --Inter-State supplies of persons having the same PAN be computed on all India basis.	--CGST/ SGST/ UTGST/ IGST/Cess --Value of inward supplies on which tax is payable under reverse charge.

Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten per cent. of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher. While calculating this limit, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in a State or Union territory.

WHO ARE NOT ELIGIBLE TO OPT FOR COMPOSITION SCHEME? [SECTION 10(2)]

The registered person shall be eligible to opt under sub-section (1), if—

1. save as provided in sub-section (1), he is not engaged in the supply of services;
2. he is not engaged in making any supply of goods which are not leviable to tax under this Act;
3. he is not engaged in making any inter-State outward supplies of goods;
4. he is not engaged in making any supply of services through an electronic commerce operator who is required to collect tax at source under section 52;
5. he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council; and
6. he is neither a casual taxable person nor a non-resident taxable person:

Provided that where more than one registered persons are having the same Permanent Account Number, the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.

INTIMATION OF OPTING FOR COMPOSITION LEVY [RULES 3 & 4]

1. **Intimation by person applying for registration:** Any person who is not registered and applies for registration may give an option to pay tax under composition levy in Part B of the registration form, viz., FORM GST REG-01. The same shall be considered as an intimation to pay tax under composition levy.
2. **Intimation by a registered person:** A registered person who opts to pay tax under composition levy scheme shall electronically file an intimation in prescribed form on the GST Common Portal [www.gst.gov.in], prior to the commencement of the FY for which said option is exercised. He shall also furnish the statement in prescribed form in accordance with the provisions of rule 44(4) of CGST Rules, 2017 within 60 days from the commencement of the relevant FY.

Any intimation in respect of any place of business in a State/UT shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.

The option to pay tax under composition levy shall be effective from the beginning of the FY.

CONDITIONS AND RESTRICTIONS FOR COMPOSITION LEVY [RULE 5]

Person opting for composition levy has to comply with the following conditions:

1. he is neither a casual taxable person nor a non-resident taxable person
2. the goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under reverse charge under section 9(4).
3. he shall pay tax under section 9(3)/9(4) (reverse charge) on inward supply of goods or services or both.

4. he was not engaged in the manufacture of goods as notified under section 10(2)(e), during the preceding FY. The following goods have been hereby notified vide Notification No. 14/2019 CT dated 07.03.2019:

Tariff item, subheading, heading or Chapter	Description
2105 00 00	Ice cream & other edible ice, whether or not containing cocoa
2106 90 20	Pan masala
24	All goods, i.e. Tobacco and manufactured tobacco substitutes
2202 10 10	Aerated Water
6815	Fly ash bricks; Fly ash aggregates ¹ ; Fly ash blocks
6901 00 10	Bricks of fossil meals or similar siliceous earths
6904 10 00	Building bricks
6905 10 00	Earthen or roofing tiles

5. he shall mention the words “composition taxable person, not eligible to collect tax on supplies” at the top of the bill of supply issued by him; and
6. he shall mention the words “composition taxable person” on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business.

RATES OF TAX UNDER THE COMPOSITION LEVY SCHEME? [SECTION 10(1) READ WITH RULE 7]

S.No.	Category	Rate of Tax
1	Manufacturers, other than manufacturers of such goods as may be notified by the Government, i.e. ice cream, pan masala and tobacco, Aerated Water.	½ % of the turnover in the State/Union territory
2	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II [hereinafter referred to as “Restaurant service”]	2½ % of the turnover in the State/Union territory
3	Any other supplier eligible for composition levy under section 10 of CGST Act and Chapter-II [Composition Levy] of CGST Rules.	½ % of the turnover of taxable supplies of goods and services in the State or Union territory

Turnover in State/ turnover in Union territory means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess [Section 2(112) of the CGST Act, 2017].

VALIDITY OF COMPOSITION LEVY [SECTION 10(3) READ WITH RULE 6]

1. **Withdrawal from the composition scheme by a taxpayer who ceases to satisfy any of the prescribed conditions**

The effective date from which withdrawal from the composition scheme shall take effect shall be the date indicated by him in his intimation, but such date may not be prior to the commencement of the financial year in which such intimation is being filed.

2. Withdrawal from the composition scheme by a taxpayer who intends to withdraw from the said scheme

The effective date from which withdrawal from the composition scheme shall take effect shall be the date indicated by him in his application but such date may not be prior to the commencement of the financial year in which such application for withdrawal is being filed.

3. Denial of option to pay tax under the composition scheme by tax authorities

In case of denial of option to pay tax under composition levy by the tax authorities, the effective date of such denial shall be from a date, including any retrospective date, as may be determined by tax authorities. However, such effective date shall not be prior to the date of contravention of the provisions of the CGST Act/ CGST Rules

In each of the above cases, such person may furnish a statement in prescribed form containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn/denied, within a period of 30 days from the date from which the option is withdrawn/ or the date of the order denying composition scheme.

IMPOSITION OF PENALTY IN CASE OF IRREGULAR AVAILMENT OF THE COMPOSITION SCHEME [SECTION 10(5)]

If a taxable person has paid tax under the composition scheme though he was not eligible for the scheme, the person would be liable to penalty and the provisions of section 73 or 74 of the CGST Act shall be applicable for determination of tax and penalty.

12. OPTION TO PAY TAX AT CONCESSIONAL RATE [SECTION 10(2A)]

[NOTIFICATION NO. 2/2019 CT (R) DATED 07.03.2019]

Registered Person who is not eligible under normal composition scheme and whose aggregate turnover in the preceding financial year does not exceed 50 lakh are eligible u/s 10(2A) and can pay tax @ 3% [Effective rate 6% (CGST+ SGST/ UTGST)] on first supplies of goods and/or services upto an aggregate turnover of 50 lakh made on/after 1st April in any financial year, subject to specified conditions.

CONDITIONS TO BE FULFILLED

The conditions for availing the concessional rate of tax under Notification No. 2/2019 CT (R) are primarily same as the conditions for availing the composition scheme with few exceptions. The same have been elaborated as under:

Supplies are made by a registered person who is not:

1. engaged in making any supply of goods or services which are not leviable to tax under this Act;
2. engaged in making any inter-State outward supplies of goods or services;
3. engaged in making any supply of services through an electronic commerce operator who is required to collect tax at source under section 52;
4. a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and
5. a casual taxable person or a non-resident taxable person:

Other significant points

1. Where more than one registered persons are having the same PAN, tax on supplies by all such registered persons is paid at concessional rate under this notification.

2. The registered person opting to pay tax at concessional rate under this notification shall be liable to pay:
 - a. (CGST @ 3% + SGST/UTGST @ 3%) on taxable outward supplies - first supplies of goods or services or both upto an aggregate turnover of 50 lakh made on or after 1st April in any FY – regardless of any exemption from tax available to such supplies or any notification issued under section 9(1).
 - b. Tax on inward supplies on which he is liable to pay tax under section 9(3)/9(4) (reverse charge) at the applicable rates.
3. In computing aggregate turnover in order to determine eligibility of a registered person to pay tax at concessional rate under this notification, value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account.
4. Where any registered person who has availed of ITC opts to pay tax under this notification, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger.

Said amount shall be equivalent to the ITC in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods as if the supply made under this notification attracts the provisions of section 18(4) of the CGST Act and the rules made thereunder.

After payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.
5. The CGST Rules, 2017, as applicable to a person paying tax under composition scheme shall, mutatis mutandis, apply to a person paying tax under this notification.
6. First supplies of goods or services or both shall, for the purposes of determining eligibility of a person to pay tax under this notification, include the supplies from 1st April of a FY to the date from which he becomes liable for registration under the said Act but for the purpose of determination of tax payable under this notification, shall not include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the Act.