

Chapter 10

Payment of Tax

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Statutory Provisions

<p>49 Payment of Tax, Interest, Penalty and other Amounts</p> <p>(1) <i>Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed.</i></p> <p>(2) <i>The input tax credit as self-assessed in the return of a registered person shall be credited to his electronic credit ledger, in accordance with ¹[section 41 or section 43A], to be maintained in such manner as may be prescribed.</i></p> <p>(3) <i>The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.</i></p> <p>(4) <i>The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed.</i></p>

¹ Substituted *vide* The Central Goods and Services Tax (Amendment) Act, 2018 w.e.f. date to be notified later. Prior to such substitution it read as: "section 41"

- (5) *The amount of input tax credit available in the electronic credit ledger of the registered person on account of-*
- (a) *integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of Central tax and State tax, or as the case may be, Union Territory tax, in that order;*
 - (b) *the Central tax shall first be utilised towards payment of Central tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;*
 - (c) *the State tax shall first be utilised towards payment of State tax and the amount remaining, if any, may be utilised towards payment of integrated tax*
²*[Provided that the input tax credit on account of State tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of Central tax is not available for payment of integrated tax;]*
 - (d) *the Union Territory tax shall first be utilised towards payment of Union Territory tax and the amount remaining, if any, may be utilised towards payment of integrated tax;*
³*[Provided that the input tax credit on account of Union territory tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax;]*
 - (e) *the Central tax **shall not be utilised** towards payment of State tax or Union territory tax; and*
 - (f) *the State tax or Union territory tax **shall not be utilised** towards payment of central tax.*
- (6) *The balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable under this Act or the rules made thereunder may be refunded in accordance with the provisions of section 54.*
- (7) *All liabilities of a taxable person under this Act shall be recorded and maintained in an electronic liability register in such manner as may be prescribed.*
- (8) *Every taxable person shall discharge his tax and other dues under this Act or the rules made thereunder in the following order, namely:*
- (a) *self-assessed tax, and other dues related to returns of previous tax periods;*
 - (b) *self-assessed tax, and other dues related to the return of the current tax period;*
 - (c) *any other amount payable under this Act or the rules made thereunder including the demand determined under section 73 or 74.*

^{2, 3} Inserted vide *The Central Goods and Services Tax (Amendment) Act, 2018* read with *Notf no. 2/2019-C.T., dt.29.01.2019 - w.e.f. 01.02.2019*

(9) *Every person who has paid the tax on goods or services or both under this Act shall, unless the contrary is proved by him, be deemed to have passed on the full incidence of such tax to the recipient of such goods or services or both.*

⁴[(10) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for integrated tax, Central tax, State tax, Union Territory tax or cess, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.

(11) Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section (1).]

Explanation. — For the purposes of this section, —

(a) *the date of credit to the account of the Government in the authorised bank shall be deemed to be the date of deposit in the electronic cash ledger;*

(b) *the expression, —*

(i) *“tax dues” means the tax payable under this Act and does not include interest, fee and penalty; and*

(ii) *“other dues” means interest, penalty, fee or any other amount payable under this Act or the rules made thereunder*

⁵**[49A. Utilisation of input tax credit subject to certain conditions**

Notwithstanding anything contained in section 49, the input tax credit on account of Central tax, State tax or Union Territory tax shall be utilised towards payment of integrated tax, Central tax, State tax or Union Territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilized fully towards such payment.]

⁶**[49B. Order of utilisation of input tax credit**

Notwithstanding anything contained in this Chapter and subject to the provisions of clause (e) and clause (f) of sub-section (5) of section 49, the Government may, on the recommendations of the Council, prescribe the order and manner of utilisation of the input tax credit on account of integrated tax, central tax, State tax or Union territory tax, as the case may be, towards payment of any such tax.]

⁴ Inserted vide *The Finance (No. 2) Act, 2019 read with Notf No.01/2020 – CT, dt. 01.01.2020 - w.e.f. 01.01.2020.*

⁵ Inserted vide *The Central Goods and Services Amendment Act, 2018 read with Notification No. 2/2019-C.T., dt.29.01.2019 - w.e.f. 01.02.2019*

⁶ Inserted vide *The Central Goods and Services Amendment Act, 2018 read with Notf No. 2/2019-C.T., dt.29.01.2019 - w.e.f. 01.02.2019*

Extract of the CGST Rules, 2017

85 Electronic Liability Register

- (1) *The electronic liability register specified under sub-section (7) of section 49 shall be maintained in Form GST PMT-01 for each person liable to pay tax, interest, penalty, late fee or any other amount on the common portal and all amounts payable by him shall be debited to the said register.*
- (2) *The electronic liability register of the person shall be debited by-*
 - (a) *the amount payable towards tax, interest, late fee or any other amount payable as per the return furnished by the said person;*
 - (b) *the amount of tax, interest, penalty or any other amount payable as determined by a proper officer in pursuance of any proceedings under the Act or as ascertained by the said person;*
 - (c) *the amount of tax and interest payable as a result of mismatch under section 42 or section 43 or section 50; or*
 - (d) *any amount of interest that may accrue from time to time.*
- (3) *Subject to the provisions of section 49, ⁷[section 49A and section 49B,] payment of every liability by a registered person as per his return shall be made by debiting the electronic credit ledger maintained as per rule 86 or the electronic cash ledger maintained as per rule 87 and the electronic liability register shall be credited accordingly.*
- (4) *The amount deducted under section 51, or the amount collected under section 52, or the amount payable on reverse charge basis, or the amount payable under section 10, any amount payable towards interest, penalty, fee or any other amount under the Act shall be paid by debiting the electronic cash ledger maintained as per rule 87 and the electronic liability register shall be credited accordingly.*
- (5) *Any amount of demand debited in the electronic liability register shall stand reduced to the extent of relief given by the appellate authority or Appellate Tribunal or court and the electronic tax liability register shall be credited accordingly.*
- (6) *The amount of penalty imposed or liable to be imposed shall stand reduced partly or fully, as the case may be, if the taxable person makes the payment of tax, interest and penalty specified in the show cause notice or demand order and the electronic liability register shall be credited accordingly.*
- (7) *A registered person shall, upon noticing any discrepancy in his electronic liability ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in Form GST PMT-04.*

⁷ Inserted vide Notf no. 03/2019-CT dt. 29.01.2019 – w.e.f. 01.02.2019

86 Electronic Credit Ledger

- (1) *The electronic credit ledger shall be maintained in Form GST PMT-02 for each registered person eligible for input tax credit under the Act on the common portal and every claim of input tax credit under the Act shall be credited to the said ledger.*
- (2) *The electronic credit ledger shall be debited to the extent of discharge of any liability in accordance with the provisions of section 49 ⁸[for section 49A or section or 49B]*
- (3) *Where a registered person has claimed refund of any unutilized amount from the electronic credit ledger in accordance with the provisions of section 54, the amount to the extent of the claim shall be debited in the said ledger.*
- (4) *If the refund so filed is rejected, either fully or partly, the amount debited under sub rule (3), to the extent of rejection, shall be re-credited to the electronic credit ledger by the proper officer by an order made in Form GST PMT-03.*
- ⁹[(4A) *Where a registered person has claimed refund of any amount paid as tax wrongly paid or paid in excess for which debit has been made from the electronic credit ledger, the said amount, if found admissible, shall be re-credited to the electronic credit ledger by the proper officer by an order made in Form GST PMT-03.]*
- (5) *Save as provided in the provisions of this Chapter, no entry shall be made directly in the electronic credit ledger under any circumstance.*
- (6) *A registered person shall, upon noticing any discrepancy in his electronic credit ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in Form GST PMT-04.*

Explanation. – For the purposes of this rule, it is hereby clarified that a refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking to the proper officer that he shall not file an appeal.

¹⁰[86A Conditions of use of amount available in electronic credit ledger

- (1) *The Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, having reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible in as much as-*
 - (a) *the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36-*
 - (i) *issued by a registered person who has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or*

⁸ Inserted vide Notf No. 03/2019-CT dt. 29.01.2019 – w.e.f. 01.02.2019

⁹ Inserted vide Notf No. 16/2020-CT dt. 23.03.2020

¹⁰ Inserted vide Notf No. 75/2019 - CT dt. 26.12.2019

- (ii) *without receipt of goods or services or both; or*
- (b) *the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36 in respect of any supply, the tax charged in respect of which has not been paid to the Government; or*
- (c) *the registered person availing the credit of input tax has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or*
- (d) *the registered person availing any credit of input tax is not in possession of a tax invoice or debit note or any other document prescribed under rule 36,*

may, for reasons to be recorded in writing, not allow debit of an amount equivalent to such credit in electronic credit ledger for discharge of any liability under section 49 or for claim of any refund of any unutilised amount.

- (2) *The Commissioner, or the officer authorised by him under sub-rule (1) may, upon being satisfied that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit.*
- (3) *Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction.]*

¹¹[86B. Restrictions on use of amount available in electronic credit ledger.

Notwithstanding anything contained in these rules, the registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of ninety-nine per cent of such tax liability, in cases where the value of taxable supply other than exempt supply and zero-rated supply, in a month, exceeds fifty lakh rupees:

Provided that the said restriction shall not apply where -

- (a) *the said person or the proprietor or Karta or the Managing Director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid more than one lakh rupees as income tax under the Income-tax Act, 1961(43 of 1961) in each of the last two financial years for which the time limit to file return of income under sub-section (1) of section 139 of the said Act has expired; or*
- (b) *the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (i) of first proviso of sub-section (3) of section 54; or*
- (c) *the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (ii) of first proviso of sub-section (3) of section 54; or*

¹¹ Inserted vide Notf no. 94/2020 – CT dt. 22.12.2020 - w.e.f. 01.01.2021

- (d) the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current financial year; or
- (e) the registered person is -
- (i) Government Department; or
 - (ii) a Public sector undertaking; or
 - (iii) a local authority; or
 - (iv) a statutory body:

Provided further that the Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit.]

87 Electronic Cash Ledger

- (1) The electronic cash ledger under sub-section (1) of section 49 shall be maintained in Form GST PMT-05 for each person, liable to pay tax, interest, penalty, late fee or any other amount, on the common portal for crediting the amount deposited and debiting the payment therefrom towards tax, interest, penalty, fee or any other amount.
- (2) Any person, or a person on his behalf, shall generate a challan In Form GST PMT-06 on the common portal and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount:

¹²*[Provided that the challan in Form GST PMT-06 generated at the common portal shall be valid for a period of fifteen days.*

¹³~~*[Provided further that a person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) may also do so through the Board's payment system namely, Electronic Accounting System in Excise and Service Tax from the date to be notified by the Board.]*~~

- (3) The deposit under sub-rule (2) shall be made through any of the following modes namely:
- (i) Internet Banking through authorised banks;
 - (ii) Credit card or Debit card through the authorised bank;
 - (iii) National Electronic Fund Transfer or Real Time Gross Settlement from a bank; or
 - (iv) Over the Counter payment through authorised banks for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft:

Provided that the restriction for deposit up to ten thousand rupees per challan in case of an Over the Counter payment shall not apply to deposit to be made by –

¹² Inserted vide Notf No. 22/2017 – CT dt 17.08.2017

¹³ Omitted vide Notf No. 31/2019 – CT dt. 28.06.2019

- (a) Government Departments or any other deposit to be made by persons as may be notified by the Commissioner in this behalf;
- (b) Proper officer or any other officer authorised to recover outstanding due from any person, whether registered or not, including recovery made through attachment or sale of movable or immovable properties;
- (c) Proper officer or any other officer authorised for the amounts collected by way of cash, cheque or demand draft during any investigation or enforcement activity or any ad hoc deposit:

¹⁴[Provided further that a person supplying online information and data base access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) may also make the deposit under sub-rule (2) through international money transfer through Society for Worldwide Interbank Financial Telecommunication Payment Network, from the date to be notified by the Board]

Explanation. – For the purposes of this sub-rule, it is hereby clarified that for making payment of any amount indicated in the challan, the commission, if any, payable in respect of such payment shall be borne by the person making such payment.

- (4) Any payment required to be made by a person who is not registered under the Act, shall be made on the basis of a temporary identification number generated through the common portal.
- (5) Where the payment is made by way of National Electronic Fund Transfer or Real Time Gross Settlement mode from any bank, the mandate form shall be generated along with the challan on the common portal and the same shall be submitted to the bank from where the payment is to be made:
Provided that the mandate form shall be valid for a period of fifteen days from the date of generation of challan
- (6) On successful credit of the amount to the concerned Government account maintained in the authorised bank, a Challan Identification Number shall be generated by the collecting bank and the same shall be indicated in the challan.
- (7) On receipt of the Challan Identification Number from the collecting bank, the said amount shall be credited to the electronic cash ledger of the person on whose behalf the deposit has been made and the common portal shall make available a receipt to this effect.
- (8) Where the bank account of the person concerned, or the person making the deposit on his behalf, is debited but no Challan Identification Number is generated or generated but not communicated to the common portal, the said person may represent

¹⁴ Substituted vide Notf No. 22/2017 – CT dt 17.08.2017

electronically in Form GST PMT-07 through the common portal to the bank or electronic gateway through which the deposit was initiated.

- (9) Any amount deducted under section 51 or collected under section 52 and claimed ¹⁵~~in FORM GSTR-02~~ by the registered taxable person from whom the said amount was deducted or, as the case may be, collected, shall be credited to his electronic cash ledger ¹⁶~~[in accordance with the provisions of rule 87].~~
- (10) Where a person has claimed refund of any amount from the electronic cash ledger, the said amount shall be debited to the electronic cash ledger.
- (11) If the refund so claimed is rejected, either fully or partly, the amount debited under sub-rule (10), to the extent of rejection, shall be credited to the electronic cash ledger by the proper officer by an order made in Form GST PMT-03.
- (12) A registered person shall, upon noticing any discrepancy in his electronic cash ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in Form GST PMT-04.

Explanation 1. –The refund shall be deemed to be rejected if the appeal is finally rejected.

Explanation 2. –For the purposes of this rule, it is hereby clarified that a refund shall be deemed to be rejected, if the appeal is finally rejected or if the claimant gives an undertaking to the proper officer that he shall not file an appeal.

- ¹⁷[(13) A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the Act to the electronic cash ledger for integrated tax, Central tax, State tax or Union Territory tax or cess in Form GST PMT-09.]

88. Identification number for each transaction

- (1) A unique identification number shall be generated at the common portal for each debit or credit to the electronic cash or credit ledger, as the case may be.
- (2) The unique identification number relating to discharge of any liability shall be indicated in the corresponding entry in the electronic liability register.
- (3) A unique identification number shall be generated at the common portal for each credit in the electronic liability register for reasons other than those covered under sub-rule (2).

¹⁵ Omitted vide Notf No. 31/2019 – CT dt. 28.06.2019

¹⁶ Omitted vide Notf No. 31/2019 – CT dt. 28.06.2019

¹⁷ Inserted vide Notf no. 31/2019 – CT dt. 28.06.2019 read w.e.f. 21.04.2020 vide Notf No. 37/2020 – CT dt. 28.04.2020)

¹⁸[88A. Order of utilization of input tax credit

Input tax credit on account of integrated tax shall first be utilised towards payment of integrated tax, and the amount remaining, if any, may be utilised towards the payment of Central tax and State tax or Union Territory tax, as the case may be, in any order:

Provided that the input tax credit on account of Central tax, State tax or Union Territory tax shall be utilised towards payment of integrated tax, Central tax, State tax or Union Territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully.]

Related provisions of the Statute

Section or Rule	Description
Section 2(43)	Electronic cash ledger
Section 2(46)	Electronic credit ledger
Section 2(62)	Definition of Input tax
Section 2(82)	Definition of Output tax
Section 2(94)	Definition of Registered person
Section 2(97)	Definition of Return
Section 2(117)	Definition of Valid return
Section 9	Levy and Collection
Section 10 (IGST)	Place of supply of goods other than supply of goods imported into or exported from India
Section 11 (IGST)	Place of supply of goods imported into or exported from India
Section 12 (IGST)	Place of supply of services where location of supplier and recipient is in India
Section 13 (IGST)	Place of supply of services where location of supplier or location of recipient is outside India
Section 16	Eligibility and Conditions for taking Input Tax Credit
Section 17	Apportionment of credit and blocked credits
Section 39	Furnishing of returns
Section 41	Claim of Input tax credit and provisional acceptance thereof
Section 50	Interest on delayed payment of tax

¹⁸ Inserted vide Notf No. 16/2019-CT dt. 29.03.2019

Section 51	Tax deduction at source
Section 54	Refund of tax
Section 77	Tax wrongfully collected and paid to Central or State Government
Section 19 (IGST)	Tax wrongfully collected and paid to Central or State Government

49.1 Introduction

This section provides for the following:

1. Methodology or mode of payment of tax, interest, penalty, fee or any other amount by a person,
2. This section prescribes maintenance of the following three kinds of ledgers by the taxable person:
 - (a) Electronic cash ledger;
 - (b) Electronic input tax credit ledger or Electronic credit ledger;
 - (c) Electronic tax liability register.
3. The section further provides for availability of credit in the cash ledger or the credit ledger depending on the payment made by the taxable person or filling of return.
4. It provides for utilization of credit and prescribes the method of cross utilization of credit amongst IGST and CGST, IGST and SGST or UTGST.
5. Transfer of input tax credit from CGST to IGST account when CGST is utilized for payment of IGST; similar provisions are enacted in SGST Act and UTGST Act as well.

Sections 49A and 49B

Section 49 was amended and sections 49A 49B were inserted *vide* the Central Goods and Services Tax (Amendment) Act, 2018. The amended provisions came into effect from 01.02.2019 *vide Notification No. 2/2019-C.T., dated 29-1-2019*. These provisions provide for utilisation of the ITC under the head CGST / S (UT) GST, only after the ITC available on account of the head IGST has first been utilized fully.

49.2 Analysis

A. **Electronic cash ledger [Section 49 (1), (3), (6), (10) and (11) read with Rule 87]:**

The provisions regarding electronic cash ledger and amounts credited into this ledger are dealt with in sub-section (1) & (3) of section 49 of the CGST Act.

1. Deposit of tax, interest, penalty, fee or any other amount by a person can be made by the following modes: -
 - Internet banking

- Credit /Debit cards
 - National Electronic Fund Transfer (NEFT)
 - Real Time Gross Settlement (RTGS)
 - Over the counter payment (OTC) through authorized banks for deposits up to ₹ 10,000/- per challan per tax period, by cash, cheque or demand draft. This amount restriction is not applicable to remittances by:
 - Government Departments or any other deposit to be made by persons as may be notified by the Commissioner in this behalf;
 - Proper officer or any other officer recovering outstanding dues or during any investigation or enforcement activity or *ad hoc* deposit
 - International money transfer through Society for Worldwide Interbank Financial Telecommunication Payment Network for persons supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient
 - Any other mode as may be prescribed.
2. 'Deposit' made through any one of the above-mentioned modes will be credited to the electronic cash ledger of the taxable person. This ledger shall be maintained in Form **GST PMT-05**.
 3. Any person, or a person on his behalf, shall generate a challan in Form **GST PMT-06** on the common portal and enter the details of the amount to be deposited by him towards tax, interest, penalty, fees or any other amount.
 4. The challan in Form **GST PMT-06** generated on the common portal shall be valid for a period of 15 days.
 5. A person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient may also make the deposit in electronic cash ledger through international money transfer through Society for Worldwide Interbank Financial Telecommunication Payment Network from a date to be notified by the Board.
 6. Any payment required to be made by a person who is not registered under the Act, shall be made on the basis of a temporary identification number (TIN) generated through the common portal.
 7. The date of credit into the account of the Government is deemed to be the *date of deposit in the electronic cash ledger* (not the actual date of debit to the account of the taxable person).

8. On successful credit of the amount to the concerned Government account maintained in the authorised bank, a challan identification number (CIN) will be generated by the collecting bank and the same shall be indicated in the challan.
9. Where the bank account of the person concerned, or the person making the deposit on his behalf, is debited but no CIN is generated or generated but not communicated to the common portal, the said person may represent electronically in Form **GST PMT-07** through the common portal to the bank or electronic gateway through which the deposit was initiated.
10. The electronic cash ledger has four major heads of taxes and five minor heads for payment, as follows:

<i>Major Head</i>	<i>Minor Head</i>				
	Tax	Interest	Penalty	Fees	Others
IGST					
CGST					
SGST					
CESS					

11. Any payment made towards respective major heads shall only be utilized for offset of liability of that head of account. For example, if IGST is paid through a Challan, then this cash balance against IGST in the cash ledger shall only be utilized for payment of IGST.
12. Likewise, the amount paid under the minor head may be used for making any payment towards the liability of such minor head say, tax, interest, penalty, fees or any other amount payable as per the provisions of the Act or Rules.
13. Any amount deducted under section 51 (TDS by Central / State Government or Local Authority or Government agencies) or collected under section 52 (TCS by e-commerce operator) and claimed by the registered taxable person from whom the said amount was deducted or, as the case may be, collected, shall be credited to his electronic cash ledger.
14. Under the powers vested by sub-section (10) of section 49 read with sub-rule (13) of rule 87, any balance in the electronic cash ledger available under any head can be transferred to any other head within the said cash ledger. This transfer may be done using Form **GST PMT-09**. For example, cash balance under minor head 'Interest' under CGST may be transferred to any of the minor heads under CGST or SGST or IGST as desired by the registered person.

Such amount transferred shall be deemed as deposit of tax to the electronic cash ledger under the head to which such transfer takes place.

15. The contents of the ledger shall be as under :

Dr.	<i>Electronic Cash Ledger (FORM GST PMT - 05)</i>	Cr.
(a) Payment of tax, interest, penalty, fee or any other amount		(a) Deposit, of tax, interest, penalty, fee or any other amount, though a challan in Form GST PMT-06
(b) Refund of any amount from the electronic cash ledger in Form GST RFD 01		(b) Amount deducted under section 51
		(c) Amount collected under section 52
		(d) Refund claim rejected and re-credit through Form GST PMT 03

B. Electronic credit ledger [section 49(2), (4) & (5) read with rules 86, 86A, 86B & 88A]

1. Sub-section (2) of section 49 of the CGST Act provides that the self-assessed input tax credit as per return filed by a taxable person shall be credited to its electronic credit ledger.
2. This ledger shall be maintained in Form **GST PMT-02** for each registered person eligible for input tax credit under the Act on the common portal and every claim of input tax credit under the Act shall be credited to the said Ledger.
3. The electronic credit ledger may include the following:
 - Transitional credit of excise and service tax as CGST credit and State VAT credit as SGST credit.
 - ITC on inward supplies (including eligible capital goods) from registered tax payers.
 - ITC available based on distribution from ISD.
 - ITC on input of stock held/ semi-finished goods or finished goods held in stock on the day immediately preceding the date from which the taxpayer became liable to pay tax provided he applies for registration within 30 days from the date of his liability.
 - Permissible ITC on inputs held in stock and inputs contained in semi- finished or finished goods held in stock on the day of conversion from composition scheme to regular tax scheme.
 - ITC eligible on payments made on reverse charge basis

The above list is illustrative and not exhaustive and thus would include credit transfers to a recipient in cases of mergers, amalgamations etc.

4. A registered person shall, upon noticing any discrepancy in his electronic credit ledger, communicate the same to the officer exercising jurisdiction in the matter, through the common portal in Form **GST PMT-04**.
5. Any excess payment or wrong payment of tax made by debit to the electronic credit ledger but subsequently . refund has been sought by the registered person, then if such refund is found admissible, it shall only be re-credited to the electronic credit ledger by an order in Form **GST PMT-03**.
6. Blocking utilization of credit can be done under rule 86A by the Commissioner or authorized officer not below the rank of Assistant Commissioner, if they have reason to believe that the credit has been availed fraudulently or that the party was not eligible for such credit. The blocked amount shall not be available for discharge of liability or for claiming refund. The blocking may be done only after giving reasons in writing. Such restriction shall be removed by the officer on being satisfied that conditions for disallowing the credit no longer exist or a period of one year has elapsed from such restriction, whichever is earlier.

CBIC has issued Guidelines for disallowing debit of electronic credit ledger under Rule 86A of the CGST Rules, 2017. The salient points of the Guidelines have been elaborated below:

1. Grounds for disallowing debit of amount from electronic credit ledger

- (i) The Commissioner or an officer authorised by him, not below the rank of Assistant Commissioner, must “form an opinion” for disallowing debit of an amount from electronic credit ledger after proper application of mind considering all the facts of the case including the nature of prima facie fraudulently availed or ineligible input tax credit and whether the same is covered under the grounds mentioned in rule 86A(1), the amount of input tax credit involved, and whether such disallowance is necessary for restricting him from utilizing/ passing on fraudulently availed or ineligible input tax credit to protect the interests of revenue.
- (ii) The power of disallowing debit of amount from electronic credit ledger must not be exercised in a mechanical manner and “**careful examination of all the facts of the case**” is important to determine case(s) fit for exercising power under rule 86A. The remedy of disallowing debit of amount from electronic credit ledger being, by its very nature. extraordinary' has to be resorted to with utmost circumspection and with maximum care and caution. It contemplates an objective determination based on intelligent care and evaluation as distinguished from a purely subjective consideration of suspicion. The reasons are to be on the basis of material evidence available or gathered in relation to fraudulent availment of input tax credit or

ineligible input tax credit availed as per the conditions/grounds under sub-rule (l) of rule 86A.

2. Proper authority for the purpose of rule 86A

- (i) The Commissioner/ Principal Commissioner may authorize exercise of powers under rule 86A based on the following monetary limits:

Total amount of ineligible fraudulently availed input tax credit	Officer authorized to disallow debit of amount from electronic credit ledger under rule 86A
Upto ₹ 1 crore	Deputy/ Assistant Commissioner
Above ₹ 1 crore but upto ₹ 5crore	Additional/ Joint Commissioner
Above ₹ 5 crore	Principal Commissioner/ Commissioner

- (ii) The Additional Director General /Principal Additional Director General of DGGI can also exercise the powers assigned to the Commissioner under rule 86A. The monetary limits for authorization for exercise of powers under rule 86A, to the officers of the rank of Assistant Director and above of DGGI by the Additional Director General /Principal Additional Director General may be same as mentioned above for equivalent rank of officers.
- (iii) Where during the course of Audit under section 65 or 66 of CGST Act, 2017, it is noticed that any input tax credit has been fraudulently availed or is ineligible as per the grounds mentioned in rule 86A(1), the concerned Commissioner/ Principal Commissioner of CGST Audit Commissionerate may refer the same to the jurisdictional CGST Commissioner for examination of the matter for exercise of power under rule 86A.

3. Procedure for disallowance

- (i) The amount of fraudulently availed or ineligible input tax credit availed by the registered person, as per the grounds mentioned in rule 86(1) shall be prima facie ascertained based on material evidence available or gathered on record. The "reasons to believe" to disallow debit from electronic credit ledger as formed by the Commissioner or any other officer authorized by him shall be duly recorded by the concerned officer in writing on file, before he proceeds to disallow debit of amount from electronic credit ledger of the said person.
- (ii) The amount disallowed for debit from electronic credit ledger should not be more than the amount of input tax credit which is believed to have been fraudulently availed or is ineligible, as per the conditions/ grounds mentioned in rule 86A(1).

- (iii) The action to disallow such debit from electronic credit ledger shall be informed on the portal to the concerned registered person, along with the details of the officer who has disallowed such debit.

4. Allowing debit of disallowed/restricted credit under rule 86A(2).

- (i) The Commissioner or the authorized officer, either on his own or based on the submissions made by the taxpayer with material evidence, may examine the matter afresh and on being satisfied that the input tax credit, initially considered to be fraudulently availed or ineligible, is no more ineligible or wrongly availed, either partially or fully, may allow the use of the credit so disallowed/restricted, up to the extent of eligibility, as per powers granted under rule 86A(2).
- (ii) Reasons for allowing the debit of electronic credit ledger, which had been earlier disallowed, shall be duly recorded on file in writing, before allowing such debit of electronic credit ledger.
- (iii) Upon expiry of one year from the date of restriction, the registered person shall be able to debit input tax credit so disallowed, subject to any other action that may be taken against such person.
- (iv) As the restriction on debit of electronic credit ledger under rule 86A(1) is resorted to protect the interests of the revenue and the said action also has bearing on the working capital of the registered person, it should be endeavored that in all such cases' the investigation and adjudication are completed at the earliest, well within the period of restriction, so that the due liability arising out of the same can be recovered from the said taxable person and the purpose of disallowing debit from electronic credit ledger is achieved.

7. The contents of the ledger would be as under :

<i>Dr. Electronic Credit Ledger (Form GST PMT - 02)</i>		<i>Cr.</i>
(a) Payment of tax.	(a) Claim of input tax credit by filing Form GSTR - 3B as prescribed in section 39.	
(b) Refund of accumulated ITC, under section 54, filed in Form GST RFD - 01	(b) Refund claim rejected and re-credit through Form GST PMT- 03	
	(c) Refund of any amount paid as tax wrongly or paid in excess for which debit has been made from the electronic credit ledger.	

8. The manner of utilisation of ITC and cross utilization shall be as under:
- (1) The amount available in the electronic credit ledger may be utilized for effecting payment towards output tax payable under the Act or Rules. The manner of utilization, conditions and timelines have been specifically prescribed.
 - (2) Electronic credit ledger has the following (cross) credit utilization arrangement as per combined reading of sections 49(5), 49A, 49B, Rule 88A and *Circular No. 98/17/2019-GST, dated 23.04.2019*:

<i>Input tax Credit on account of</i>	<i>Output liability on account of Integrated tax</i>	<i>Output liability on account of Central tax</i>	<i>Output liability on account of State tax/ Union Territory tax</i>
<u>Integrated tax</u>	(I)	(II) - In any order and in any proportion	
<i>(III) Input tax credit on account of integrated tax to be completely exhausted mandatorily</i>			
<u>Central tax</u>	(V)	(IV)	Not permitted
<u>State tax/Union Territory tax</u>	(VII)	Not permitted	(VI)

- (3) As per the section 49A, the ITC of IGST has to be utilized completely before ITC of CGST / SGST or UTGST can be utilized for discharge of any tax liability.

Further, section 49B empowers the Government, on the recommendation of the GST Council, to notify the order for utilization of ITC in e-credit ledger, Accordingly, CBIC *vide Notification No. 16/2019 dated 29.03.2019* inserted rule 88A in the CGST Rules.

Rule 88A also allows utilization of ITC of IGST towards the payment of CGST and SGST, or as the case may be, UTGST, *in any order subject to the condition that the entire ITC on account of IGST is completely exhausted first* before the ITC on account of CGST or SGST / UTGST can be utilized.

Prior to rule 88A, as per section 49 (5) IGST Act, input tax credit was first utilized against IGST liability and any remaining credit of IGST, if any may be utilized against CGST and then SGST/UTGST in the following order:

Credit of:	Allowed for Payment of		
	IGST	CGST	SGST
IGST	✓ (1)	✓ (2)	✓ (3)
CGST	✓ (2)	✓ (1)	
SGST	✓ (2)		✓ (1)

However, with the introduction of section 49A, it becomes abundantly clear that there is only a two-step hierarchy and once credit of IGST is fully adjusted with liability of IGST, then remainder of credit of IGST may be utilized *in any order* against liability of CGST or liability of SGST.

- (4) With effect from 01.02.2019, proviso to sub-section (5) of section 49 [*inserted vide the CGST (Amendment) Act, 2018 read with Notification No. 2/2019-C.T., dated 29-1-2019*], ITC on account of SGST/ UTGST shall be utilized towards payment of IGST only where the balance of the ITC on account of CGST is not available for payment of IGST.
- (5) 'Cross-utilization of credit is available' means it can be effected only in that order. The important restriction is that the CGST credit cannot be utilized for payment of SGST or UTGST and *vice versa*. One may note the fact that IGST credit is available seamlessly, subject to order of utilization as mentioned *supra*.
- (6) Following is an illustration on the order of utilization of input tax credit amplifying the impact of newly inserted rule 88A of the CGST Rules as stipulated in *Circular No. 98/17/2019-GST, dated 23.04.2019* :

Head	Output Liability	Input tax Credit
Integrated tax	1000	1300
Central tax	300	200
State tax/ Union Territory tax	300	200
Total	1600	1700

Appropriation of tax credits available as above may be as follows:

Option 1:

Input tax Credit on account of	Discharge of output liability on account of Integrated tax	Discharge of output liability on account of Central tax	Discharge of output liability on account of State tax/ Union territory tax	Balance of Input Tax Credit
Integrated tax	1000	200	100	0
<i>Input tax credit on account of integrated tax has been completely exhausted</i>				
Central tax	0	100	-	100
State tax/ Union Territory tax	0	-	200	0
Total	1000	300	300	100

Option 2:

Input tax Credit on account of	Discharge of output liability on account of Integrated tax	Discharge of output liability on account of Central tax	Discharge of output liability on account of State tax/ Union territory tax	Balance of Input Tax Credit
Integrated tax	1000	100	200	0
<i>Input tax credit on account of integrated tax has been completely exhausted</i>				
Central tax	0	200	-	0
State tax/ Union Territory tax	0	-	100	100
Total	1000	300	300	100

- (7) The full utilization of IGST credit by taxpayer facilitates the Government in the following;
- Reduction of transactions of inter -settlement between the Centre and States
 - Self-utilization of IGST deposited in Consolidated Fund of India through payment route of taxpayer instead of post return calculation

However, if the provisions are not appreciated applied, it leads to a situation wherein taxpayer has to pay SGST in cash while his balance in CGST credit ledger is still lying.

Illustration:

Nature of Tax	Tax liability	ITC available
IGST	100 (ip)	200 (ic)
CGST	100 (cp)	50 (cc)
SGST	100 (sp)	50 (sc)

	Tax liability	<i>Option 1</i>		<i>Option 2</i>		
		Paid through ITC	Paid through Cash / Balance Credit	Paid through ITC	Paid through Cash	Balance ITC
IGST	100 (ip)	100 (ic)	Nil	100 (ic)	-	-
CGST	100 (cp)	50 (ic) 50 (cc)	Nil	100 (ic)	-	50 (cc)
SGST	100 (sp)	50 (ic) 50 (sc)	Nil	50 (sc)	50	-

From the above Illustration, we can conclude that Option – 1 does not result in any cash flow issue. On the contrary, In Option 2 the registered person pays the SGST liability in cash and accumulates the ITC under the head CGST. This is because the registered person had not carried out the adjustment as per rule 88A i.e., ITC left after setting off the IGST liability can be utilized in any order.

- (8) Sub-section (6) of section 49 provides that the balance in the cash or credit ledger after payment of tax, interest, penalty, fee or any other amount may be refunded in accordance with the provisions of section 54 (dealing with refunds).
- (9) A unique identification number shall be generated at the common portal for each debit or credit to the electronic cash or credit ledger, as the case may be. The said UIN must be used to discharge tax liability.
9. The conditions for use of the amount available in electronic credit ledger are given below:
- The Commissioner or an officer authorized by him (not below the rank of an Assistant Commissioner) under rule 86A may not allow the registered person to utilize ITC for payment of taxes or claim refund, if he has reason to believe that such ITC in electronic ledger has been fraudulently availed or the person was ineligible to avail it. This blocking may be done after giving reasons in writing.
 - The ITC in electronic ledger can be blocked for any one of the following reasons–
 - ITC was availed on the basis of tax invoice or debit note or any other document prescribed under rule 36 –
 - issued by a supplier who is non-existent or not conducting any business from the registered premises
 - without receipt of goods or services or both.
 - taxes mentioned in the document issued by the supplier has not been paid to the Government.
 - the registered person availing ITC has been found non-existent or does not conduct any business activity from the registered premises.

- ITC is availed without any documentary proof.
 - The Commissioner or an Officer authorized by him may, upon being satisfied that conditions for blocking the ITC in e-credit ledger as discussed above do not exist, may permit the use of ITC for payment of taxes or allow refund claim of accumulated ITC as per section 54.
 - Blocking of ITC ceases after one year from date of imposition.
10. Following are the restrictions on the use of the amount available in electronic credit ledger:
- In order to curb misuse of ITC by the registered person the Central Government with effect from 01.01.2021 introduced rule 86B which limits the use of ITC available in the electronic credit ledger for discharging the output tax liability. Accordingly, the registered persons cannot use ITC in excess of 99 per cent of output tax liability.
 - This rule is applicable to registered persons having taxable value of supply (other than exempt supply and zero-rated supply) in a month which is worth more than ₹ 50 lakhs.
 - This rule has a non-obstante clause which means this rule overrides all other rules of the CGST Rules.
 - However, the above restriction is not applicable to the following registered persons:
 - If the persons mentioned below have paid more than ₹ 1 lakh as Income Tax under Income Tax Act, 1961 in each of the preceding two financial years for which the time limit to file return of income under sub-section (1) of section 139 of the said Act has expired:
 - registered person
 - proprietor, karta or managing director of the registered person
 - any of the partners or whole-time directors or any other person as the case may be.
 - If the registered person under concern has received a refund of unutilized input tax credit amounting to more than ₹ 1 lakh in the preceding financial year on account of export under LUT or due to inverted tax structure.
 - If the registered person under concern has discharged his liability towards output tax by electronic cash ledger for an amount in excess of 1 per cent cumulatively of the total output tax liability up to the said month in the current financial year.
 - If the registered person under concern is any of the following:
 - Government department or

- Public sector undertaking or
- Local authority.

Common points for electronic cash and credit ledger

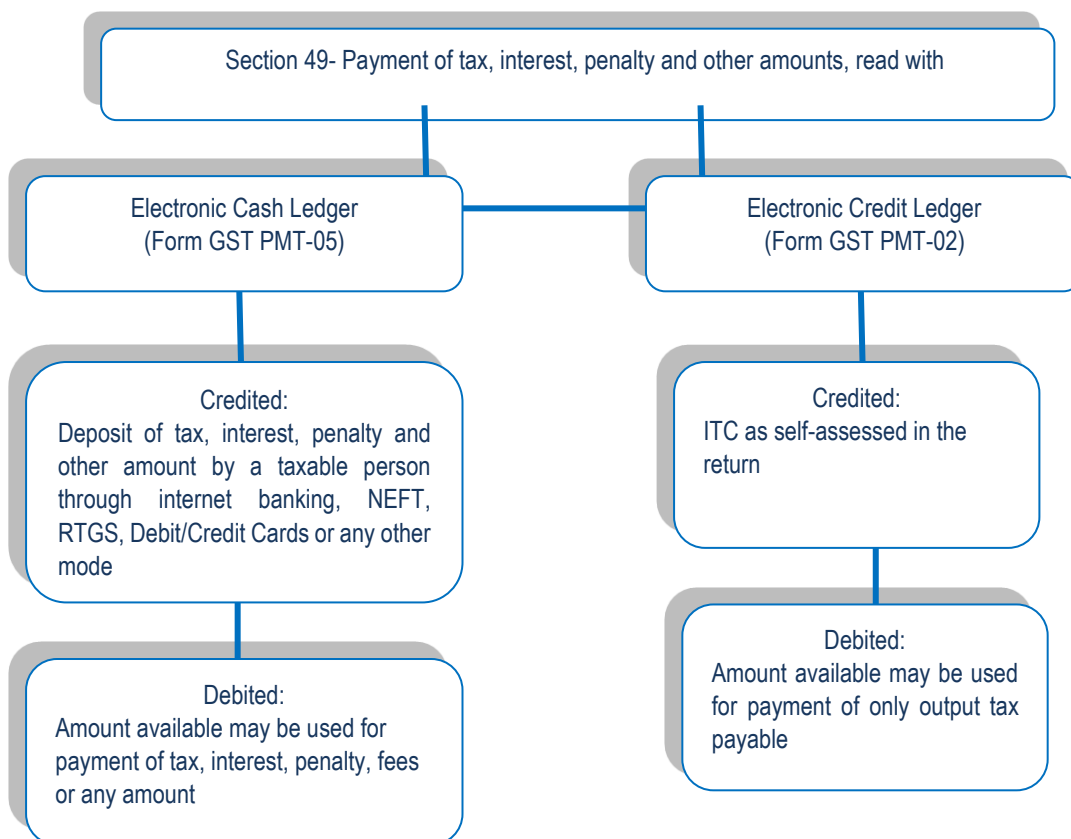
1. Where a person has claimed refund of any amount from the electronic cash ledger or unutilized amount from electronic credit ledger, the said amount shall be debited to the electronic cash or credit ledger.
2. If the refund so claimed is rejected, either fully or partly, the amount debited earlier, to the extent of rejection, shall be credited to the electronic cash or credit ledger by the proper officer by an order made in Form **GST PMT-03**.
3. A unique identification number shall be generated at the common portal for each debit or credit to the electronic cash or credit ledger, as the case may be. The said UIN must be used to discharge the tax liability.

C. Electronic tax liability register [section 49(7), (8), (9) read with rule 85]:

1. A tax liability register is required to be maintained electronically for all liabilities of a taxable person in Form **GST PMT-01**. This ledger is auto updated in the common portal based on the data received by it from returns filed by the registered person or demand raised by the officer.
2. This ledger shall be debited by the following amounts (liability is created by debiting):
 - amount payable towards tax, interest, late fee or any other amount payable under separate sub-head as per the return furnished by the said taxable person;
 - the amount of tax, interest, penalty or any other amount payable as determined by a proper officer in pursuance of any proceedings under the Act or as ascertained by the said taxable person;
 - the amount of tax and interest payable as a result of mismatch under section 42 or section 43 or section 50; or
 - any amount of interest that may accrue from time to time
 - where Form **DRC-03** is being generated for intimation of payment made voluntarily or made against Show Cause Notice, specifying the cause of payment
 - o Voluntary, or
 - o pursuant to SCN, or
 - o others
 - On generation of Form **DRC -03** payment reference number will be generated and found in Part - II of Electronic liability register.

3. This ledger shall be credited with the following payments (liability is discharged by crediting)
- Tax deducted at source under section 51
 - Tax collected at source under section 52
 - Reverse charge on supply of goods or services under sub-section (3) of section 9 of CGST /SGST Act, sub-section (3) of section 5 of IGST Act and sub section (3) of section 7 of UTGST Act
 - Tax on supplies from unregistered suppliers under sub section (4) of section 9 of CGST/SGST Act, sub section (4) of section 5 of IGST Act and sub section (4) of section 7 of UTGST Act

The entire procedure cited *supra* can be depicted in a flowchart as follows:



4. **Order of discharge of tax**

Sub-section (8) of section 49 prescribes the following chronological order in which the tax liability of a taxable person can be discharged:

- (a) Self-assessed tax and other dues arising out of returns for **previous tax periods** must be discharged first.
- (b) Self-assessed tax and other dues relating to the return of the **current tax period**.
- (c) Any other amount payable under the Act/Rules (liability arising out of demand notice or adjudicated proceedings etc.).

5. **Presumption that incidence of tax is passed on**

Sub-section (9) of section 49 provides that the incidence of tax on goods/services shall be *deemed* to have been passed on to the recipient of such goods and /or services when the tax is paid unless the contrary is proved.

49.3 **Issues and Concerns:**

- (i) The recipient of notified services who is liable to reverse charge, is required to ensure that tax is charged on the tax invoice issued by the supplier (marked as payable under RCM) of notified goods or services and all necessary declarations as required under the tax invoice and input tax credit provisions have been complied with.
- (ii) A person having multiple registrations is required to ensure that payment of tax is made for the registrations against which the tax liability is due. Any incorrect payment will envisage that the correct payment of taxes under the appropriate registration needs to be made , while such person needs to seek refund from that particular registration under which the said wrong payment was effected. This will impact working capital and obtaining refunds will mean time and costs.

49.4 **Comparative Review**

The electronic cash ledger, electronic credit ledger and tax liability register are unique features of the GST law. This would ensure that only eligible credits are availed thereby eliminating the need for Forms 'C' or 'F' or 'H' etc. (Refer relevant provisions of the CST Act, 1956).

On the other hand, the assesseees would be expected to reconcile their financial ledgers with corresponding electronic ledgers.

49.5 **FAQs**

Q1. What are the types of Ledgers to be maintained by a taxable person under the GST Law?

Ans. The three types of ledgers to be maintained namely electronic credit ledger, electronic cash ledger and electronic liability register.

Q2. What are the deposit amounts that need to be reflected in the electronic cash ledger?

Ans. The electronic cash ledger shall contain details of every deposit made towards tax, interest, penalty or any other amount (including the tax deducted at source and tax collected at source under sections 51 and 52 respectively).

Q3. What is meant by cross-utilization of credit and how is it done in the electronic credit ledger?

Ans. Cross utilization means utilizing credit of IGST against liabilities of CGST/ SGST/ UTGST or credit of CGST / SGST / UTGST against IGST. The amount available in the electronic credit ledger may be used for making payment towards output tax payable under the Act and Rules made thereunder.

Q.4 What are the major and minor heads of credit in the electronic cash ledger?

Ans. The major and minor heads are as under:

<i>Major heads</i>	<i>Minor Heads</i>
IGST	Tax
CGST	Interest
SGST	Penalty
UTGST	Any other amount
CESS	Fees

Q6. What are the amounts to be reflected in the electronic credit ledger?

Ans. The input tax credit as self-assessed in the details of inward supplies (Form **GSTR-2** originally but currently Form **GSTR-3B**) of a taxable person shall be reflected in the electronic credit ledger.

Q7. Can direct remittances to the treasury be shown in the electronic credit ledger?

Ans. No, the direct remittances to the treasury cannot be shown in the electronic credit ledger.

Q8. What is the order in which tax liability has to be discharged?

Ans. The order in which the liability of a taxable person must be discharged is as under:

1. Self-assessed tax and other dues arising out of returns for previous tax periods. must be discharged first.
2. Self-assessed tax and other dues relating to the return of the current tax period.
3. Any other amount payable under the Act/Rules (liability arising out of demand notice or adjudication proceedings etc.).

49.6 MCQs

Q1. In which ledger of a taxable person the deposits towards tax, penalty, interest, fee or any other amount are to be credited into:

- (a) Electronic credit ledger
- (b) Tax liability register

- (c) Electronic cash ledger
- (d) None of the above

Ans. (c) Electronic cash ledger.

Q2. The input tax credit as self-assessed by a taxable person is credited into which of the following ledger:

- (a) Electronic credit ledger
- (b) Tax liability register
- (c) Electronic cash ledger
- (d) None of the above

Ans. (a) Electronic credit ledger.

Q3. Cross-utilization of credit available under IGST after utilization towards payment of IGST is done in the following chronological order:

- (a) CGST then SGST/UTGST
- (b) SGST/UTGST then CGST
- (c) CGST, UTGST/SGST in any order
- (d) None of the above

Ans. (c) CGST, UTGST/SGST in any order.

Q4. Which of the following statements is true:

- (a) ITC of CGST is first utilized for payment of CGST and the balance is utilized for payment of SGST/UTGST
- (b) ITC of SGST is first utilized for payment of SGST and the balance is utilized for payment of CGST
- (c) ITC of CGST is first utilized for payment of CGST and the balance is utilized for payment of IGST
- (d) None of the above

Ans. (c) ITC of CGST is first utilized for payment of CGST and the balance is utilized for payment of IGST.

Statutory provisions**50. Interest on delayed payment of tax**

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall, for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent, as may be notified by the Government, on the recommendation of the Council.

¹⁹[Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger.]

(2) The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which tax was due to be paid.

(3) A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty four per cent, as may be notified by the Government on the recommendations of the Council.

Related provisions of the Statute

Section or Rule	Description
Section 2(62)	Definition of Input tax
Section 2(82)	Definition of Output tax
Section 2(94)	Definition of Registered person
Section 2(97)	Definition of Return
Section 2(117)	Definition of Valid return
Section 9	Levy and Collection
Section 16	Eligibility and Conditions for taking input tax credit

¹⁹ Inserted vide *The Finance Act, 2021* read with *Notf No. 16/2021-CT, dt. 1-06-2021-w.e.f. 01-06-2021*. Prior to this retrospective amendment, it read as follows in terms of *Finance (No. 2) Act, 2019* read with *Notification No. 63/2020 – CT, dt. 25.08.2020* from 1.09.2020 – “Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.”

Section 17	Apportionment of credit and blocked credits
Section 39	Furnishing of returns
Section 42	Matching, reversal and reclaim of input tax credit
Section 43	Matching, reversal and reclaim of reduction in output tax liability
Section 77	Tax wrongfully collected and paid to Central or State Government
Section 19 (IGST)	Tax wrongfully collected and paid to Central or State Government

50.1 Introduction

This section lays down the provisions for payment of interest under the Act for delayed payment of tax.

50.2 Analysis

Section 50 of the CGST Act makes it mandatory for a tax payer to pay interest on belated payment of tax i.e., when he fails to pay tax (or any part of tax) to the Government's account within the due date/s.

Interest - When Payable

Interest under section 50 of CGST Act is payable in the following three circumstances

1. Sub-section (1): period for which there is a delay in payment of tax, in full or in part
2. Sub-section (3): Undue or excess claim of input tax credit under section 42(10)
3. Sub-section (3): Undue or excess reduction in output tax liability under section 43(10)

Rate of Interest

The actual rates of interest notified by the Government *vide Notification No. 13/ 2017 Central tax dated 28.06.2017* are as follows:

S. No.	CGST Act, 2017 Sections	Reason for charging interest	Rate of interest
1	50(1)	Failure to pay tax or part thereof to the Government within the period prescribed	18%
2	50(3)	Undue or excess claim of ITC or reduction of output tax liability	24%
3	54(12)	Interest on Withheld refund	6%
4	56	Interest on Delayed refunds	6%
5	Proviso to 56	Interest on Refund arising from order passed by Adjudicating Authority/ Appellate Authority/ Tribunal/ Court and not refunded within 60 days	9%

Manner of Computation of Interest

1. The manner of computation of the period for which interest under sub-section (1) or sub-section (3) of section 50 is to be paid has not been addressed in the Rules. Generally, the period of interest shall be from the date following the due date of payment to the actual date of payment of tax.
2. Pursuant to section 49, registered persons can make payment of tax through electronic cash ledger or electronic credit ledger. Generally, balance in electronic credit ledger is exhausted first and then electronic cash ledger is utilized for better working capital management.

Besides this, payment of tax as per rule 85(3) be considered only when electronic cash ledger or electronic credit ledger of the registered person is being debited. Mere, credit entry in cash ledger or credit ledger will not tantamount to payment of tax.

It may also be noted that section 39 (7) lays down the last date for remittance, as the last date on which the taxable person is required to furnish such return. Moreover, section 2 (117) lays down that a return shall be considered valid, only if the tax payable as per the return is paid in full.

Therefore, if a registered person has insufficient (combined) balance in both the ledgers, partial payment is not allowed as a return is valid only when tax payable as per the return is paid in full and also the GST Portal doesn't enable partial payment. Considering this limitation, a proviso to section 50 was inserted w.e.f. 01.07.2017 *vide The Finance Act, 2021* read with *Notification No. 16/2021- Central Tax, dt.1-06-2021 in terms of which* interest in cases where tax return has been furnished after the due date in accordance with the provisions of section 39, but before commencement of any proceedings under section 73 or section 74, shall be levied on that portion of the output tax which is being paid by debiting electronic cash ledger. Hence, when a registered person has paid his taxes through a return specified under section 39 belatedly, interest is chargeable only on the net taxes paid through electronic cash ledger and not on the gross taxes paid for such tax period. Interest liability shall not arise on that portion of output tax liability which is paid using ITC available in electronic credit ledger.

Therefore, after the retrospective amendment to section 50(1), interest is chargeable only on the net liability.

3. Sections 73(5) & 73(6) provide that if tax along with interest has been paid, the adjudicating authority shall not serve any show cause notice.
4. Section 73(8) provides that where a person has been served with show cause notice but has made the payment of tax and interest under section 50 within thirty days of issue of notice, no penalty is payable and all proceedings in respect of that tax amount are deemed to be concluded. The issue then is – whether interest is payable under section 50(1) or 50(3).

5. On a conjoint reading of sections 50 (1), 73 (5), 73 (6) and 73 (8) of the Act, it is evident that where a person makes a voluntary payment of interest along with belated payment of tax whether admitted on his own or within thirty days from the date of issue of show cause notice, then the proceedings are deemed to be concluded and no penalty shall be payable.

Other Important Points

1. The term 'tax' here means the tax payable under the Act or Rules made thereunder.
2. The phrase 'on his own' used in sub-section (1) of section 50 indicates that such payment of interest should be made voluntarily (i.e.) even without a demand.
3. There are no specific provisions for payment of interest-on-interest amount due.
4. The interest payable under this section shall be debited to the electronic tax liability register as per sub-rule 1 of rule 85
5. Such liability for interest can be settled by adjustment against the balance in electronic cash ledger but not with balance in electronic credit ledger

50.3 Issues and Concerns:

- (i) Unlike central excise or service tax law, where interest was to be paid only when CENVAT Credit was *availed and utilised* incorrectly, under the GST regime availing of incorrect input tax credit is sufficient cause to attract the provisions of liability to pay interest. However, due to deferment of Form GSTR - 2 and Form GSTR - 3, section 50(3) may not become operational to demand interest on ineligible credit availed but not utilized.
- (ii) Further, due to the wordings in section 50(2) that the 'manner of computation is to be prescribed' some experts hold the view that until any method is prescribed, merely prescribing the rate of interest would not suffice to demand interest.
- (iii) When there is change in the value of input tax credit (common credit) to be reversed to the extent it relates to exempt turnover on the basis of amounts calculated finally at the end of the financial year is liable to interest immediately from first day of subsequent financial year. On the other hand, the Central Excise Act, 1944, Finance Act 1994 read with CENVAT Credit Rules, 2004 allowed time for reversal without interest up to 30th June of the subsequent financial year.
- (iv) Under the earlier law, the amount paid by challan was considered to be a payment of tax and interest was payable till the date when the amount was paid through challan. In GST interest is to be paid till the electronic cash or electronic credit ledgers is not debited.

50.4 Comparative Review

1. This provision is similar to that in service tax and excise law. In the case of VAT laws, if the payment of tax and interest is made after issuance of show cause notice, it is at the

discretion of the adjudicating authority to drop the penalty. Some State VAT laws have mandatory penalty provisions.

2. The view laid down by the Hon'ble Supreme Court in *Prathibha Processors v. UOI (1996) 11 SCC 101*, that interest is automatic as it is compensatory in nature and not penal in character, holds good even under the GST laws.

50.5 FAQs

Q1. When is a person liable to pay interest?

Ans. When a person who is liable to pay tax under the provisions of the Act or the respective rules made thereunder, fails to pay the whole/ part of the tax due, to the account of the Government, within the prescribed time, he shall be liable to pay interest.

Q2. How is the interest computed under section 50(1)?

Ans. Interest is computed for the period for which the tax remains unpaid at the notified rate not exceeding 18 per cent, i.e., from the date following the day on which tax becomes due to be paid, till the date of payment of tax.

Q3. Is penalty still payable if a person pays the tax and interest in response to a show cause notice?

Ans. Where the person has made payment of tax and interest under section 50 within thirty days of issue of the show cause notice, no penalty is payable and all proceedings in respect of that tax are deemed to be concluded.

Q4. Is interest leviable on excess reduction of output tax liability?

Ans. Yes, interest is also leviable where there is undue or excess reduction in output tax liability under section 43(10) of the CGST Act at the rate of 24% per annum.

Q5. Is a show cause notice or demand required to determine the liability to pay interest?

Ans. No, there is no requirement of demand from the Department to determine the interest liability. It is the responsibility of the person liable to pay tax to compute and pay the interest 'on his own'. Though this was the general understanding, it has been held in *Mahadeo Construction Co. vs Union of India (Jharkhand High Court) W.P. (T) No. 3517 of 2019* that even in case of interest recovery, it can be initiated only after an adjudication under section 73 or 74.

50.6 MCQs

Q1. Interest is payable on: -

- (a) Belated payment of tax
- (b) Undue/excess claim of input tax credit in case matching

- (c) Undue/excess reduction of output tax liability
- (d) All of the above

Ans. (d) All of the above

Q2. Interest is calculated:-

- (a) From the date following the day on which tax becomes due to be paid
- (b) Last day such tax was due to be paid
- (c) No period specified
- (d) None of the above

Ans. (a) From the date following the day on which the tax becomes due to be paid

Statutory provisions

51 Tax Deduction at Source

(1) *Notwithstanding anything to the contrary contained in this Act, the Government may mandate, —*

- (a) *a department or establishment of the Central Government or State Government; or*
- (b) *local authority; or*
- (c) *Governmental agencies; or*
- (d) *such persons or category of persons as may be notified by the Government on the recommendations of the Council,*

(hereafter in this section referred to as “the deductor”), to deduct tax at the rate of one per cent from the payment made or credited to the supplier (hereafter in this section referred to as “the deductee”) of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees:

Provided that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union Territory which is different from the State or as the case may be, Union Territory of registration of the recipient.

Explanation —For the purpose of deduction of tax specified above, the value of supply shall be taken as the amount excluding the central tax, State tax, Union Territory tax, integrated tax and cess indicated in the invoice.

(2) *The amount deducted as tax under this section shall be paid to the Government by the deductor within ten days after the end of the month in which such deduction is made, in such manner as may be prescribed.*

- (3) ²⁰[A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.]
- (4) ²¹[If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five day period until the failure is rectified, subject to a maximum amount of five thousand rupees].
- (5) The deductee shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor furnished under sub-section (3) of section 39, in such manner as may be prescribed.
- (6) If any deductor fails to pay to the Government the amount deducted as tax under sub-section (1), he shall pay interest in accordance with the provisions of sub-section (1) of section 50, in addition to the amount of tax deducted.
- (7) The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74.
- (8) The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54:
Provided that no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee.

Extract of the CGST Rules, 2017

- 66 Form and manner of submission of return by a person required to deduct tax at source**
- (1) Every registered person required to deduct tax at source under section 51 (hereafter in this rule referred to as deductor) shall furnish a return in Form GSTR-7 electronically through the common portal either directly or from a Facilitation Centre notified by the Commissioner.
- (2) The details furnished by the deductor under sub-rule (1) shall be made available electronically to each of the ²²[deductees] ²³[suppliers in **Part C** of **FORM GSTR-2A** and

²⁰ Substituted vide The Finance Act, 2020 read with Notf No. 92/2020-C.T., dt. 22.12.2020 w.e.f. 01.01.2021. Prior to such substitution it read as:” (3) The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed.

²¹ Omitted vide The Finance Act, 2020 read with Notification No. 92/2020-C.T., dt. 22.12.2020 w.e.f. 01.01.2021

²² Inserted vide Notf No. 31/2019 – CT dt. 28.06.2019

²³ Omitted vide Notf no. 31/2019 – CT dt. 28.06.2019

<p>FORM GSTR-4A] on the common portal after ²⁴[the due date of] filing of Form GSTR-7 ²⁵[for claiming the amount of tax deducted in his electronic cash ledger after validation].</p> <p>(3) The certificate referred to in sub-section (3) of section 51 shall be made available electronically to the deductee on the common portal in Form GSTR-7A on the basis of the return furnished under sub-rule (1).</p> <p>87. Electronic Cash Ledger</p> <p>(9) Any amount deducted under section 51 or collected under section 52 and claimed ²⁶in FORM GSTR-02] by the registered taxable person from whom the said amount was deducted or, as the case may be, collected shall be credited to his electronic cash ledger ²⁷[in accordance with the provisions of rule 87].</p>
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Related provisions of the Statute

Section or Rule	Description
Section 2(43)	Definition of Electronic cash ledger
Section 2(53)	Definition of Government
Section 2(82)	Definition of Output tax
Section 2(94)	Definition of Registered person
Section 2(97)	Definition of Return
Section 2(117)	Definition of Valid return
Section 49	Payment of tax, interest, penalty and other amounts
Section 39	Furnishing of Returns

51.1 Introduction

With the objective of ensuring smooth rollout of GST, the provisions of tax deduction at source (TDS) (section 51 of the CGST / SGST Act 2017) and tax collection at source (section 52 of the CGST/SGST Act, 2017) were deferred from enforcement.

It is not out of place to mention that a tax deductor has to compulsorily register without any threshold limit whether or not separately registered under the Act. The deductor has a privilege of obtaining registration under GST without having required to obtain PAN. He can obtain registration using his tax deduction and collection account number (TAN) issued under the Income Tax Act, 1961.

²⁴ Omitted vide Notf no. 31/2019 – CT dt. 28.06.2019

²⁵ Inserted vide Notf no. 31/2019 – CT dt. 28.06.2019

²⁶ Omitted vide Notf no. 31/2019 – CT dt. 28.06.2019

²⁷ Omitted vide Notf no. 31/2019 – CT dt. 28.06.2019

Moreover, by virtue of *Notification No. 33/2017 – Central Tax dated 15.09.2017* read with *Notification No. 50/2018-C.T., dated 13.09.2018*, section 51 (provisions related to TDS) came into force w.e.f. 01.10.2018 and the following persons have been notified under section 51(1)(d) as liable for tax deduction:

- (a) an Authority or a Board or any other body, -
 - (i) set up by an Act of Parliament or a State Legislature; or
 - (ii) established by any Government, with fifty-one percent or more participation by way of equity or control, to carry out any function;
- (b) society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860;
- (c) public sector undertakings:

Reference may be had to *CBIC Circular No. 76/50/2018-GST, dated 31.12.2018* which makes it clear that the 51 per cent condition is applicable to both limbs of 'authority or board' appearing in the notification issued under section 51(1)(d) [para (a) above].

This section provides for deduction of tax at source in certain circumstances. The section specifically lists out the deductors who are mandated by the Central Government to deduct tax at source and also specifies the rate of tax deduction and the procedure for remittance of the tax deducted. The amount of tax deducted is reflected in the electronic cash ledger of the deductee.

51.2 Analysis

The CGST Act *vide* section 2 (53) defines the term 'Government' to *mean* the Central Government. Section 51(1) *ibid* refers to TDS related mandate by 'Government' (Central/State Government). Such mandates shall be for the following persons -

Department or establishment of Central Government or State Government
Local Authority.
Government agencies.
Persons or category of persons notified by the Central Government on the recommendation of the Council. (Notified <i>vide Notification No. 33/2017 – Central Tax dated 15.09.2017</i> read with <i>Notification No. 50/2018-C.T., dated 13.09.2018</i>)

1. The above 'persons' are referred to as deductors.
2. The deductors have to deduct tax at the rate of 1 per cent CGST / SGST or 2 per cent IGST from the payment made or credited to the supplier of taxable goods and / or services, notified by the Central Government or State Government on the

recommendations of the GST Council. Deduction is required where the total value of supply under 'a contract' exceeds ₹ 2.5 lakhs.

Value of supply shall exclude the tax indicated in the invoice.

No deduction shall be made if the location of the supplier and the place of supply is in a State or Union Territory which is different from the State or as the case may be, Union Territory of registration of the recipient. - This is because sub rule (9) of rule 87 of the CGST Rules provides that any amount deducted under section 51 or collected under section 52 and claimed by the registered taxable person from whom the said amount was deducted or, as the case may be, collected shall be credited to his electronic cash ledger. And when supply is intra supply exigible to Central tax and State tax, transfer of TDS (CGST + SGST of one State say Delhi) to cash ledger of the supplier (CGST + SGST of other State say Mumbai) will be cumbersome. Therefore, no TDS will be deducted in such case.

3. TDS applies on 'taxable goods or services' supplied and not on 'all taxable supplies'. 'Taxable supplies' is defined in section 2(108) of CGST Act which covers all supplies that are 'leviable' to tax (even if exempt by notification under section 11 of the CGST Act). But 'taxable goods and services' requires an inquiry as to whether the goods or services are taxable or exempt. If they are exempt, then TDS will not be attracted.
4. The amount deducted shall be paid to the Central Government within 10 days after the end of the month in which such deduction is made.

As per Rule 66, the deductor shall furnish a TDS certificate in Form **GSTR-7A** to the deductee mentioning therein the following:

- (a) Contract value
- (b) Rate of deduction
- (c) Amount deducted
- (d) Amount paid to the appropriate Government

These data need to be accepted by the deductee in common portal only after which the cash ledger will get credited with the amount of tax deducted.

7. Non-remittance by the deductor: If the deductor does not remit the amount deducted as tax, he is liable to pay penal interest under section 50 in addition to the amount of tax deducted.
8. The amount of tax deducted and reported in the return in Form **GSTR-7** by the deductor shall reflect in electronic cash ledger of the deductee once it is claimed as credit to the electronic cash ledger by the deductee.

This provision enables the Government to cross-check whether the amount deducted by the deductor is correct and that there is no mis-match between the amounts reflected in

12. Following are the important notifications in this regard :

- *Notification No. 50/2018-CT dated 13.9.2018* (as amended) – TDS provision do not apply:
 - To authorities under the Ministry of Defence, other than the authorities specified in Annexure-A and their offices (*Notification No. 57/2018 C.T. dated 23.10.2018*) w.e.f. 01.10.2018.
 - When supply is between PSU (public sector undertaking) to another PSU (*Notification No 61/2018 C.T. dated 05.11.2018*) w.e.f. 01.10.2018.
 - When supply is between persons specified in clauses (a) to (d) of section 51(1) of CGST Act, 2017 (*Notification No 73/2018 C.T. dated 31.12.2018*) w.e.f.31.12.2018.

51.3 Comparative review

Provisions relating to deduction of tax at source existed in the VAT laws too. There were no TDS provisions in central excise or service tax laws, though there was a concept of reverse charge. Under most State VAT laws, TDS provisions were applicable to payments made to works contractors. Some States had provisions for TDS on 'transfer of right to use goods'.

Following is a comparative table between State VAT Law and CGST Act:

S. No.	State VAT Law	CGST Act
1.	Applicable only to works contractors.	Applicable to recipients notified by the Central Government on the recommendations of the GST Council.
2.	Two different standard rates	One standard rate viz. 1% CGST + 1% SGST (2% IGST)
3.	Deductor- every works contractee or person awarding a contract	(a) A department or establishment of the Central or State Government, or (b) Local authority, or (c) Governmental agencies, or (d) Such persons or category of persons as may be notified, by the Central or a State Government on the recommendations of the Council (Refer <i>Notification 33/2017 – Central Tax, dated 15.09.2017</i> and para 51.1)
4.	Two certificates have to be furnished by the deductor. 1. Certificate of deduction 2. Certificate of remittance.	One single certificate of deduction –cum-remittance to be furnished by the deductor within five days of the remittance.

5.	If certificate of deduction alone is furnished by the deductor, the burden will be on the works contractor to prove deduction of tax at source.	No such burden cast on the deductee. The onus is on the deductor.
6.	Refund provisions and credit provisions not clear.	Refund provisions clear. Credit can also be claimed from the amount reflected in the electronic cash ledger.
7.	TDS would be applicable on payments towards transfer of property in goods in the State. Inter-State supplies are generally not subject to TDS.	TDS would apply on the payment made or credited to the supplier.

51.4 FAQs

Q1. Who are the 'persons' who can deduct tax at source under section 51 of the CGST Act?

Ans. The following persons are required to deduct tax at source as per the provisions of section 51 of the CGST Act:

- (a) A Department or establishment of the Central or State Government- In this regard, *Notification No. 57/2018-C.T., dated 23-10-2018* enlists the authorities of Ministry of Defence to whom TDS is applicable.
- (b) Local authority
- (c) Governmental agencies
- (d) An authority or a board or any other body -
 - (i) set up by an Act of Parliament or a State Legislature; or
 - (ii) established by any Government, with 51 per cent or more participation by way of equity or control, to carry out any function;
- (e) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860.
- (f) Public sector undertakings:
- (g) Such persons or category of persons as may be notified, by the Central or a State Government on the recommendations of the Council.

Q.2 State the conditions essential for attracting TDS provisions as per section 51 of the CGST Act?

Ans. The persona specified in section 51 are required to deduct tax from the payment made or credited to the supplier of taxable goods and/ or services, notified by the Central Government on the recommendations of the Council, where the total value of such supply, under a contract, exceeds ₹ 2.50 lakhs. Also, no deduction will be made if, the location of supplier and the place of supply are in a State which is different from the State of registration of the recipient.

Q3. What is the rate of TDS?

Ans. The prescribed rate of tax to be deducted at source is 1 per cent CGST plus 1 per cent SGST or 2 per cent IGST from the payment made or credited to the supplier of taxable goods and / or services.

Q4. What is the time limit for remittance of the tax deducted by the deductor to the credit of the Government?

Ans. The amount deducted shall be paid to the credit of the Government within 10 days from the end of the month in which such deduction is made.

Q5. Can the deductee claim credit of the remittance of TDS amount by the Deductor?

Ans. Yes, the deductee can claim credit of the tax deducted, in his electronic cash ledger. This deduction would also be reflected in the return of the deductor filed under sub-section (3) of section 39, in the manner prescribed.

Q6. Can tax, once deducted, be claimed as a refund and if so, who can claim refund?

Ans. Yes, it is possible to claim refund arising on account of excess or erroneous deduction, and this would be governed by the provisions of section 54.

Such refund may be claimed either by the deductor or the deductee, but not both. Further, no refund would be available to the deductor once the amount deducted has been credited to the electronic cash ledger of the deductee.

Q7. What is the effective date of applicability of TDS provisions?

Ans. TDS provisions were made applicable with effect from 1st October 2018

Q8. Whether tax is liable to be deducted on supply of goods and /or services from one PSU to another PSU?

Ans. No. Tax is not liable to be deducted by one PSU on another PSU retrospectively with effect from 1st October 2018 as per the *Notification 61/2018 CT, dated 05.11.2018*.

Q9. Whether tax is liable to be deducted on supply of goods and /or services between one person to another person specified under clauses (a), (b), (c) and (d) of sub-section (1) of Section 51 of the CGST Act?

Ans. No. Tax is not liable to be deducted on supply of goods &/or services between one person to another person specified under clauses (a), (b), (c) and (d) of sub-section (1) of section 51 of the CGST Act. In other words, TDS provisions will not apply to supply of goods or

services or both which takes place between one person to another under same department or establishment of Central or State Government or local authority or Government agencies or such persons or category of persons notified by GST Council, with effect from 31.12.2018 [Notification No. 73/2018-C.T., dated 31.12.2018].

Q.10 Whether tax is liable to be deducted on the rate contract where single supply is below INR 2.5 Lacs but during the year cumulative supplies are more than INR 2.5 Lacs.

Ans. No. In case of rate contract, TDS is applicable for rates of different supply and not a single contract per se. In such cases where single supply is not greater than INR 2.5 Lacs no need to deduct TDS.

51.6 MCQs

Q1. The deduction of tax by the Deductor under section 51 of CGST Act is at the rate of:

- (a) 2 per cent
- (b) 3 per cent
- (c) 1 per cent
- (d) None of the above.

Ans. (c) 1 per cent

Q2. The amount of tax deducted by the deductor has to be paid to the credit of the appropriate Government within days after the end of the month in which such deduction is made:

- (a) 20 days
- (b) 10 days
- (c) 15 days
- (d) 5 days

Ans. (b) 10 days

Q3. The deductee can claim credit of the remittance made by the deductor in his,

- (a) Electronic credit ledger
- (b) Tax liability ledger
- (c) Electronic cash ledger
- (d) None of the above.

Ans. (c) Electronic cash ledger

Q4. If excess or erroneous deduction has been made by the Deductor and this amount is credited to electronic cash ledger of the deductee, refund can be claimed by,

- (a) Deductor

- (b) Deductee
- (c) Both Deductor and Deductee
- (d) None of the above

Ans. (b) Deductee

Q5. Tax deduction shall be made if -

- (a) A contract is for an amount exceeds ₹ 25 lakh
- (b) A supplier supplies goods or services or both exceeding ₹ 2.5 lakh in a year
- (c) A recipient receives goods or services or both exceeding ₹ 2.5 lakh in a year from various contractors
- (d) None of the above

Ans. (b) A supplier supplies goods or services or both exceeding ₹ 2.5 lakh in a year

Statutory provisions

52. Collection of tax at Source

(1) Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the "operator"), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.

Explanation. —For the purposes of this sub-section, the expression "net value of taxable supplies" shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.

- (2) The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.
- (3) The amount collected under sub-section (1) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed.
- (4) Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month.

²⁸[Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union Territory tax shall be deemed to be notified by the Commissioner]

²⁹[Explanation. —For the purposes of this sub-section, it is hereby declared that the due date for furnishing the said statement for the months of October, November and December, 2018 shall be the ³⁰(7th February, 2019)]

- (5) Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, before the thirty first day of December following the end of such financial year.

³¹[Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union Territory tax shall be deemed to be notified by the Commissioner.]

- (6) If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50:

Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of statement for the month of September following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.

- (7) The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the

²⁸ Inserted vide The Finance (No. 2) Act, 2019 read with Notf No. 1/2020-C.T., dt. 01.01.2020 w.e.f. 01.01.2020

²⁹ Inserted vide Removal of Difficulty Order No. 04/2018-CTdt. 31.12.2018

³⁰ Substituted for "31st January, 2019" vide Oder No.02/2019-Central Tax dated 01.02.2019

³¹ Inserted vide The Finance (No. 2) Act, 2019 read with Notf No. 1/2020-C.T., dt. 01.01.2020 w.e.f. 01.01.2020

statement of the operator furnished under sub-section (4), in such manner as may be prescribed.

- (8) *The details of supplies furnished by every operator under sub-section (4) shall be matched with the corresponding details of outward supplies furnished by the concerned supplier registered under this Act in such manner and within such time as may be prescribed.*
- (9) *Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under ³²[section 37 or section 39], the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed.*
- (10) *The amount in respect of which any discrepancy is communicated under sub-section (9) and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated in such manner as may be prescribed.*
- (11) *The concerned supplier, in whose output tax liability any amount has been added under sub-section (10), shall pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of section 50 on the amount so added from the date such tax was due till the date of its payment.*
- (12) *Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to—*
- (a) *supplies of goods or services or both effected through such operator during any period; or*
 - (b) *stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers, as may be specified in the notice.*
- (13) *Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice.*

³² Substituted vide The Central Goods and Services Tax (Amendment) Act, 2018 read with Notf No. 2/2019-C.T., dated 29-1-2019 - w.e.f. 01.02.2019

(14) Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any action that may be taken under section 122, be liable to a penalty which may extend to twenty-five thousand rupees.

Explanation. —For the purposes of this section, the expression “concerned supplier” shall mean the supplier of goods or services or both making supplies through the operator.

Extract of Relevant CGST Rules

60. Form and manner of ascertaining details of inward supplies

(1) The details of outward supplies furnished by the supplier in Form **GSTR-1** or using the IFF shall be made available electronically to the concerned registered persons (recipients) in Part A of Form **GSTR-2A**, in form **GSTR-4A** and in Form **GSTR-6A** through the common portal, as the case may be.

.....

(5) The details of tax collected at source furnished by an e-commerce operator under section 52 in Form **GSTR-8** shall be made available to the concerned person in Part C of Form **GSTR 2A** electronically through the common portal.

67. Form and manner of submission of statement of supplies through an e-commerce operator

(1) Every electronic commerce operator required to collect tax at source under section 52 shall furnish a statement in Form **GSTR-8** electronically on the common portal, either directly or from a Facilitation Centre notified by the Commissioner, containing details of supplies effected through such operator and the amount of tax collected as required under sub-section (1) of section 52.

(2) The details furnished by the operator under sub-rule (1) shall be made available electronically to each of the suppliers ³³[in ~~Part C of FORM GSTR-2A~~] on the common portal after ³⁴[the due date of] filing of Form **GSTR-8** ³⁵[for claiming the amount of tax collected in his electronic cash ledger after validation].

80. Annual return

(1) Every registered person, other than those referred to in the second proviso to section 44, an input service distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year as specified under section 44 electronically in Form **GSTR-9** on

³³ Omitted vide Notf No. 31/2019 – CT dt. 28.06.2019

³⁴ Omitted vide Notf No. 31/2019 – CT dt. 28.06.2019

³⁵ Inserted vide Notf No. 31/2019 – CT dt. 28.06.2019

or before the thirty-first day of December following the end of such financial year through the common portal either directly or through a Facilitation Centre notified by the Commissioner:

Provided that a person paying tax under section 10 shall furnish the annual return in Form **GSTR-9A**.

(2) Every electronic commerce operator required to collect tax at source under section 52 shall furnish annual statement referred to in sub-section (5) of the said section in Form **GSTR - 9B**.

(3)

Related provisions of the Statute

Section or Rule	Description
Section 2(45)	Definition of Electronic commerce operator
Section 2(82)	Definition of Output tax
Section 2(94)	Definition of Registered person
Section 24	Compulsory registration in certain cases
Section 49	Payment of tax, interest, penalty and other amounts
Section 50	Interest on delayed payment of tax
Section 122	Penalty for certain offences

52.1 Introduction

This section provides for collection of tax at source (TCS) in certain circumstances. The section specifically lists out the tax collecting persons who are mandated by the Central Government to collect tax at source, the rate of tax collection and the procedure for remittance of the tax collected. The amount of tax collected is reflected in the electronic cash ledger of the person from who tax collected.

It is important to mention here that every electronic commerce operator (“e-commerce operator”) who is required to collect tax at source under section 52 is required to compulsorily get registered under GST law. Even the persons who supply goods or services or both, other than supplies specified under section 9(5), through such e-commerce operator has to obtain compulsory registration as per section 24 of the CGST Act.

The provisions which are common under CGST, UTGST and SGST Act have been analyzed hereunder.

52.2 Analysis

(i) Every e-commerce operator, not being an agent **shall** collect TCS at a rate not exceeding 1 per cent on the net value of taxable supplies in which he collects consideration of the

supply. “*Net value of taxable supplies*” shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.

If there is return of supplies to suppliers, then the same shall be reduced from the gross value; TCS shall be worked on such net figure only (after such reduction).

It is pertinent to note the following definitions –

Section 2 (44), –

“electronic commerce” means the supply of goods or services or both, including digital products over digital or electronic network;

Section 2 (45), –

“electronic commerce operator” means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce;

From the above definitions, it can be inferred that TCS refers to the tax collected by e-commerce operator when the supplier supplies taxable goods or services or both *through its portal and payment for that supply is collected by the e-commerce operator.*

In view of above, Mr. X, a supplier selling his own products through website hosted by him will not be liable to collect tax. Even, where Mr. Y a supplier who purchases goods from different vendors and sells them through his website under his own billing, TCS is applicable.

- (ii) The power to collect tax by e-commerce operator shall be without prejudice to any other mode of recovery.
- (iii) The amount so collected shall be paid to the Central/State Government respectively within 10 days after the end of the month in which such collection is made.
- (iv) Statements to be submitted by E-Commerce operator: E-commerce operator shall furnish a monthly statement containing details of outward supplies of goods or services or both made through it, including the supplies returned through it and the amount collected by it in section 52(1), in Form **GSTR-8** within the 10 days after end of the month in which supplies are made.

The details of TCS furnished by an e-commerce operator under section 52 in Form **GSTR-8** shall be made available to the supplier in Part C of Form **GSTR-2A** electronically through the common portal

Section 52 (5) of CGST Act requires filing of annual statement by e-commerce operator on or before 31st December following the year end (31st March of relevant year).

The Commissioner is empowered to extend the due date of furnishing the monthly and annual statement by the person collecting tax, with reason to be recorded in writing. Any such extension of time limit notified by the Commissioner of State tax or the Commissioner of Union Territory tax shall be deemed to be notified by the Commissioner.

- (v) The amount of tax collected is reflected in electronic cash ledger of the supplier since the related monthly return is filed by e-commerce operator.
- (vi) Any mismatch between the data submitted by the e-commerce operator in his monthly returns and that of suppliers making supplies through him, shall cause due 'mismatch enquiry' from the proper officer and either party may rectify the erroneous data. If rectification is not carried out by the supplier, his offence gets confirmed. Short remittance, if any, identified thus will have to be paid by the erring supplier (who under reported the turnover) with interest calculated as per section 50.

The law explicitly states that if the e-commerce operator after furnishing an annual statement discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest under section 50(1).

- (vii) Any authority, of the rank of Deputy Commissioner or above can issue a notice – during, or before a proceeding under this Act - to the e-commerce operator seeking information on –
 - A. supplies of goods or services or both effected through such operator during any period; or
 - B. stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers, as may be specified in the notice.

This shall be a notice which needs to be responded within 15 days from the date of receipt by the e-commerce operator and any failure to submit the required details will attract penalty under section 52 (14) of the Act which may extend to ₹ 25,000.

- (viii) Penalty shall be levied as under
 - A. In case the e-commerce operator -
 - fails to collect to tax under section 52(1) or
 - collects an amount which is less than the amount required to be collected under section 52(1) or
 - fails to pay to the government the amount collected as tax under section 52(3) then pursuant to section 122 (1)(vi) of the CGST Act, such e-commerce operator

shall be liable to pay a penalty of ₹ 10,000 or an amount equivalent to the tax not collected or short collected or collected but not paid to the Government whichever is higher.

- B. In terms of section 52(13), where notice served under section 52(12) by an authority not below the rank of Deputy Commissioner is not responded within 15 days from the date of receipt by the e-commerce operator, penalty under Section 52 (14) of the Act will be attracted which may extend to ₹. 25,000.
- (ix) The UTGST Act, 2017, subject to its own provisions, adopts the provisions of CGST Act in respect of tax collection at source *mutatis mutandis* (Ref: Section 21 of UTGST Act).
The IGST Act 2017, subject to its own provisions, adopts the provisions of the CGST Act in respect of tax deduction at source *mutatis mutandis* (Ref: Section 20 of IGST Act).

52.3 FAQs

- Q1. Who are the 'persons' liable to make collection of tax under section 52 of the CGST Act?
Ans. E-commerce operator [as defined in section 2 (45)] is the person liable to collect the tax on net value of taxable supplies by him/her.
- Q2. What is "net value of taxable supplies" for the purpose of TCS under section 52 of the CGST Act?
Ans. The expression *net value of taxable supplies* shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the supplier during the said month.
- Q3. Which format of monthly return has to be filed by an e-commerce operator?
Ans. The e-commerce operator shall use Form **GSTR 8** to make statement of outward supplies made through him in that particular month.
- Q4. Whether an e-commerce operator should file any annual statement? If yes, what is the format thereof?
Ans. Section 52 (5) of the CGST Act requires filing of annual statement by e-commerce operator on or before 31st December following the year end (31st March of relevant year). Form **GSTR-9B**, has not been notified yet.
- Q5. What is the penalty if an e-commerce operator failed to respond to a notice issued by Deputy Commissioner or an officer of higher rank?
Ans. Failure to submit the required details will attract penalty under section 52 (14) of the Act upto ₹ 25,000. *In addition to this*, penalty under section 122 of the Act 'shall' also be attracted (₹ 10,000 or the amount of TCS involved, whichever is higher).

52.4 MCQs

Q1. Tax collection at source under section 52 of CGST Act shall be at the rate of:

- (a) 1 per cent
- (b) 2 per cent
- (c) 0.5 per cent
- (d) Not exceeding 1 per cent

Ans. (d) Not exceeding 1 per cent

Q2. The amount of tax collected by the e-commerce operator has to be paid to the credit of the appropriate Government within days after the end of the month in which such TCS is made:

- (a) 5 days
- (b) 10 days
- (c) 15 days
- (d) 20 days

Ans. (b) 10 days

Q3. An e-commerce operators should file:

- (a) Monthly returns only
- (b) Annual return only
- (c) Quarterly return only
- (d) Monthly returns as well as annual return

Ans. (d) Monthly returns as well as annual return

Q4. A notice to e-commerce operator seeking information can be issued by:

- (a) Superintendent
- (b) Inspector
- (c) Assistant Commissioner
- (d) Deputy Commissioner

Ans. (d) Deputy Commissioner

Q5. If an e-commerce operator received notice seeking information as per section 52 of the CGST Act but the notice is not responded to then which of the following consequences would ensue: -

- (a) No penalty
- (b) Penalty under section 52
- (c) Penalty under section 122
- (d) Penalty under both sections 52 and 122

Ans. (b) Penalty under section 52

Statutory provisions

53. Transfer of input tax credit

On utilisation of input tax credit availed under this Act for payment of tax dues under the Integrated Goods and Services Tax Act in accordance with the provisions of sub-section (5) of section 49, as reflected in the valid return furnished under sub-section (1) of section 39, the amount collected as Central tax shall stand reduced by an amount equal to such credit so utilised and the Central Government shall transfer an amount equal to the amount so reduced from the central tax account to the integrated tax account in such manner and within such time as may be prescribed.

Related provisions of the Statute

Section or Rule	Description
Section 2(53)	Definition of Government
Section 2(62)	Definition of input tax
Section 2(82)	Definition of output tax
Section 2(94)	Definition of registered person
Section 39	Furnishing of returns
Section 49	Payment of tax, interest, penalty and other amounts
Section 17 (IGST)	Apportionment of tax and settlement of funds

53.1 Introduction

This section provides simple but important modus operandi in respect of post CGST/SGST/UTGST utilisation towards IGST liability.

53.2 Analysis

Under section 49 (5) (b) (c) and (d) of the Act, CGST / SGST / UTGST credits can be utilised by a tax payer on priority basis to respective CGST / SGST / UTGST dues first. Then, in case of CGST/SGST/UTGST, balance, if any, can be used to pay IGST.

As per section 53, if the amount of CGST is utilized for payment of IGST, there shall be reduction in CGST, equal to the credit so utilized and the Central Government shall transfer such amount to IGST account.

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

For better clarity, it may be noted that equivalent provision is there *in* section 18 of Integrated Goods and Services Tax Act 2017. Accordingly, if the amount of IGST is utilized towards CGST / UTGST liability, there shall be reduction in the amount of IGST equal to the credit so utilised and the Central Government shall transfer such amount to IGST account.

If the amount of IGST is utilized towards SGST liability, there shall be reduction in the amount of IGST equal to the credit so utilised and such amount will be apportioned to the appropriate State Government and the Central Government shall transfer the amount so apportioned to the account of the respective State Government.

53.3 FAQs

Q1. If CGST is utilised to pay dues of IGST how the Central Government shall ensure due credit to IGST?

Ans. There shall be reduction in CGST on such utilisation; the Central Government shall transfer equivalent amount to the credit of IGST account.

53.4 MCQs

Q1. Section 53 of CGST/SGST Act, 2017 provides for transfer of amount (equivalent to CGST credit utilised) by Central Government to pay:

- (a) CGST A/c
- (b) SGST A/c
- (c) UTGST A/c
- (d) IGST A/c

Ans. (d) IGST A/c

Statutory Provisions

³⁶53A. *Transfer of certain amounts*

Where any amount has been transferred from the electronic cash ledger under this Act to the electronic cash ledger under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, the Government shall, transfer to the State tax account or the Union Territory tax account, an amount equal to the amount transferred from the electronic cash ledger, in such manner and within such time as may be prescribed.

³⁶ Inserted *vide* The Finance (No.2) Act, 2019 read with Notf No. 1/2020-C.T., dt. 01-01-2020 - w.e.f. 01.01.2020

Section 17A of the IGST Act, 2017**³⁷17A. Transfer of certain amounts**

Where any amount has been transferred from the electronic cash ledger under this Act to the electronic cash ledger under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, the Government shall transfer to the State tax account or the Union territory tax account, an amount equal to the amount transferred from the electronic cash ledger, in such manner and within such time, as may be prescribed

53A.1 Analysis

Section 53A of the CGST Act, 2017 and section 17A of the IGST Act, 2017, have been inserted with effect from 01.01.2020 to enable, the registered person, to transfer the amount from one head to another head. The type of heads in GST are as follows:

<i>Major - Head</i>	<i>Minor – Head</i>				
CGST	Tax	Interest	Fee	Penalty	Others
SGST					
IGST					
Cess					

The above section provides the following transfers in the electronic cash ledger by using Form **GST PMT – 09**:

- from one minor head to another minor head under the same major head.
- from one minor head to another minor head under the different major heads.

This enables a registered taxpayer to transfer any amount of tax, interest, penalty, etc. that is available in the e-cash ledger, to the appropriate minor head under IGST, CGST and SGST in the e-cash ledger. Hence, if a taxpayer has wrongly paid CGST instead of SGST, he can now rectify the same using Form **GST PMT- 09** by reallocating the amount from the CGST head to the SGST. This facility has provided the registered persons to file the returns without paying the additional taxes in case of wrong payment or excess balance paid earlier. Further, this is an alternative to filing a refund of excess cash balance in e-credit ledger.

³⁷ Inserted vide *The Finance (No.2) Act, 2019 read with Notf No. 1/2020-I.T., dt. 01-01-2020 - w.e.f. 01.01.2020*