

## Chapter 7

### Tax Invoice, Credit and Debit Notes

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#### Statutory Provisions

##### **31. Tax invoice**

- (1) *A registered person supplying taxable goods shall, before or at the time of, —*
- (a) *removal of goods for supply to the recipient, where the supply involves movement of goods; or*
  - (b) *delivery of goods or making available thereof to the recipient, in any other case, issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed:*

*Provided that the Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed.*

- (2) *A registered person supplying taxable services shall, before or after the provision of service but within a prescribed period, issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed:*

*<sup>1</sup>[Provided that the Government may, on the recommendations of the Council, by notification,-*

- (a) specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;*
- (b) subject to the condition mentioned therein, specify the categories of services in respect of which—*
  - (i) any other document issued in relation to the supply shall be deemed to be a tax invoice; or*
  - (ii) tax invoice may not be issued].*

- (3) *Notwithstanding anything contained in sub-sections (1) and (2) —*

- (a) a registered person may, within one month from the date of issuance of certificate of registration and in such manner as may be prescribed, issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration to him;*
- (b) a registered person may not issue a tax invoice if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;*
- (c) a registered person supplying exempted goods or services or both or paying tax under the provisions of section 10 shall issue, instead of a tax invoice, a bill of supply containing such particulars and in such manner as may be prescribed:*

*Provided that the registered person may not issue a bill of supply if the value of the goods or services or both supplied is less than two hundred rupees subject to such conditions and in such manner as may be prescribed;*

- (d) a registered person shall, on receipt of advance payment with respect to any supply of goods or services or both, issue a receipt voucher or any other document, containing such particulars as may be prescribed, evidencing receipt of such payment;*

<sup>1</sup> Substituted vide *Finance Act, 2020* w.e.f. 01<sup>st</sup> January 2021.

- (e) where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment;
- (f) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both;
- (g) a registered person who is liable to pay tax under sub-section (3) or sub-section (4) of section 9 shall issue a payment voucher at the time of making payment to the supplier.
- (4) In case of continuous supply of goods, where successive statements of accounts or successive payments are involved, the invoice shall be issued before or at the time each such statement is issued or, as the case may be, each such payment is received.
- (5) Subject to the provisions of clause (d) of sub-section (3), in case of continuous supply of services,—
- (a) where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;
- (b) where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;
- (c) where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.
- (6) In a case where the supply of services ceases under a contract before the completion of the supply, the invoice shall be issued at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation.
- (7) Notwithstanding anything contained in sub-section (1), where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

*Explanation.—For the purposes of this section, the expression “tax invoice” shall include any revised invoice issued by the supplier in respect of a supply made earlier.*

**Extract of the CGST Rules, 2017****46. Tax invoice**

*Subject to rule 54, a tax invoice referred to in section 31 shall be issued by the registered person containing the following particulars, namely, -*

- (a) name, address and Goods and Services Tax Identification Number of the supplier;*
- (b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters- hyphen or dash and slash symbolised as ‘\_’ and “/” respectively, and any combination thereof, unique for a financial year;*
- (c) date of its issue;*
- (d) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;*
- (e) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is fifty thousand rupees or more;*
- (f) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is less than fifty thousand rupees and the recipient requests that such details be recorded in the tax invoice;*
- (g) Harmonised System of Nomenclature code for goods or services;*
- (h) description of goods or services;*
- (i) quantity in case of goods and unit or Unique Quantity Code thereof;*
- (j) total value of supply of goods or services or both;*
- (k) taxable value of the supply of goods or services or both taking into account discount or abatement, if any;*
- (l) rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);*
- (m) amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);*
- (n) place of supply along with the name of the State, in the case of a supply in the course of inter-State trade or commerce;*
- (o) address of delivery where the same is different from the place of supply;*
- (p) whether the tax is payable on reverse charge basis; and*
- (q) signature or digital signature of the supplier or his authorised representative*

(r) <sup>2</sup>[Quick Response code, having embedded Invoice Reference Number (IRN) in it, in case invoice has been issued in the manner prescribed under sub-rule (4) of rule 48]

<sup>3</sup>[Provided that the Board may, on the recommendations of the Council, by notification, specify-

- (i) the number of digits of Harmonised System of Nomenclature code for goods or services that a class of registered persons shall be required to mention; or
- (ii) a class of supply of goods or services for which specified number of digits of Harmonised System of Nomenclature code shall be required to be mentioned by all registered taxpayers; and
- (iii) the class of registered persons that would not be required to mention the Harmonised System of Nomenclature code for goods or services:]

Provided further that where an invoice is required to be issued under clause (f) of sub-section (3) of section 31, a registered person may issue a consolidated invoice at the end of a month for supplies covered under sub-section (4) of section 9, the aggregate value of such supplies exceeds rupees five thousand in a day from any or all the suppliers:

<sup>4</sup>[Provided also that in the case of the export of goods or services, the invoice shall carry an endorsement "SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORISED OPERATIONS ON PAYMENT OF INTEGRATED TAX" OR "SUPPLY MEANT FOR EXPORT/SUPPLY TO SEZ UNIT OR SEZ DEVELOPER FOR AUTHORISED OPERATIONS UNDER BOND OR LETTER OF UNDERTAKING WITHOUT PAYMENT OF INTEGRATED TAX", as the case may be, and shall, in lieu of the details specified in clause (e), contain the following details, namely, - (i) name and address of the recipient; (ii) address of delivery; and (iii) name of the country of destination:]

Provided also that a registered person <sup>5</sup>[other than the supplier engaged in making supply of services by way of admission to exhibition of cinematograph films in multiplex screens] may not issue a tax invoice in accordance with the provisions of clause (b) of sub-section (3) of section 31 subject to the following conditions, namely, -

- (a) the recipient is not a registered person; and
- (b) the recipient does not require such invoice, and

shall issue a consolidated tax invoice for such supplies at the close of each day in respect of all such supplies.

<sup>2</sup> Inserted vide Notification No. 72/2020-CT dt. 30.09.2020.

<sup>3</sup> Substituted vide Notf no. 79/2020-CT dt. 15.10.2020

<sup>4</sup> Substituted vide Notf No. 17/2017-CT dt. 27.07.2017

<sup>5</sup> Inserted vide Notf No. 33/2019-CT dt. 18.07.2019 w.e.f. 01.09.2019

<sup>5</sup>[Provided also that the signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of an electronic invoice in accordance with the provisions of the Information Technology Act, 2000 (21 of 2000).]

<sup>6</sup>[Provided also that the Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the tax invoice shall have Quick Response (QR) code.]

<sup>7</sup> **[46A. Invoice-cum-bill of supply**

Notwithstanding anything contained in rule 46 or rule 49 or rule 54, where a registered person is supplying taxable as well as exempted goods or services or both to an unregistered person, a single "invoice-cum-bill of supply" may be issued for all such supplies.]

**47. Time limit for issuing tax invoice**

The invoice referred to in rule 46, in the case of the taxable supply of services, shall be issued within a period of thirty days from the date of the supply of service:

Provided that where the supplier of services is an insurer or a banking company or a financial institution, including a non-banking financial company, the period within which the invoice or any document in lieu thereof is to be issued shall be forty-five days from the date of the supply of service:

Provided further that an insurer or a banking company or a financial institution, including a non-banking financial company, or a telecom operator, or any other class of supplier of services as may be notified by the Government on the recommendations of the Council, making taxable supplies of services between distinct persons as specified in section 25, may issue the invoice before or at the time such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.

**48. Manner of issuing invoice**

- (1) The invoice shall be prepared in triplicate, in the case of supply of goods, in the following manner, namely, -
  - (a) the original copy being marked as ORIGINAL FOR RECIPIENT;
  - (b) the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and
  - (c) the triplicate copy being marked as TRIPLICATE FOR SUPPLIER.
- (2) The invoice shall be prepared in duplicate, in the case of the supply of services, in the following manner, namely, -

<sup>5</sup> Inserted vide Notf No. 74/2018 – CT dt. 31.12.2018

<sup>6</sup> Inserted vide Notf No. 31/2019 – CT dated 28.06.2019 with effect from 01.04.2020 as notified by Notification No. 71/2019 dated 13.12.2019.

<sup>7</sup> Inserted vide Notf no. 45/2017 – CT dated 13.10.2017

- (a) *the original copy being marked as ORIGINAL FOR RECIPIENT; and*
- (b) *the duplicate copy being marked as DUPLICATE FOR SUPPLIER.*
- (3) *The serial number of invoices issued during a tax period shall be furnished electronically through the common portal in Form GSTR-1.*
- <sup>8</sup>[(4) The invoice shall be prepared by such class of registered persons as may be notified by the Government, on the recommendations of the Council, by including such particulars contained in Form GST INV-01 after obtaining an Invoice Reference Number by uploading information contained therein on the Common Goods and Services Tax Electronic Portal in such manner and subject to such conditions and restrictions as may be specified in the notification.
- <sup>9</sup>[Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt a person or a class of registered persons from issuance of invoice under this sub-rule for a specified period, subject to such conditions and restrictions as may be specified in the said notification.]
- (5) Every invoice issued by a person to whom sub-rule (4) applies in any manner other than the manner specified in the said sub-rule shall not be treated as an invoice.
- (6) The provisions of sub-rules (1) and (2) shall not apply to an invoice prepared in the manner specified in sub-rule (4)]

#### **49. Bill of supply**

*A bill of supply referred to in clause (c) of sub-section (3) of section 31 shall be issued by the supplier containing the following details, namely, -*

- (a) *name, address and Goods and Services Tax Identification Number of the supplier;*
- (b) *a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;*
- (c) *date of its issue;*
- (d) *name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;*
- (e) *Harmonised System of Nomenclature Code for goods or services;*
- (f) *description of goods or services or both;*

<sup>8</sup> Inserted vide *Notf No. 68/2019 – CT dt. 13.12.2019*

<sup>9</sup> Inserted vide *Notf no. 72/2020 – CT dt. 30.09.2020*

(g) value of supply of goods or services or both considering discount or abatement, if any; and

(h) signature or digital signature of the supplier or his authorised representative:

*Provided that the provisos to rule 46 shall, mutatis mutandis, apply to the bill of supply issued under this rule:*

*Provided further that any tax invoice or any other similar document issued under any other Act for the time being in force in respect of any non-taxable supply shall be treated as a bill of supply for the purposes of the Act.*

<sup>10</sup>*[Provided also that the signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of an electronic bill of supply in accordance with the provisions of the Information Technology Act, 2000 (21 of 2000).]*

<sup>11</sup>*[Provided also that the Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the bill of supply shall have Quick Response (QR) code.]*

#### **50. Receipt voucher**

A receipt voucher referred to in clause (d) of sub-section (3) of section 31 shall contain the following particulars, namely,-

- (a) name, address and Goods and Services Tax Identification Number of the supplier;
- (b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
- (c) date of its issue;
- (d) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
- (e) description of goods or services;
- (f) amount of advance taken;
- (g) rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- (h) amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- (i) place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce;
- (j) whether the tax is payable on reverse charge basis; and

<sup>10</sup> Inserted vide Notf No. 74/2018 – CT dt. 31.12.2018

<sup>11</sup> Inserted vide Notf no. 31/2019 – CT dt. 28.06.2019 w.e.f. a date to be notified later



(k) *signature or digital signature of the supplier or his authorised representative:*

*Provided that where at the time of receipt of advance,-*

- (i) *the rate of tax is not determinable; the tax shall be paid at the rate of eighteen per cent.;*
- (ii) *the nature of supply is not determinable, the same shall be treated as inter-State supply.*

### **51. Refund voucher**

*A refund voucher referred to in clause (e) of sub-section (3) of section 31 shall contain the following particulars, namely:-*

- (a) *name, address and Goods and Services Tax Identification Number of the supplier;*
- (b) *a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year;*
- (c) *date of its issue;*
- (d) *name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;*
- (e) *number and date of receipt voucher issued in accordance with the provisions of rule 50;*
- (f) *description of goods or services in respect of which refund is made;*
- (g) *amount of refund made;*
- (h) *rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);*
- (i) *amount of tax paid in respect of such goods or services (central tax, State tax, integrated tax, Union territory tax or cess);*
- (j) *whether the tax is payable on reverse charge basis; and*
- (k) *signature or digital signature of the supplier or his authorised representative.*

### **52. Payment voucher**

*A payment voucher referred to in clause (g) of sub-section (3) of section 31 shall contain the following particulars, namely: -*

- (a) *name, address and Goods and Services Tax Identification Number of the supplier if registered;*
- (b) *a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and*

slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;

- (c) date of its issue;
- (d) name, address and Goods and Services Tax Identification Number of the recipient;
- (e) description of goods or services;
- (f) amount paid;
- (g) rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- (h) amount of tax payable in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- (i) place of supply along with the name of State and its code, in case of a supply in the course of inter-State trade or commerce; and
- (j) signature or digital signature of the supplier or his authorised representative.

### **53. Revised tax invoice and credit or debit notes**

- (1) A revised tax invoice referred to in section 31 <sup>12</sup>~~[and credit or debit notes referred to in section 34]~~ shall contain the following particulars, namely: -
  - (a) the word – “Revised Invoice”, wherever applicable, indicated prominently;
  - (b) name, address and Goods and Services Tax Identification Number of the supplier;
  - (c) <sup>13</sup>~~[nature of the document;]~~
  - (d) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
  - (e) date of issue of the document;
  - (f) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;
  - (g) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;
  - (h) serial number and date of the corresponding tax invoice or, as the case may be, bill of supply;

<sup>12</sup> Omitted vide Notf No. 03/2019 – CT dt. 29.01.2019 w.e.f. 01.02.2019

<sup>13</sup> Omitted vide Notf No. 03/2019 – CT dt. 29.01.2019 w.e.f. 01.02.2019

(i) ~~<sup>14</sup>[value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient;]~~

(j) signature or digital signature of the supplier or his authorised representative.

<sup>15</sup>[(1A) A credit or debit note referred to in section 34 shall contain the following particulars, namely:–

(a) name, address and Goods and Services Tax Identification Number of the supplier;

(b) nature of the document;

(c) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters-hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;

(d) date of issue of the document;

(e) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient;

(f) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered;

(g) serial number(s) and date(s) of the corresponding tax invoice(s) or, as the case may be, bill(s) of supply;

(h) value of taxable supply of goods or services, rate of tax and the amount of the tax credited or, as the case may be, debited to the recipient; and

(i) signature or digital signature of the supplier or his authorised representative.]

(2) Every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue revised tax invoices in respect of taxable supplies effected during the period starting from the effective date of registration till the date of the issuance of the certificate of registration:

*Provided that the registered person may issue a consolidated revised tax invoice in respect of all taxable supplies made to a recipient who is not registered under the Act during such period:*

*Provided further that in the case of inter-State supplies, where the value of a supply does not exceed two lakh and fifty thousand rupees, a consolidated revised invoice may be issued separately in respect of all the recipients located in a State, who are not registered under the Act.*

<sup>14</sup> Omitted vide Notf No. 03/2019 – CT dt. 29.01.2019 w.e.f. 01.02.2019

<sup>15</sup> Inserted vide Notf no. 03/2019 – CT dt. 29.01.2019 w.e.f. 01.02.2019

- (3) Any invoice or debit note issued in pursuance of any tax payable in accordance with the provisions of section 74 or section 129 or section 130 shall prominently contain the words "INPUT TAX CREDIT NOT ADMISSIBLE".

#### **54. Tax invoice in special cases**

- (1) An Input Service Distributor invoice or, as the case may be, an Input Service Distributor credit note issued by an Input Service Distributor shall contain the following details:-
- (a) name, address and Goods and Services Tax Identification Number of the Input Service Distributor;
  - (b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters - hyphen or dash and slash symbolised as "-", "/", respectively, and any combination thereof, unique for a financial year;
  - (c) date of its issue;
  - (d) name, address and Goods and Services Tax Identification Number of the recipient to whom the credit is distributed;
  - (e) amount of the credit distributed; and
  - (f) signature or digital signature of the Input Service Distributor or his authorised representative:

*Provided that where the Input Service Distributor is an office of a banking company or a financial institution, including a non-banking financial company, a tax invoice shall include any document in lieu thereof, by whatever name called, whether or not serially numbered but containing the information as mentioned above.*

- <sup>16</sup>[(1A) (a) A registered person, having the same PAN and State code as an Input Service Distributor, may issue an invoice or, as the case may be, a credit or debit note to transfer the credit of common input services to the Input Service Distributor, which shall contain the following details:-
- i. name, address and Goods and Services Tax Identification Number of the registered person having the same PAN and same State code as the Input Service Distributor;
  - ii. a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters - hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year;
  - iii. date of its issue;

<sup>16</sup> Inserted vide Notf No. 03/2018- CT dt. 23.01.2018

- iv. *Goods and Services Tax Identification Number of supplier of common service and original invoice number whose credit is sought to be transferred to the Input Service Distributor;*
- v. *name, address and Goods and Services Tax Identification Number of the Input Service Distributor;*
- vi. *taxable value, rate and amount of the credit to be transferred; and*
- vii. *signature or digital signature of the registered person or his authorised representative.*
- (b) *The taxable value in the invoice issued under clause (a) shall be the same as the value of the common services.]*
- (2) *Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company, the said supplier <sup>17</sup>[may] issue a <sup>18</sup>[consolidated] tax invoice or any other document in lieu thereof, by whatever name called <sup>19</sup>[for the supply of services made during a month at the end of the month], whether issued or made available, physically or electronically whether or not serially numbered, and whether or not containing the address of the recipient of taxable service but containing other information as mentioned under rule 46.*
- <sup>20</sup>*[Provided that the signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of a consolidated tax invoice or any other document in lieu thereof in accordance with the provisions of the Information Technology Act, 2000 (21 of 2000).]*
- (3) *Where the supplier of taxable service is a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage, the said supplier shall issue a tax invoice or any other document in lieu thereof, by whatever name called, containing the gross weight of the consignment, name of the consigner and the consignee, registration number of goods carriage in which the goods are transported, details of goods transported, details of place of origin and destination, Goods and Services Tax Identification Number of the person liable for paying tax whether as consigner, consignee or goods transport agency, and also containing other information as mentioned under rule 46.*
- (4) *Where the supplier of taxable service is supplying passenger transportation service, a tax invoice shall include ticket in any form, by whatever name called, whether or not serially numbered, and whether or not containing the address of the recipient of service but containing other information as mentioned under rule 46.*

<sup>17</sup> Substituted for —shall vide Notf No. 55/2017-CT dt. 15.11.2017

<sup>18</sup> Inserted vide Notf No. 45/2017-CT dt. 13.10.2017

<sup>19</sup> Inserted vide Notf No. 45/2017-CT dt. 13.10.2017

<sup>20</sup> Inserted vide Notf No. 74/2018-CT dt. 31.12.2018

<sup>21</sup>*[Provided that the signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of ticket in accordance with the provisions of the Information Technology Act, 2000 (21 of 2000).]*

<sup>22</sup>*[(4A) A registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens shall be required to issue an electronic ticket and the said electronic ticket shall be deemed to be a tax invoice for all purposes of the Act, even if such ticket does not contain the details of the recipient of service but contains the other information as mentioned under rule 46:*

*Provided that the supplier of such service in a screen other than multiplex screens may, at his option, follow the above procedure.]*

*(5) The provisions of sub-rule (2) or sub-rule (4) shall apply, mutatis mutandis, to the documents issued under rule 49 or rule 50 or rule 51 or rule 52 or rule 53.*

#### **55. Transportation of goods without issue of invoice**

*(1) For the purposes of-*

- (a) supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,*
- (b) transportation of goods for job work,*
- (c) transportation of goods for reasons other than by way of supply, or*
- (d) such other supplies as may be notified by the Board,*

*the consigner may issue a delivery challan, serially numbered not exceeding sixteen characters, in one or multiple series, in lieu of invoice at the time of removal of goods for transportation, containing the following details, namely:-*

- (i) date and number of the delivery challan;*
- (ii) name, address and Goods and Services Tax Identification Number of the consigner, if registered;*
- (iii) name, address and Goods and Services Tax Identification Number or Unique Identity Number of the consignee, if registered;*
- (iv) Harmonised System of Nomenclature code and description of goods;*
- (v) quantity (provisional, where the exact quantity being supplied is not known);*
- (vi) taxable value;*
- (vii) tax rate and tax amount – central tax, State tax, integrated tax, Union territory tax or cess, where the transportation is for supply to the consignee;*

<sup>21</sup> Inserted vide Notf No. 74/2018-CT dt. 31.12.2018

<sup>22</sup> Inserted vide Notf No. 33/2019-CT dt. 18.07.2019 w.e.f. 01.09.2019

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| <p>(viii) <i>place of supply, in case of inter-State movement; and</i></p> <p>(ix) <i>signature.</i></p> <p>(2) <i>The delivery challan shall be prepared in triplicate, in case of supply of goods, in the following manner, namely:—</i></p> <p>(a) <i>the original copy being marked as ORIGINAL FOR CONSIGNEE;</i></p> <p>(b) <i>the duplicate copy being marked as DUPLICATE FOR TRANSPORTER; and</i></p> <p>(c) <i>the triplicate copy being marked as TRIPLICATE FOR CONSIGNER.</i></p> <p>(3) <i>Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared as specified in rule 138.</i></p> <p>(4) <i>Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods.</i></p> <p>(5) <i>Where the goods are being transported in a semi knocked down or completely knocked down condition <sup>23</sup>[or in batches or lots] -</i></p> <p>(a) <i>the supplier shall issue the complete invoice before dispatch of the first consignment;</i></p> <p>(b) <i>the supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;</i></p> <p>(c) <i>each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice; and</i></p> <p>(d) <i>the original copy of the invoice shall be sent along with the last consignment.</i></p> |
| <p><sup>24</sup> <b>[55A. Tax Invoice or bill of supply to accompany transport of goods</b></p> <p><i>The person-in-charge of the conveyance shall carry a copy of the tax invoice or the bill of supply issued in accordance with the provisions of rules 46, 46A or 49 in a case where such person is not required to carry an e-way bill under these rules.]</i></p>   |

**Related provisions of the Statute:**

| <b>Section or Rule</b> | <b>Description</b>                          |
|------------------------|---|
| Section 2(94)          | Definition of Registered person             |
| Section 2(32)          | Definition of Continuous supply of goods    |
| Section 2(33)          | Definition of Continuous supply of services |
| Section 2(41)          | Definition of Document                      |

<sup>23</sup> Inserted vide *Notf No. 39/2018-CT dt. 04.09.2018*

<sup>24</sup> Inserted vide *Notf No. 03/2018-CT dt. 23.01.2018*

|                            |  |
|----------------------------|--|
| Section 2(66)              | Definition of Invoice or Tax Invoice   |
| Section 2(86)              | Definition of Place of supply  |
| Section 2(96)              | Definition of Removal (in relation to goods)   |
| Section 2(98)              | Definition of Reverse charge   |
| Section 2(47)              | Definition of Exempt supply  |
| Section 9                  | Levy and collection  |
| Section 10                 | Composition levy   |
| Section 15                 | Value of taxable supply  |
| Section 143                | Job work procedure   |
| Rule 39                    | Procedure for distribution of input tax credit by ISD  |
| Section 68                 | Inspection of goods in movement  |
| Section 74                 | Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful misstatement or suppression of facts. |
| Section 129                | Detention, seizure and release of goods and conveyances in transit.  |
| Section 130                | Confiscation of goods or conveyances and levy of penalty.  |
| Rule 138-138D              | Chapter XVI – E-way Rules  |
| Section 16 of the IGST Act | Zero-rated supply  |

### 31.1 Introduction

An invoice does not bring into existence an agreement but merely records the terms of a pre-existing agreement (oral or written). An invoice can be understood as a document that is meant to serve a particular purpose. The GST Law requires that an invoice – tax invoice or bill of supply – is issued on the occurrence of certain event, being a supply, within the prescribed timelines. Therefore, an invoice, among other documents is required to be issued for every form of supply such as sale, transfer, barter, exchange, license, rental, lease or disposal. This chapter provides an understanding of the various documents required to be issued under the GST law, timelines to issue such document and the contents of every such document.

### 31.2 Analysis

**A. Tax invoice on supply of goods or services:** Every registered person is required to issue a tax invoice on effecting a taxable outward supply of goods or services or both.

- (a) In order to determine when the tax invoice is to be issued in case of supply of goods, the supply must be classified into one of these two cases, that is, whether it is case



of supply that involves movement of goods or one that does not involve movement of the goods. Timelines for issuance of a tax invoice in such case are as follows:

- (i) **Where the supply involves movement of goods:** Before or at the time of removal of goods;
- (ii) **Where the supply does not involve movement of goods:** Before or at the time of delivery of the goods / making them available to the recipient.

Please refer to chapter 4 on time of supply for a detailed discussion about removal and movement of goods, mode and time of delivery of goods and the role of supplier or recipient in determining the answers to these questions.

- (b) It is crucial for the supplier to determine the point of time at which the service is provided. Service being intangible in nature would throw several challenges in identifying the point of time at which it can be said to be provided / completed. The timelines for issuance of tax invoice on the supply of taxable services are -
  - (i) before the provision of services; or
  - (ii) after the provision of services but within 30 days *(or 45 days in case of suppliers of services being an insurer / banking company / financial institution, including a NBFC)* from the date of supply of the service; or
  - (iii) before or at the time, the supplier records the supplies in his books of account or before the expiry of the quarter during which the supply was made, in case of supply of taxable services between distinct person by an insurer or a banking company or a financial institution, a NBFC, or a telecom operator, or any other class of supplier of services as may be notified by the Government on the recommendations of the Council. No such notification has been issued so far.
  - (iv) an insurer / banking company / financial institution, including a NBFC may issue an invoice or any other document in lieu thereof.
- (c) In terms of rule 46 of CGST Rules, 2017, a tax invoice referred to in this section shall be issued by the registered person containing all the particulars specified in the said Rule, as applicable to the transaction.

**Notes:**

- ✓ Where the registered person effects both taxable and exempt supplies to an unregistered person, he may issue a single 'Invoice-cum- bill of supply' instead of 'tax invoice', for all such supplies as provided in Rule 46A.
- ✓ A registered person can issue multiple series of invoices. No application is required to be filed with the Tax office in this regard. However, the suppliers would be required to report the serial numbers (from & to, along with the number

of cancellations during the tax period) of all the series of tax invoices (and other documents covered under this Chapter) in Form GSTR-1.

- (d) The tax invoice must be prepared in triplicate for goods, and in duplicate for services. Each copy of the tax invoice is required to be marked as follows:

| <b>Goods</b>                | <b>Services</b>           |
|-----------------------------|---------------------------|
| 1. ORIGINAL FOR RECIPIENT   | 1. ORIGINAL FOR RECIPIENT |
| 2. DUPLICATE FOR TRNSPORTER | 2. DUPLICATE FOR SUPPLIER |
| 3. TRIPLICATE FOR SUPPLIER  | –                         |

- (e) <sup>25</sup>[As regards the requirement to quote the HSN of the supplies, the aggregate turnover of the registered person for the previous financial year shall be referred. with effect from the 1<sup>st</sup> April 2021, in case of suppliers having aggregate turnover in the preceding financial year:–

- (i) Upto ₹ 5 Crore – HSN up to 4 digits required;  
(ii) Exceeding ₹ 5 Crore – HSN up to 6 digits required.

Provided that a registered person having aggregate turnover up to five crores rupees in the previous financial year may not mention the number of digits of HSN Code, as specified above in a tax invoice issued by him under the said rules in respect of supplies made to unregistered persons.]

It needs to be noted that as per section 2(6) 'aggregate turnover' means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union Territory tax, integrated tax and cess.

It is also relevant to note that there has been no notification issued in respect of services, separately. However, considering that the term 'HSN' has been used commonly in respect of both goods and services, the aforesaid order can be applied even in respect of services, while quoting the code from the scheme of classification of services, as provided in *Notification No. 11/2017-Central Tax (Rate) dt.28.06.2017*.

- (f) <sup>26</sup>As per Clause (q) of Rule 46, a tax invoice shall contain signature or digital signature of the supplier or his authorised representative. However, such signatures or digital signature shall not be required in the case of issuance of an electronic

<sup>25</sup> Substituted vide *Notf No. 78/2020 – CT dated 15.10.2020*

<sup>26</sup> Inserted vide *Notf No. 74/2018 – CT dated 31-12-2018*

invoice in accordance with the provisions of the Information Technology Act, 2000 (21 of 2000).

(g) Tax Invoices in cases of outward supply of special services- Rule 54:

| Sl. No. | Class of supplier of taxable services                                 | Nature of document   | Optional   | Mandatory  |
|---------|---|--|--|--|
| 1       | Insurer, Banking Company, Financial Institution and NBFC*- Rule 54(2) | Consolidated tax invoice or any other similar document at the end of the month for services supplied during the month. | a. Serial no.<br>b. Address of the recipient of services | All particulars as specified in rule 46 other than that specified in 'Optional' column<br><br><sup>27</sup> [Signature or digital signature of the supplier or his authorised representative not required.]  |
| 2       | Goods transport agency (GTA) transporting goods by road- Rule 54(3)   | Tax invoice or any other similar document  | None   | In addition to those cited in rule 46;<br>a. Gross weight of consignment;<br>b. Name of the consignor and consignee;<br>c. Regn. No. of vehicle;<br>d. Details of goods transported;<br>e. Details of place of origin and destination;<br>f. GSTIN of the person liable to pay tax whether as consignor / consignee / GTA. |
| 3       | Passenger transport agency*-Rule 54(4)                                | Tax invoice or ticket  | a. Serial no.<br>b. Address of the recipient of services | All particulars as specified in rule 46 other than that specified in 'Optional' column   |

<sup>27</sup> Inserted vide *Notf No. 74/2018 – CT dt. 31-12-2018*

| Sl. No.  | Class of supplier of taxable services  | Nature of document | Optional                            | Mandatory  |
|--|--|--------------------|-------------------------------------|--|
|  |  |                    |                                     | <sup>28</sup> [Signature or digital signature of supplier or his authorised representative not required].  |
| 4  | <sup>29</sup> [Exhibitor of cinematographic films in multiplex screens- Rule 54(4A)] | Electronic ticket  | Details of the recipient of service | All particulars as specified in rule 46 other than that specified in 'Optional' column<br><br>Issue of electronic ticket optional for Supplier of such service in a screen other than multiplex screen |
| * Equally applicable to the following documents: Bill of supply, receipt voucher, refund voucher, payment voucher, revised tax invoice and debit or credit notes- Rule 54(5) |  |                    |                                     |  |

(h) Specifically, in case of export of goods or services, the following may be noted:

(i) The invoice shall carry an <sup>30</sup>endorsement as follows:

1. *Where the supply is effected on payment of IGST:* "Supply meant for export/supply to SEZ unit or SEZ developer for authorised operations on payment of integrated tax" .
2. *Where the supply is effected without payment of IGST:* "Supply meant for export/supply to SEZ unit or SEZ developer for authorised operations under bond or letter of undertaking without payment of integrated tax".

(ii) In lieu of the State name and State code, the name of the country of destination would have to be provided.

(i) Special declaration would have to be made on a tax invoice or debit note prominently, containing the words "INPUT TAX CREDIT NOT ADMISSIBLE", where any invoice

<sup>28</sup> Inserted vide *Notf No. 74/2018 – CT dt. 31.12.2018*

<sup>29</sup> Inserted vide *Notf No. 33/2019 – CT dated 18.07.2019*

<sup>30</sup> Third proviso to rule 46 of the CGST Rules, 2017

or debit note has been issued in pursuance of any tax payable in accordance with the provisions of <sup>31</sup>section 74 or <sup>32</sup>section 129 or <sup>33</sup>section 130 and rule 53(3)

- (j) Discount provided before or at the time of supply must be reflected on the face of the tax invoice in order to avail a reduction from the taxable value. Trade discounts not reflected on the face of the invoice would not qualify for such benefit and therefore, tax on that value may also be liable to be paid.
- (k) Where an invoice contains multiple goods and / or services, it needs to be noted that the details would be required to be provided in respect of every line item of the invoice (such as description, HSN, quantity, unit of measurement, value, discount, increase in value on account of inclusions specified in section 15(2), taxable value as agreed or as determined in terms of the valuation rules, etc.).
- (l) *Circular 72/46/2018 dated 26.10.18* clarifies the procedure in respect of return of time expired drugs or medicines wherein it is clarified asunder -
  - a person returning the time expired goods may issue the tax invoice or bill of supply, as the case may be in the following manner:
    - (i) Return of time expired drugs / medicines by a registered person (other than a composition taxpayer) may be treated as fresh supply and accordingly, a tax invoice may be issued for such return supply. It is also clarified that a manufacturer/wholesaler accepting the time expired medicines / drugs from wholesaler/retailer is entitled to claim the input tax credit of GST mentioned on the tax invoice issued by the registered person returning such goods;
    - (ii) In case the person returning time-expired drugs / medicines is a composition tax payer, he may issue a bill of supply and pay the tax applicable to a composition tax payer. In such a scenario, there does not arise any question to claim input tax credit by the manufacturer/wholesaler;
    - (iii) In the case of unregistered persons, time expired drugs / medicines can be returned by way of issuing any commercial document without charging any tax on the same.
  - Alternatively, the goods may be returned by issuing a delivery challan and the supplier may issue a credit note against such return supply under section 34(1) up to 30<sup>th</sup> September following the end of financial year to which such invoice relates. If this time has lapsed, he may issue a financial credit note. There is no requirement to declare such credit note on the common portal as tax liability cannot be adjusted in this case.

<sup>31</sup> Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any willful-misstatement or suppression of facts.

<sup>32</sup> Detention, seizure and release of goods and conveyances in transit

<sup>33</sup> Confiscation of goods or conveyances and levy of penalty

(m) <sup>34</sup>Exception to the rule that every supply must be supported by a tax invoice: A registered person <sup>35</sup>(other than an exhibitor of cinematograph films in multiplex screens) is not required to issue a separate tax invoice in respect of supply of goods and / or services where the value of supply is lower than ₹ 200/-, subject to the following conditions:

- (i) the recipient is not a registered person;
- (ii) the recipient does not require such invoice; and
- (iii) the supplier issues a consolidated tax **invoice** for such supplies at the close of each day in respect of all such supplies.

**Note:** A registered person supplying services by way of admission to exhibition of cinematograph films in multiplex screens is required to issue an *electronic ticket* in all cases which shall be deemed to be a tax invoice for all purposes of the Act [Rule 54(4A)].

**B. Revised Tax Invoice:** A revised tax invoice in terms of the GST Law [section 31(3) (a) read with rule 53] is different from what is construed to be a revised tax invoice in common parlance. Therefore, it is made abundantly clear that there is *no provision under the GST Law for a registered person to revise a tax invoice* which was issued earlier, on account of errors / mistakes in the original tax invoice. Revised invoice is permitted for first-time registered persons within 30 days from the date of crossing the exemption threshold.

(a) *A revised tax invoice under GST law?*

A person should apply for registration within 30 days of becoming liable for registration under section 25(1) of the CGST Act. When such an application is made within such time and registration is granted, the effective date of registration is the date on which the person became liable for registration, thereby resulting in a time lag between the date of grant of certificate of registration and the effective date of registration. For supplies made by such person during this intervening period, the law enables issuance of a revised tax invoice, so that ITC can be availed by the recipient on such supplies.

(b) Accordingly, a revised invoice [carrying the details as specified in rule 53(1)] may be issued for supplies effected between the effective date of registration and the date of issue of registration certificate.

The GST Law provides for issuance of a consolidated revised tax invoice in respect of all taxable supplies made to an unregistered person during such period. However, in case of inter-State supplies where the value of supply does not exceed ₹ 2.5 Lakhs, a consolidated revised invoice may be issued separately in respect of all unregistered recipients located in a state.

<sup>34</sup> Section 31(3)(b) read with Fourth proviso to rule 46

<sup>35</sup> Inserted vide *Noff No. 33/2019-CT dt 18.07.2019 w.e.f. 01.09.2019*

Thus, a revised/ consolidated revised invoice may be issued within one month from the date of registration as follows:

- For each inter-State B2C taxable supply of less than ₹ 2,50,000/-: State-wise consolidated revised invoice
- For each inter-State B2C taxable supply of ₹ 2,50,000/- and more: Recipient wise revised invoice
- For all Intra-state B2C taxable supplies irrespective of the amount: Consolidated revised invoice

**C. Bill of supply:** A bill of supply as per section 31(3)(c) is required to be issued in the following two cases:

- (a) Where the supplier is a registered person who has opted for composition tax under section 10 of the Act including a <sup>36</sup>service provider who opts for composition scheme. (and shall not charge tax on the bill of supply). or
- (b) Where the goods / services being supplied by any registered person are wholly exempted.

The registered person may not issue a bill of supply if the value of the goods and/or services supplied is less than ₹ 200/-.

The bill of supply is required to contain all the applicable particulars as are specified in rule 49 of CGST Rules, 2017. Provisos to rule 46 shall *mutatis mutandis* apply to the bill of supply issued under rule 49.

As per clause (h) of rule 49, a bill of supply shall contain the signature or digital signature of the supplier or his authorised representative. However, signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of an electronic bill of supply in accordance with the provisions of the <sup>37</sup>Information Technology Act, 2000 (21 of 2000).]

**D. Documents required to be issued in respect of receipt and refund of advances [Section 31(3)(d) & (e)]**

- (a) In case of receipt of advance payment by a registered person *with respect to any supply of goods and/or services*, a 'receipt voucher' or any other document is required to be issued, and not a tax invoice, containing all the particulars as are prescribed in rule 50 of CGST Rules, 2017. Based on this receipt voucher, the

<sup>36</sup> A service provider who avails the benefit of composition was allowed to issue a bill of supply via *Removal of Difficulty Order No. 03/2019-CT dated 8.3.2019*. Subsequently, Sub-section 2A was inserted in section 10 vide Finance (No. 2) Act, 2019 w.e.f 01.01.2020 to allow a service provider to pay tax not exceeding 6% of turnover in State/UT if his aggregate turnover in the preceding financial year did not exceed ₹ 50 lakhs.

<sup>37</sup> Inserted vide *Notf No. 74/2018 – CT dt. 31-12-2018*

registered person will be required to pay tax on the advances received on services.  
<sup>38</sup>GST is not applicable on advances against supply of goods. For details, refer Chapter dealing with “Time of Supply”.

- (b) It should be noted that the receipt voucher would also carry the details of tax applicable on the transaction when the advance so received is liable to tax (as in case of services). However, if the below mentioned key factors cannot be determined at the time of receipt of advance, then the following rule would apply:
- (i) Where the rate of tax is not determinable: Rate will be 18%
- (ii) Where the nature of supply is not determinable: Nature to be inter-State supply.
- (c) In addition to such receipt voucher, the supplier will be required to issue a **tax invoice** on effecting the supply, containing all the particulars specified in rule 46 as are required in a case where no advance had been received. In this regard, it may be noted that while the receipt voucher may not be significant where the supply takes place in the same month in which the advance is received, *the law does not exempt one from issuing a receipt voucher in such a scenario*.
- (d) Whenever a transaction envisages issue of receipt voucher, and the same is not followed by the issuance of a tax invoice, since it does not translate into a transaction of supply, the receipt voucher issued will have to be reversed (meaning without cancellation of the receipt voucher) by issuing a ‘**refund voucher**’ containing particulars, as required under rule 51 of the CGST Rules, 2017.
- (e) Provisions on receipt voucher and refund voucher *do not* apply where the consideration is in ‘non-monetary form’ as the expression ‘payment’ is akin only to monetary consideration whereas ‘value’ is akin to both monetary and non-monetary consideration. Trace the usage of these words in rule 50 to 55 to note the context of their usage and identify their application.

**E. Documents required to be issued in respect of supplies liable to tax under reverse charge mechanism [Section 31(3)(f) & (g)]**

- (a) If the recipient is liable to pay tax on reverse charge basis in terms of section 9(3) or 9(4), or the corresponding provisions of the IGST Act, 2017, he shall issue an invoice (self –invoice) if he receives the supply of goods and/or services from an unregistered supplier. In this regard, the following may be noted:

| <b><i>Document to be issued by recipient</i></b> | <b><i>Supplier is registered</i></b> | <b><i>Supplier is not registered</i></b> |
|--|--------------------------------------|--|
| Tax invoice                                      | Not required                         | Required                                 |
| Payment voucher                                  | Required                             | Required                                 |

<sup>38</sup> *Notf No. 40/2017-CT dt. 13.10.2017 as superseded by Notf. No.66/2017-CT dt. 15.11.2017.*



- (b) The <sup>39</sup>law makes a provision for the issuance of a *consolidated tax invoice* for every month, to be issued at the end of the month for supplies received from an unregistered person under section 9(4), where the aggregate value of such supplies liable to tax under reverse charge mechanism exceeds ₹ 5,000/- in a day from any or all the suppliers. This apart, a mirrored set of all the particulars specified under rule 46 would be required to be contained in a tax invoice issued by a registered recipient (commonly referred to as a 'self-invoice' by trade and industry).
- (c) All cases of inward supplies on which tax is payable on reverse charge basis, require the recipient of supply to issue a *payment voucher*, at the time of making payment to the supplier, containing all the applicable particulars specified in rule 52 of the CGST Rules, 2017.
- (d) It is relevant to note here that payment of tax by registered recipients on effecting inward supplies from unregistered persons, in terms of section 9(4) of the Act, has been exempted up to 30.09.2019, vide *Notification No 8/2017-Central Tax (rate) dated 28.06.2017* as amended time to time. However, the said notification has been rescinded by *Notification No 1/2019-Central Tax (Rate) dated 29-01-2019 w.e.f 01.02.2019* vide the Central Goods and Services Tax (Amendment) Act, 2018. After amendment of section 9(4), the Government may, on the recommendations of the Council, by notification, specify the class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both.
- (e) *Notification No. 07/2019-CT (Rate) dated 29.03.2019* as amended vide *Notification No. 24/2019-CT dated 30.09.2019* issued in this respect under section 9(4) as amended specifies 'Promoter' as a class of registered persons who shall on receipt of specified goods or services as specified in the said notification from an unregistered supplier, shall pay tax on reverse charge basis.

**F. Tax Invoice for an Input Service Distributor (ISD):**

- (a) An Input Service Distributor (ISD) is entitled to distribute credits in terms of section 20 of the Act read with rule 39 of the CGST Rules, 2017. For the purpose of such credit distribution, an ISD invoice is required to be issued by an ISD (or a credit note where the credit distributed earlier is to be reduced for any reason) and such document is required to contain all the particulars specified in rule 54(1) of the CGST Rules, 2017.
- (b) An exception has been carved out for an ISD of a banking company or a financial institution, including a NBFC, wherein the document issued for distribution may or may not be serially numbered, but must contain all the details as prescribed above.
- (c) The law provides that a registered person having the same PAN and State code as

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<sup>39</sup> Second proviso to rule 46

that of the ISD, may issue an invoice or, as the case may be, a credit or debit note to transfer the credit of common input services to the ISD (wherein the taxable value shall be the same as the value of the common services), containing the details specified in rule 54(1a). It may be noted that the said sub-rule has been inserted vide *Notification No. 03/2018 dated 23.01.2018*. By virtue of this provision, delivery location (of services) other than at the address of ISD is enabled in harmony with the concept of 'bill to and ship to' in explanation to section 16(2)(b).

**G. Delivery challan:** Rule 55 of the CGST Rules, 2017 provides for issuance of delivery challan, and also the mandatory contents in a delivery challan. A delivery challan is required to be issued by a registered person every time he moves goods for any reason other than by way of supply (say supply for job work, goods sent for sale on approval basis, dispatch of demo-goods, disposal by way of gift or free samples, shipment of goods for an exhibition, etc.)

- (a) It should be noted that a delivery challan is a document required for movement of goods, and not "supply of goods". This means, even where goods that are otherwise chargeable to tax as services, are moved, this document would be required. E.g., Goods moved for works contract purposes, goods sent for hire, etc.
- (b) *Goods sent on approval:* Where goods are sent on approval basis, an invoice would not be required at the time of removal of goods and shall be issued only at the time of receipt of approval from the recipient. However, if the goods so dispatched have neither been accepted nor been returned within 6 months from the date of their removal, the tax invoice is required to be issued on the date immediately succeeding the date on which the 6-month period expires.
- (c) It has been clarified vide *Circular No.10/10/2017 dated 18.10.2017* that where the goods are removed for line sales or for supply on approval basis, the person removing the goods either for intra-State supplies or inter-State supplies shall raise a delivery challan along with e-way bill (if applicable) since the supplier would be unable to ascertain the actual supply at the time of removal. It is also clarified that the person removing the goods shall carry the invoice book during the movement which shall enable him to issue an invoice once the supply is complete. It is further clarified that all such supplies, where the supplier carries goods from one State to another and supplies them in a different State, will be inter-State supplies and attract integrated tax in terms of section 5 of the IGST Act, 2017.
- (d) *Circular No. 22/22/2017 dated 21.12.2017* has been issued clarifying the same procedure for removal of goods by artists and supply of such goods by artists from galleries.
- (e) *Circular No. 108/27/2019 dated 18.07.2019* has been issued clarifying the procedure in respect of goods sent/taken out of India for exhibition or on consignment basis for export promotion. It has been clarified that such activity except when it is covered under Schedule I of the CGST Act does not constitute supply as no consideration is

involved at that point in time and consequently the same cannot be considered as zero rated supply under section 16 of the IGST Act. It has been further clarified that such goods shall be accompanied with a delivery challan. When such goods have been sold fully or partially, within the stipulated period of six months as per section 31(7) of the CGST Act, the sender shall issue a tax invoice in respect of such quantity of specified goods which has been sold abroad, in accordance with the provisions contained in sections 12 and 31 of the CGST Act read with rule 46 of the CGST Rules. When the specified goods sent / taken out of India have neither been sold nor brought back, either fully or partially, within the stipulated period of six months, the sender shall issue a tax invoice on the date of expiry of six months from the date of removal.

- (f) While the law provides only for movement in general, a corollary can be, that a delivery challan may be for movement-outward or / and movement-inward.
- (g) A delivery challan would also be required to be prepared in triplicate, as applicable in case of tax invoices for goods (explained above).
- (h) The rules also specify the nature of other documents to be carried along with the goods under transportation. Note that this list is illustrative and not exhaustive.

| <i>Nature of supply</i>   | <i>Mandatory documents</i>   | <i>Particulars to be contained in the document</i>  |
|---|--|---|
| (1) Where the tax invoice could not be issued at the time of removal of goods for supply;<br>(2) Supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known;<br>(3) Transportation of goods for job work;<br>(4) Transportation of goods for reasons other than by way of supply; or<br>(5) Such other supplies notified by the Board | 1. Consignor to issue a delivery challan<br>2. Serially numbered delivery challan to be issued in lieu of invoice at the time of removal of goods for transportation | (i) Date and number of the delivery challan,<br>(ii) Name, address and GSTIN of the consigner, if registered,<br>(iii) Name, address and GSTIN or UIN of the consignee, if registered,<br>(iv) HSN code and description of goods,<br>(v) Quantity (provisional, where the exact quantity being supplied is not known),<br>(vi) Taxable value,<br>(vii) Tax rate and tax amount – CGST, SGST/ UTGST, IGST or cess, where the transportation is for supply to the consignee,<br>(viii) Place of supply, in case of inter-State movement, and<br>(ix) Signature. |

**H. Important note:** The person-in-charge of the conveyance shall carry a copy of the tax invoice or the bill of supply or tax invoice cum bill of supply, as explained in the preceding paragraphs, in a case where such person is not required to carry an e-way bill [As per rule 55A]

**I. Special cases**

(a) *Continuous supply of goods [section 31(4)]:* In case of a continuous supply of goods as defined in section 2(32), where successive statements of accounts or successive payments are involved, the tax invoice is required to be issued before or at the time when :

- each such statement or a running-claim is issued; or
- each such payment is received.

*Section 2(32)- “continuous supply of goods” means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify;*

(b) *Continuous supply of services [section 31(5)]:* In case of a continuous supply of services as defined in section 2(33) of the CGST Act, 2017, a tax invoice is required to be issued as follows:

- (i) When payment date *is ascertainable* as per the contract:
  - o On or before the due date for payment
- (ii) When payment date is *not ascertainable* from the contract:
  - o On or before the time when the supplier of services receives the payment
- (iii) When payment is *linked to completion of an event*:
  - o On or before the date of completion of the event.

*Section 2(33)- “continuous supply of services” means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as the Government may, subject to such condition as it may, by notification, specify.*

(c) *Goods sent on SKD / CKD conditions/batches/lots [rule 55(5)]:* Where the goods are being transported in a semi knocked down (SKD) or completely knocked down (CKD) conditions or in batches or lots, the supplier must first issue the complete invoice before the first consignment is moved. A delivery challan is to be issued for each of the subsequent consignments giving reference of the said invoice. Each consignment shall be accompanied by copies of the corresponding delivery challan in terms of rule

55 of the CGST Rules, 2017 along with a certified copy of the invoice. It is imperative to note that the original invoice must accompany the last consignment. Experts caution that goods sent in CKD-SKD or consignments must apply the HSN applicable to the complete built up (CBU) and not parts in each consignment. Very often goods are sourced and shipped to site directly from various vendor locations in case of EPC project. In such cases, the EPC contractor tends to recycle the same HSN as used by the parts-vendors. Reference may be had to a very interesting decision in *Shirke Construction Equipment Pvt. Ltd. v. CCE, Pune (1997) 95 ELT 644 (Trib.)* where it was held that goods cleared in such a consignment were 'not parts of crane but crane in parts'.

- (d) *Cessation of service [section 31(6)]*: On cessation of a contract for supply of services, a tax invoice is required to be issued to the extent of supply effected up to the point of cessation, and the tax due shall be remitted thereon.
- (e) *Bill-to-ship-to transactions*: Where the place of supply is deemed to be the principal place of business of the person on whose direction the goods are dispatched to another person (as specified in section 10(1)(b) of the IGST Act, 2017), the transaction would have two supplies - one from the supplier to the person to whom the invoice is addressed and another deemed to be effected by the said addressee to the person who receives the goods. In such a case, the addressee may consider the date of making available of the goods to the ultimate recipient, as the date on which the tax invoice is liable to be issued by him. The reason being that in case of supply of goods, invoice is to be issued on or before the removal of goods as per section 31(1) and the term "removal of goods" as defined in section 2(96) of the CGST Act also means collection of the goods by the recipient thereof or by any other person acting on behalf of such recipient.
- (f) *Goods sent to job worker for the purpose of job work*: Where inputs or capital goods have been sent to the job worker for the purposes of job work and have neither been returned nor been directly dispatched for supply from the place of the job worker within the timelines specified in section 19, it shall be deemed that such goods (other than moulds and dies, jigs and fixtures, or tools) have been supplied by the principal to the job worker as on the date of dispatch of such goods to the job worker (or the date of receipt of goods by the job worker where the goods were sent to the job worker's premises without being first received at the place of business of the principal).

#### **Special issues concerning Goods sent for Job work**

Goods sent to a job worker for the purpose of job work amounts to supply liable to tax under GST. However, as per section 143 of the CGST Act, the principal may' under intimation and subject to fulfillment of certain conditions choose to send goods for job work without payment of tax and from there subsequently to another job worker and likewise. Form GST ITC-04 will serve as the intimation as envisaged under section 143

of the CGST Act, 2017 [Clause (i) of Para 8.4 of *Circular No. 38/12/2018 dated 26.03.2018.*]

The documents that need to be issued for movement of goods between the principal and the job worker are as follows:

1. **Goods sent for job work on payment of tax** – The principal shall issue a tax invoice for goods sent for job work. The job worker, if registered, shall return the goods by raising another tax invoice. In case of receipt of goods after job work from an unregistered job worker, the principal will be required to raise an invoice as per section 9(4) of the CGST Act (which was exempt till 30<sup>th</sup> September, 2019, vide *Notification No 8/2017-Central Tax (Rate) dated 28.06.2017* amended time to time. However, the said notification has been rescinded by *Notification No 1/2019-Central Tax (Rate) dated 29-01-2019 w.e.f 01.02.2019*). After amendment of section 9(4), the Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both). No such notification has been issued in case of receipt of goods from an unregistered job worker.
2. **Goods sent for job work without payment of tax** – Circular No.38/12/2018 dated 26<sup>th</sup> March, 2018 has clarified the following:
  - (a) Where goods are sent by principal to only one job worker: The principal shall prepare in triplicate, the challan in terms of rule 45 read with rule 55 of the CGST Rules, for sending the goods to a job worker. Two copies of the challan may be sent to the job worker along with the goods. The job worker should send one copy of the said challan along with the goods, while returning them to the principal.
  - (b) Where goods are sent from one job worker to another job worker: In such cases, the goods may move under the cover of a challan issued either by the principal or the job worker. Alternatively, the challan issued by the principal may be endorsed by the job worker sending the goods to another job worker, indicating therein the quantity and description of goods being sent. The same process may be repeated for subsequent movement of the goods to other job workers.
  - (c) Where the goods are returned to the principal by the job worker: The job worker should send one copy of the challan received by him from the principal while returning the goods to the principal after carrying out the job work.
  - (d) Where the goods are sent directly by the supplier to the job worker: In this case, the goods may move from the place of business of the supplier to the place of business/premises of the job worker with a copy of the invoice issued by the supplier in the name of the buyer (i.e. the principal) wherein the job worker's

name and address should also be mentioned as the consignee, in terms of rule 46(o) of the CGST Rules. The buyer (i.e., the principal) shall issue the challan under rule 45 of the CGST Rules and send the same to the job worker directly in terms of Para (a) above. In case of import of goods by the principal which are then supplied directly from the customs station of import, the goods may move from the customs station of import to the place of business/premises of the job worker with a copy of the bill of entry and the principal shall issue the challan under rule 45 of the CGST Rules and send the same to the job worker directly.

- (e) Where goods are returned in piecemeal by the job worker: In case the goods after carrying out the job work, are sent in piecemeal quantities by a job worker to another job worker or to the principal, the challan issued originally by the principal cannot be endorsed and a fresh challan is required to be issued by the job worker.
- (f) Issue of invoice
- (i) *Supply of job work services:* The registered job worker shall issue an invoice at the time of supply of the services as determined in terms of section 13 read with section 31 of the CGST Act. The value of services determined in terms of section 15 of the CGST Act would include not only the service charges but also the value of any goods or services used by him for supplying the job work services, if recovered from the principal.
- (ii) *Supply of goods by the principal from the place of business/ premises of job worker:* Since the supply is being made by the principal, the time, value and place of supply would have to be determined in the hands of the principal irrespective of the location of the job worker's place of business/premises. The invoice would have to be issued by the principal. It is also clarified that in case of exports directly from the job worker's place of business/premises, the LUT or bond, as the case may be, shall be executed by the principal.
- (iii) *Supply of waste and scrap generated during the job work:* Sub - section (5) of section 143 of the CGST Act provides that the waste and scrap generated during the job work may be supplied by the registered job worker directly from his place of business or by the principal in case the job worker is not registered. The principles enunciated in Para (ii) above would apply *mutatis mutandis* to this case.
- (g) If inputs/capital goods are neither returned nor supplied within specified time period of 1/3 years from job worker's place of business: The inputs or capital goods (other than moulds and dies, jigs and fixtures or tools) would be deemed to have been supplied by the principal to the job worker. The principal would issue an invoice for the same and declare such supplies in his return for that

particular month in which the time period of one year / three years has expired. The date of supply shall be the date on which such inputs or capital goods were initially sent to the job worker and interest for the intervening period shall also be payable on the tax.

If such goods are returned by the job worker after the stipulated time period, the same would be treated as a supply by the job worker to the principal and the job worker would be liable to pay GST if he is liable for registration in accordance with the provisions contained in the CGST Act read with the Rules made thereunder. It may be noted that if the job worker is not registered, GST would be payable by the principal on reverse charge basis only if the Government issues a notification in this regard in terms of substituted provisions of section 9(4) as stated above.

### 31.3 Comparative review

Under the erstwhile indirect tax laws, depending upon the taxable event, as to whether it is manufacture or sale or service, excise invoices or tax invoices were raised.

Under the service tax regime, a time limit to issue a tax invoice was prescribed having regard to the date of completion of such taxable service or receipt of any payment towards the value of such taxable service, whichever is earlier.

The provision to issue revised invoice (from the effective date of registration to the date of issuance of certificate) was not available earlier. This document would be useful for claiming tax credit for supply of goods/services during this period.

Under erstwhile law, invoices or bills of sale etc. can be issued inclusive of tax in certain cases whereas it is mandatory to indicate the amount of tax charged on every transaction in the GST regime.

### 31.4 Issues and Concerns

1. The value of supply and the amount of GST applicable thereon is required to be reflected separately in the tax invoice, in terms of rule 46. However, a supplier is also permitted to effect supplies for an inclusive value – such as in the case of travel agents paying tax on margins. In such cases, the supplier will be required to disclose their margins to the recipient, by virtue of this requirement.
2. Rule 46 of the CGST Rules, 2017 does not specifically provide as to how the details of tax must be reflected in cases of zero-rated supplies. Therefore, where a zero-rated supply has been effected on payment of IGST, the details thereof may be reflected separately on the face of the invoice, by providing a declaration to the effect that the same is not charged to the recipient of supply, given that disclosure of tax details is mandatory. In other cases, the applicable rate of tax can be stated, whereas the tax amount can be shown as '0'.



3. The law does not specifically provide the manner in which the details of HSN, quantity, etc. must be reflected in cases of composite supply or mixed supply. However, given that section 8 regards all composite supplies as principal supply alone, only those details pertaining to the principal supply must be reflected, while quoting the taxable value applicable to the composite supply as a whole. In case of mixed supplies, the supply attracting the highest rate of tax ought to be reflected – what if both the supplies attract the same rate of tax? It is expected that clarity will come in due course.
4. While the GST law provides for a supplier to issue a revised tax invoice in respect of supplies made during the time period from the effective date of registration to the date of grant of registration certificate, there are no similar provisions found for issuance of revised tax invoice to mention the GSTIN of the recipient, wherein a supply has been effected to a taxable person who has applied for registration, and receives such registration after the tax invoice has been issued by the supplier. Therefore, the recipient of supply may not be entitled to the credits on such inward supplies, unless the tax invoice is cancelled and reissued during the same tax period.
5. Given that all incidental expenses are required to be included in the value of supply, and the value of supply is determined for each of the goods and / services separately, even where all such goods and / or services are included in the same tax invoice, the incidental expenses (say freight, packing, etc.) will be required to be split up as attributable to each supply, separately. This would be a tedious task and would be practically difficult to reflect it on the face of the invoice. To ensure that no tax is underpaid, the suppliers can adopt a reasonable basis to identify the most suitable rate of tax applicable on the incidental charges, by considering the contents of the invoice.
6. Where an advance has been received and the supplier is unable to determine the nature of tax, the law provides a deeming fiction to treat such supply as an inter-State supply. This provision would, however, require a relook, considering that the place of supply is a must, for the purpose of reporting the transaction as an inter-State supply. Further, the law does not provide for closing the loop, as and when the rate of tax or the nature of tax has been ascertained. It appears that the only solution is to issue a refund voucher and reverse the effect of issue of the earlier receipt voucher and thereafter, issue a tax invoice (where the supply has been effected), or issue a fresh receipt voucher with the correct details (where the supply is yet to be effected).
7. While rule 54(1A) provides the form in which credits can be distributed by a registered person to its own ISD in the same State, no corresponding provision has been made under the law which specifies that a registered person is entitled to issue an invoice to another registered person (whether ISD / any other person) where there is no underlying taxable supply. However, by virtue of this sub-rule which has been inserted, the intent of the law can be safely inferred that there is no such requirement and the registered persons may make use of this provision to furnish the details of common services to the ISD for the purpose of distribution.

**31.5 FAQs**

- Q1. Can tax invoice be raised for advance payments received for goods or services?  
 Ans. No. The tax invoice is not to be raised for advance payments received for goods or services. The recipient of payment would be required to issue a receipt voucher for receipt of payment in advance.
- Q2. Is it mandatory to mention the details of tax amount charged in the invoice?  
 Ans. Yes, the tax invoice should mandatorily mention the details of tax amount charged in the invoice.
- Q3. Is it possible to take input tax credit based on the 'bill of supply'?  
 Ans. No, it is not possible to take input tax credit based on the bill of supply.
- Q4. Can a revised invoice be issued for taxable supplies?  
 Ans. Yes, the registered taxable person can issue revised invoice. Every registered person who has been granted registration with effect from a date earlier than the date of issuance of certificate of registration to him, may issue revised tax invoices/ consolidated revise tax invoice in respect of taxable supplies effected during the period starting from the effective date of registration till the date of issuance of certificate of registration.

**<sup>40</sup>[31A. Facility of digital payment to recipient.**

The Government may, on the recommendations of the Council, prescribe a class of registered persons who shall provide prescribed modes of electronic payment to the recipient of supply of goods or services or both made by him and give option to such recipient to make payment accordingly, in such manner and subject to such conditions and restrictions, as may be prescribed.]

**31A.1 Analysis**

With a view to promote digital payment, the Government on the recommendation of GST Council shall prescribe a class of registered persons who will provide recipient with an option to make payment through various electronic modes. The recipient can opt any mode of payment as per his choice. The manner of payment and the conditions and restrictions in regard thereto shall be prescribed. Government seems determined to encourage electronic modes of payment by this new section. However, no notification in this regard has been issued so far.

***E-Invoice***

The GST Council, in its 35<sup>th</sup> meeting held in New Delhi on 21.06.2019, decided to implement a system of e-invoicing, which will be applicable to specified categories of persons. Para 6 of the said press release states:

<sup>40</sup> Inserted by *Finance (No. 2) Act, 2019* – Brought into force w.e.f. 1<sup>st</sup> January, 2020

“6. The Council also decided to introduce electronic invoicing system in a phase-wise manner for B2B transactions. E-invoicing is a rapidly expanding technology which would help taxpayers in backward integration and automation of tax relevant processes. It would also help tax authorities in combating the menace of tax evasion. The Phase 1 is proposed to be voluntary and it shall be rolled out from Jan 2020”

### ***What is E-invoicing?***

‘E-invoicing’ or ‘electronic invoicing’ is a system wherein the supplier will upload his invoice details and register his supply transaction on the Government invoice registration portal (IRP) and get the invoice reference number (IRN) generated by the IRP system. That is, the tax payer will first prepare and generate his invoice using his ERP/accounting system or manual system in the standard e-invoice schema and then upload these invoice details in Form GST INV-01 to IRP and get the unique reference number, known as IRN. It is clarified again that the **e-invoice does not mean preparation or generation of tax payer’s invoice on Government portal**. It is only intimating the Government portal that invoice has been issued to the buyer, by registering that invoice on the Government portal.

The IRP will act as the central registrar for e-invoicing and its authentication. IRP will validate the key details of the invoice, checks for any duplication and generates an invoice reference number (IRN), *digitally signs the invoice* and creates a QR code in output JSON for the supplier. On the other hand, the seller of the supply will get intimated of the e-invoice generation through email (if provided in the invoice). An e-invoice will be valid only if it has IRN. By digitally signing the invoice, the Government authenticates the genuineness of the invoice submitted/registered by the supplier.

IRP will send the authenticated payload to GST portal for GST returns. Additionally, details will be forwarded to the e-way bill portal, if applicable. ANX-1 of seller and ANX-2 of the buyer will get auto-filled for the relevant tax period.

The basic aim behind adoption of e-invoice system is to reduce the submission of multiple statements and details by the tax payers and help the purchaser to get the input tax credit easily.

While the word ‘invoice’ is used in the nomenclature ‘e-invoice’ it covers other documents like the following, that will be required to be reported to e-invoice system by the creator of the document:

- Business to business invoice
- Business to Government invoices
- Export invoices
- Reverse charged invoices
- Credit notes
- Debit notes

It may be noted that presently the business to consumer (B2C) invoices are not allowed for e-invoice/ IRN generation.

***Pre-requisite for generation of e-invoice***

The pre-requisite for generation of e-invoice is that the person who generates e-invoice should be a registered person on GST portal and e-invoice system or e-way bill system. Documents such as tax invoice or bill of sale or debit note or credit note must be available with the person who is generating the e-invoice. If a user is generating bulk invoices, then he/she should have a valid JSON file as per the e-invoice schema to upload on the e-invoice system

The Government has issued the following notifications with respect to e-invoicing:

- 1) Notification Nos. 68/2019-CT to 70/2019-CT all dated 13.12.2019
- 2) Notification No.13/2020-CT dated 21.03.2020
- 3) Notification No. 61/2020-CT, dated. 30.07.2020
- 4) Notification No. 73/2020-CT dated 01.10.2020
- 5) Notification No. 88/2020-CT dated 10.11.2020
- 6) Notification No. 05/2021-CT dated 08.03.2021
- 7) Notification No.23/2021-CT dated 01.06.2021

These notifications are discussed in detail in the ensuing paragraphs.

*Notification. No. 68/2019-CT dated 13.12.2019* has been issued to insert sub-rules (4), (5) & (6) in Rule 48 of CGST Rules, 2017 regarding issuance of e-invoice containing the particulars mentioned in Form GST INV-01 w.e.f 13<sup>th</sup> December, 2019

Rule 48(4) read with *Notification. No. 70/2019-CT dated 13.12.2019* states that effective from 1.4.2020 an e-invoice shall be prepared by such class of registered persons whose aggregate turnover in a financial year exceeds 100 crores rupees in respect of supply of goods or services or both to a registered person. The time limit has been extended to 01.10.2020 vide *Notification No.13/2020-CT dated 21.03.2020* and the *aggregate turnover threshold limit has been increased to INR 500 Crores* vide *Notification. No. 61/2020 – CT dated 30<sup>th</sup> July 2020*. Further, vide *Notification, No. 73/2020 dated 1<sup>st</sup> Oct 2020*, the applicable taxpayers have been given special procedure with a grace period of 30 days for generating an invoice reference number (IRN). However, this grace period was valid for the invoices issued between 1<sup>st</sup> October 2020 and 31<sup>st</sup> October 2020 and not relevant any further.

E-invoicing has been implemented in the following staggered manner based on the aggregate turnover threshold:

| S. No. | Aggregate turnover exceeding INR | Effective date | Notification reference   |
|--------|----------------------------------|----------------|--|
| 1.     | 500 Crores                       | 01.10.2020     | Notification No.13/2020-CT dated 21.03.2020 and<br>Notification No. 61/2020-CT dated. 30.07.2020 |
| 2      | 100 Crores                       | 01.01.2021     | Notification No. 88/2020-CT dated 10.11.2020   |
| 3      | 50 Crores                        | 01.04.2021     | Notification No. 05/2021-CT dated 08.03.2021   |

Following persons have been excluded from the requirement of issuing e-invoice:

1. Registered persons referred to in sub-rules (2), (3), (4) and (4A) of rule 54 (*Notification No.13/2020-CT dated 21.03.2020*)
  - Rule 54(2): Insurer or a banking company or a financial institution, including a non-banking financial company.
  - Rule 54(3): Goods transport agency (GTA)
  - Rule 54(4): Passenger transportation service provider.
  - Rule 54(4A): Multiplex theatres
2. A Special Economic Zone unit (*Notification No. 61/2020-CT, dated. 30.07.2020*)
3. A Government department, / local authority (*Notification No.23/2021-CT dated 01.06.2021*)

As per rule 48(4), e-invoice shall be prepared including such particulars contained in Form GST INV-01 after obtaining an invoice reference number by uploading information contained therein on the Common Goods and Services Tax Electronic Portal.

Rule 48(5) provides that if a registered person with aggregate turnover exceeding ₹ 100 crores in a financial year issues any invoice other an e-invoice, then such invoice shall not be treated an invoice.

Rule 48(6) provides that the provisions of rules 48(1) and 48(2) i.e., preparation of invoice in triplicate in case of goods and in duplicate in case of services, shall not apply to an e-invoice.

### **Form GST INV-01**

GST INV-01 is with respect to generation of invoice reference number. Sub-rule (2) of rule 138A<sup>41</sup> of the CGST Rules states: 'In case, invoice is issued in the manner prescribed under

<sup>41</sup> Substituted vide *Notification No. 72/2020-CT dt. 30.09.2020*

sub-rule (4) of rule 48, the quick response (QR) code having an embedded invoice reference number (IRN) in it, may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice'.

In Form GST INV-01, earlier a reference to rule 138A was given. However, the Central Goods and Services Tax (Amendment) Rules, 2020 brought into force vide Notification No. 02/2020-CT dated 1.1.2020 substituted Form GST INV-01. In the substituted form, reference to rule 138A has been replaced with reference to rule 48 and technical field name, small description, mandatory or optional, technical field specification like max. length, drop down etc. with sample value and explanatory note of the field have been provided.

**Notification. No. 69/2019-CT dated 13.12.2019 [Effective from 1.1.2020]**

The Central Government, on the recommendations of the Council, has notified the following as the Common Goods and Services Tax Electronic Portal for the purpose of preparation of the e-invoice:

- (i) [www.einvoice1.gst.gov.in](http://www.einvoice1.gst.gov.in)
- (ii) [www.einvoice2.gst.gov.in](http://www.einvoice2.gst.gov.in)
- (iii) [www.einvoice3.gst.gov.in](http://www.einvoice3.gst.gov.in)
- (iv) [www.einvoice4.gst.gov.in](http://www.einvoice4.gst.gov.in)
- (v) [www.einvoice5.gst.gov.in](http://www.einvoice5.gst.gov.in)
- (vi) [www.einvoice6.gst.gov.in](http://www.einvoice6.gst.gov.in)
- (vii) [www.einvoice7.gst.gov.in](http://www.einvoice7.gst.gov.in)
- (viii) [www.einvoice8.gst.gov.in](http://www.einvoice8.gst.gov.in)
- (ix) [www.einvoice9.gst.gov.in](http://www.einvoice9.gst.gov.in)
- (x) [www.einvoice10.gst.gov.in](http://www.einvoice10.gst.gov.in)

*Explanation.*-For the purposes of this notification, the above mentioned websites mean the websites managed by the Goods and Services Tax Network, a company incorporated under the provisions of section 8 of the Companies Act, 2013 (18 of 2013).

**Signature or digital signature not required on an e-invoice:**

Clause (q) of rule 46 requires that a tax invoice should contain the signature or digital signature of the supplier or his authorised representative. However, <sup>42</sup>[ the Fifth proviso to rule 46 states that the signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of an electronic invoice in accordance with the provisions of the Information Technology Act, 2000 (21 of 2000).]

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<sup>42</sup> Inserted vide *Notf No. 74/2018 – CT dt. 31-12-2018*

**Circular clarifications**

*Circular No. 160/16/2021-GST dated 20<sup>th</sup> September, 2021* – Clarification on carrying physical copy of invoice under rule 48(4)

*Issue:* Whether carrying physical copy of invoice is compulsory during movement of goods in cases where the suppliers have issued invoices in the manner prescribed under rule 48 (4) of the CGST Rules, 2017 (i.e. in cases of e-invoice).

*Clarification :*

1. Rule 138A (1) of the CGST Rules, 2017 *inter-alia*, provides that the person in charge of a conveyance shall carry— (a) the invoice or bill of supply or delivery challan, as the case may be; and (b) a copy of the e-way bill or the e-way bill number, either physically or mapped to a radio frequency identification device embedded on to the conveyance in such manner as may be notified by the Commissioner.
2. Further, rule 138A (2) of CGST Rules, after being amended vide Notification No. 72/2020-Central Tax dated 30.09.2020, states: “In case, invoice is issued in the manner prescribed under sub-rule (4) of rule 48, the quick reference (QR) code having an embedded invoice reference number (IRN) in it, may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice”
3. A conjoint reading of rules 138A (1) and 138A (2) of CGST Rules, 2017 clearly indicates that there is no requirement to carry the physical copy of tax invoice in cases where e-invoice has been generated by the supplier. After amendment, revised rule 138A (2) states in unambiguous words that whenever an e-invoice has been generated, the quick reference (QR) code, having an embedded invoice reference number (IRN) in it, may be produced electronically for verification by the proper officer in *lieu* of the physical copy of such tax invoice.

Accordingly, it is clarified that there is no need to carry the physical copy of tax invoice in cases where the invoice has been generated by the supplier in the manner prescribed under rule 48(4) of the CGST Rules and production of the quick response (QR) code having an embedded invoice reference number (IRN) electronically, for verification by the proper officer, would suffice.

**Quick Response (QR) Code**

Government has added Sixth proviso to rule 46 vide *Notification No. 31/2019 –CT dt. 28.06.2019* which states that the tax invoice shall have quick response (QR) code subject to such conditions and restrictions as mentioned therein. This proviso has been made effective from 1.4.2020 vide *Notification No. 71/2019-CT dated 13.12.2019*. and vide *Notification No. 72/2019-CT dated 13.12.2019* [effective from 1.4.2020, but deferred to 01.10.2020], it has been notified that an invoice issued by a registered person to an unregistered person (hereinafter referred to as B2C invoice), shall have quick response (QR) code if his aggregate turnover in a financial year exceeds 500 crores rupees.

The proviso to the said notification states that where such registered person makes a dynamic quick response (QR) code available to the recipient through a digital display, such B2C invoice issued by such registered person containing cross-reference of the payment using a dynamic quick response (QR) code, shall be deemed to be having QR code.

The above notification has been superseded by *Notification No. 14/2020-CT dated 21.03.2020* (effective from 1.10.2020) whereby the Government has made it mandatory that the invoice to be issued as such shall have a dynamic quick response (QR) code **except** in the following cases:

1. Invoice issued under sub-rules (2), (3), (4) and (4A) of rule 54 -
  - a. Rule 54(2): Issue of consolidated tax invoice or any other document in *lieu* thereof by an insurer or a banking company or a financial institution, including a non-banking financial company.
  - b. Rule 54(3): Issue of tax invoice or any other document in *lieu* thereof by a goods transport agency (GTA)
  - c. Rule 54(4): Issue of tax invoice including ticket in any form, by whatever name called, by a passenger transportation service provider.
  - d. Rule 54(4A): Issue of an electronic ticket by multiplexes
2. Invoice issued by a registered person referred to in section 14 of the IGST Act.

Section 14 of the IGST Act refers to special provision for payment of tax by a supplier of online information and database access or retrieval services.

The said *Notification No. 14/2020-CT dated 21<sup>st</sup> March, 2020* has been amended vide *Notification No. 71/2020 – Central Tax dated 30<sup>th</sup> September 2020* to extend the date of implementation of the dynamic QR code for B2C invoices till 01.12.2020 instead of 01.10.2020. Also, the same *Notification No. 71/2020* provides clarity on the threshold that QR code is applicable if the aggregate turnover exceeds INR 500 crores in *any preceding financial year from 2017-18 onwards*.

#### **Penalty for non-compliance and Waiver of the same**

Non-generation of dynamic QR codes for invoices issued by a registered person to unregistered persons with effect from 1<sup>st</sup> October 2021 by companies having an annual turnover in excess of ₹500 Crores could now attract penalty of ₹ 50,000 under section 125 of CGST Act, 2017. However, vide *Notification No. 89/2020 – Central Tax dated 29<sup>th</sup> November, 2020*, the Government has waived such penalty for non-compliance between the period from 01.12.2020 and 31.03.2021, subject to the condition that the said person complies with the provisions of the said notification from the 01st April, 2021. Such waiver of penalty was further extended until 30<sup>th</sup> June 2021 subject to compliance from 1<sup>st</sup> July 2021.



However, in supersession of such conditional waiver of penalty, *Notification No. 28/2021 – Central Tax dated 30<sup>th</sup> June, 2021* was issued to grant waiver of penalty for the period from 01.12.2020 to 30.09.2021 *unconditionally* (without attaching any condition towards subsequent compliance). Accordingly, any non-compliances of QR code would attract general penalty of ₹ 50,000 with effect from 1<sup>st</sup> Oct 2021.

### **Meaning of QR Code**

A QR code (short for "quick response" code) is a type of barcode that contains a matrix of dots. It can be scanned using a QR scanner or a smartphone with built-in camera. Once scanned, the software on the device converts the dots within the code into numbers or a string of characters. For example, scanning a QR code with your phone might open a URL in your phone's web browser. [Source: [https://techterms.com/definition/qr\\_code](https://techterms.com/definition/qr_code)]

QR code for the URL of the English Wikipedia Mobile main page.



A QR code consists of black squares arranged in a square grid on a white background which can be read by an imaging device such as a camera. QR codes are used over a much wider range of applications. These include commercial tracking, entertainment and transport ticketing, product and loyalty marketing, in-store product labeling etc.

### **Dynamic QR code**

A dynamic QR code is a type of QR code that is editable, as opposed to a static QR code which is not editable. Dynamic QR codes also allow for additional features like scan analytics, password protection, device-based redirection and access management.

### **Static vs. Dynamic QR Code:**

- *Static QR Code:* The actual destination website URL is placed directly into the QR code and it can't be modified.
- *Dynamic QR Code:* A short URL is placed into the QR code which then transparently re-directs the user to the intended destination website URL; with short URL redirection destination URL is able to be changed after the QR code has been created.

**Circulars providing clarifications on QR code**

A. *Circular No. 146/02/2021-GST dated 23<sup>rd</sup> February 2021*-Clarification in respect of applicability of Dynamic QR code on B2C invoices and compliance of *Notification No. 14/2020-CT dt. 21<sup>st</sup> March, 2020*

1. *Issue 1:* To which invoice is Notification No 14/2020- Central Tax dated 21<sup>st</sup> March, 2020 applicable? Would this requirement be applicable on invoices issued for supplies made for exports?

*Clarification 1:* This notification is applicable to a tax invoice issued to an unregistered person by a registered person (B2C invoice) whose annual aggregate turnover exceeds 500 Cr rupees in any of the financial years from 2017-18 onwards. However, the said notification is not applicable to an invoice issued in following cases:

- I. Where the supplier of taxable service is:
  - a) an insurer or a banking company or a financial institution, including a non-banking financial company;
  - b) a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage;
  - c) supplying passenger transportation service;
  - d) supplying services by way of admission to exhibition of cinematograph in films in multiplex screens
- II. OIDAR supplies made by any registered person, who has obtained registration under section 14 of the IGST Act 2017, to an unregistered person.

As regards the supplies made for exports, though such supplies are made by a registered person to an unregistered person, as e-invoices are required to be issued in respect of supplies for exports in terms of *Notification No. 13/2020-Central Tax, dated 21<sup>st</sup> March, 2020* treating them as business to business (B2B) supplies, *Notification No. 14/2020- Central Tax, dated 21<sup>st</sup> March, 2020* will not be applicable to them.

2. *Issue 2:* What parameters/ details are required to be captured in the quick response (QR) code?

*Clarification 2:* Dynamic QR code, in terms of Notification No. 14/2020-Central Tax, dated 21<sup>st</sup> March, 2020 is required, *inter-alia*, to contain the following information:

- I. Supplier GSTIN number
- II. Supplier UPI ID
- III. Payee's bank A/C number and IFSC
- IV. Invoice number & invoice date,

- V. Total invoice value and vi. GST amount along with breakup i.e. CGST, SGST, IGST, CESS, etc.

Further, dynamic QR code should be such that it can be scanned to make a digital payment.

3. *Issue 3:* If a supplier provides/ displays dynamic QR code, but the customer opts to make payment without using dynamic QR code, then will cross reference of such payment, made without use of dynamic QR code, on the invoice, be considered as compliance of dynamic QR code on the invoice?

*Clarification 3:* If the supplier has issued invoice having dynamic QR code for payment, the said invoice shall be deemed to have complied with dynamic QR code requirements. In cases where the supplier, has digitally displayed the dynamic QR code and the customer pays for the invoice: -

- I. using any mode like UPI, credit/ debit card or online banking or cash or combination of various modes of payment, with or without using dynamic QR code, and the supplier provides a cross reference of the payment (transaction id along with date, time and amount of payment, mode of payment like UPI, credit card, debit card, online banking etc.) on the invoice ; or
- II. in cash, without using dynamic QR code and the supplier provides a cross reference of the amount paid in cash , along with date of such payment on the invoice;

the said invoice shall be deemed to have complied with the requirement of having dynamic QR code.

4. *Issue 4:* If the supplier makes available to customers an electronic mode of payment like UPI Collect, UPI Intent or similar other modes of payment, through mobile applications or computer-based applications, where though dynamic QR code is not displayed, but the details of merchant as well as transaction are displayed/ captured otherwise, how can the requirement of dynamic QR code as per this notification be complied with?

*Clarification 4:* In such cases, if the cross reference of the payment made using such electronic modes of payment is made on the invoice, the invoice shall be deemed to comply with the requirement of dynamic QR code. However, if payment is made after generation / issuance of invoice, the supplier shall provide dynamic QR code on the invoice.

5. *Issue 5:* Is generation/ printing of dynamic QR code on B2C invoices mandatory for pre- paid invoices i.e. where payment has been made before issuance of the invoice?

*Clarification 5:* If cross reference of the payment received either through electronic mode or through cash or combination thereof is made on the invoice, then the invoice would be deemed to have complied with the requirement of dynamic QR code. In

cases where payment is made after generation / issuance of invoice, the supplier shall provide dynamic QR code on the invoice.

6. *Issue 6:* Once the e-commerce operator (ECO) or the online application has complied with the dynamic QR code requirements, will the suppliers using such e-commerce portal or application for supplies still be required to comply with the requirement of dynamic QR code?

*Clarification 6:* The provisions of the notification shall apply to each supplier/registered person separately if such person is liable to issue invoices with dynamic QR code for B2C supplies as per the said notification. In case, the supplier is making supply through the e-commerce portal or application and the said supplier gives cross references of the payment received in respect of the said supply on the invoice, then such invoices would be deemed to have complied with the requirements of dynamic QR code. In cases where payment is made after generation / issuance of invoice, the supplier shall provide dynamic QR code on the invoice.

- B. *Circular No. 156/12/2021-GST dated 21<sup>st</sup> June 2021 - Circular No. 146/2/2021-GST, dated 23.02.2021 stands modified to this extent.*

1. *Issue 1:* Whether dynamic QR code is to be provided on an invoice, issued to a person, who has obtained a unique identity number as per the provisions of sub-section 9 of section 25 of CGST Act 2017?

*Clarification 1:* Any person, who has obtained a unique identity number (UIN) as per the provisions of sub-section 9 of section 25 of CGST Act 2017, is not a “registered person” as per the definition of “registered person” provided in section 2(94) of the CGST Act 2017. Therefore, any invoice, issued to such person having a UIN, shall be considered as invoice issued for a B2C supply and shall be required to comply with the requirement of dynamic QR code.

2. *Issue 2:* UPI ID is linked to the bank account of the payee/ person collecting money. Whether bank account and IFSC details also need to be provided separately in the dynamic QR code along with UPI ID?

*Clarification 2:* Given that UPI ID is linked to a specific bank account of the payee/ person collecting money, separate details of bank account and IFSC may not be provided in the dynamic QR code.

3. *Issue 3:* In cases where the payment is collected by some person other than the supplier (ECO or any other person authorized by the supplier on his/ her behalf), whether in such cases, in place of UPI ID of the supplier, the UPI ID of such person, who is authorized to collect the payment on behalf of the supplier, may be provided?

*Clarification 3:* Yes. In such cases where the payment is collected by some person, authorized by the supplier on his/ her behalf, the UPI ID of such person may be provided in the dynamic QR code, instead of UPI ID of the supplier.

4. *Issue 4:* In cases, where the receiver of services is located outside India, and payment is being received by the supplier of services in foreign exchange, through RBI approved modes of payment, but as per provisions of the IGST Act 2017, the place of supply of such services is in India, then such supply of services is not considered as export of services as per the IGST Act 2017; whether in such cases, the dynamic QR code is required on the invoice issued, for such supply of services, to such recipient located outside India?

*Clarification 4:* No. Wherever an invoice is issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of IGST Act 2017 and the payment is received by the supplier in foreign currency, through RBI approved mediums, such invoice may be issued without having a dynamic QR code, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier.

5. *Query 5:* In some instances of retail sales over the counter, the payment from the customer is received on the payment counter by displaying dynamic QR code on digital display, whereas the invoice, along with invoice number, is generated on the processing system being used by supplier/ merchant after receiving the payment. In such cases, it may not be possible for the merchant/ supplier to provide details of invoice number in the dynamic QR code displayed to the customer on payment counter. However, each transaction i.e. receipt of payment from a customer is having a unique order ID/ sales reference number, which is linked with the invoice for the said transaction. Whether in such cases, the order ID/ reference number of such transaction can be provided in the dynamic QR code displayed digitally, instead of invoice number.

*Clarification 5:* In such cases, where the invoice number is not available at the time of digital display of dynamic QR code in case of over the counter sales and the invoice number and invoices are generated after receipt of payment, the unique order ID/ unique sales reference number, which is uniquely linked to the invoice issued for the said transaction, may be provided in the dynamic QR code for digital display, as long as the details of such unique order ID/ sales reference number linkage with the invoice are available on the processing system of the merchant/ supplier and the cross reference of such payment along with unique order ID/ sales reference number are also provided on the invoice.

6. *Query 6:* When part-payment has already been received by the merchant/ supplier, either in advance or by adjustment (e.g. using a voucher, discount coupon etc), before the dynamic QR Code is generated, what amount should be provided in the dynamic QR code for "invoice value"?

*Clarification 6:* The purpose of dynamic QR Code is to enable the recipient/ customer to scan and pay the amount to be paid to the merchant/ supplier in respect of the said supply. When part-payment for any supply has already been received from the customer/ recipient, in form of either advance or adjustment through voucher/ discount coupon etc., then the dynamic QR code may provide only the remaining amount payable by the customer/ recipient against “invoice value”. The details of total invoice value, along with details/ cross reference of the part payment/ advance/ adjustment done, and the remaining amount to be paid, should be provided on the invoice.

- C. *Circular No. 160/16/2021-GST dated 20<sup>th</sup> September, 2021* – Clarification on carrying physical copy of invoice under Rule 48(4)

*Issue 2:* Whether carrying physical copy of invoice is compulsory during movement of goods in cases where the suppliers have issued invoices in the manner prescribed under rule 48 (4) of the CGST Rules, 2017 (i.e., in cases of e-invoice).

*Clarification 2:* It is clarified that there is no need to carry the physical copy of tax invoice in cases where invoice has been generated by the supplier in the manner prescribed under rule 48(4) of the CGST Rules and production of the quick response (QR) code having an embedded invoice reference number (IRN) electronically, for verification by the proper officer, would suffice.

### Statutory Provisions

#### **32. Prohibition of unauthorised collection of tax**

- (1) *A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this Act.*
- (2) *No registered person shall collect tax except in accordance with the provisions of this Act or the Rules made thereunder.*

#### **32.1 Analysis**

Collection of tax is not a statutory right but a contractual remedy. Right to collect tax must flow from the contract. If the contract is silent, the customer is under no obligation to pay tax to the supplier. However, the Government will demand payment of tax from the supplier being the ‘taxable person’ mentioned in section 9(1). Reference may be made to the decision in the case of *Chotabhai Jethabhai & Co., v. UOI, AIR 1962 (SC) 1006* where this principle has been well laid down. As such, no recipient is obliged by law to reimburse the supplier taxes due on the supply except by contract. At the same time, every taxable person (in case of forward charge) remains liable to deposit the applicable tax to the Government.

This provision casts an obligation on each unregistered person and registered person with regard to collection of tax on supply as under -

- unregistered person is not to collect any amount ‘by way of’ tax

- registered person is to collect tax only in accordance with the provisions of the Act and the Rules

It is important to differentiate between the restriction placed by this provision and the contractual route necessary to recoup tax by the supplier. Only the tax that is collected as CGST or IGST or SGST/UTGST is to be paid to the Government. Any other loss, recoupment of input tax credit 'foregone or forfeited' does not fall within this restriction.

A question that arises for consideration is, if taxes that are not applicable are collected by the taxable person from his customer, whether such amounts (purported to be tax) are to be paid to the Government and will it be lawful for the Government to retain such amounts knowing that it is not 'tax'. Reference may be made to the decision in *RS Joshi, STO, Gujarat v. Ajit Mills & Anr. (1977) 40 STC 497 (SC)* where it was first laid down that the law that is applicable to the taxpayer is the same law that is applicable to the tax administrator. And if tax is not lawfully leviable, then the same is not lawfully collectible by the Government. That is, if tax levied is not lawful, its collection cannot be any more lawful. This was derived from Articles 265 and 300A of our Constitution. It is to overcome this jurisprudence that Parliament has enacted a provision like section 32 that first places this embargo on the taxpayers from collecting any amount that is not lawfully leviable as tax, from customers. Then in *Mafatlal Industries Ltd & Ords v. UOI & Ors. (1997) 89 ELT 247 (SC)*, it was laid down that where it comes to choose between the State (Government) and the subject (taxpayer) to retain unlawful collection of (inapplicable) taxes, the SC voted in favour of the State to retain such amounts as it would ultimately be utilized for the benefits of citizens and the State (Government) is in the position of *parens patriae* and the concept of unjust enrichment against the State does not apply.

Section 32 provides for unauthorised collection of tax but if the same has been collected and not paid to the Government, then section 76 provides that notwithstanding anything to the contrary contained in any order or direction of any Appellate Authority or Appellate Tribunal or court or in any other provisions of this Act or the rules made thereunder or any other law for the time being in force, such amount shall forthwith be paid to the Government, irrespective of whether the supplies in respect of which such amount was collected are taxable or not. Further, such person shall also be liable to pay interest and penalty thereon.

Unregistered person should first create an user ID and then a challan using that user ID for making payment.

Steps to create user ID:

- Go to <https://www.gst.gov.in>
- Click on Services>User Services>generate user ID for unregistered applicant
- Follow the steps mentioned therein.

Steps to create challan for making payment:

- Go to <https://www.gst.gov.in>

- Click Services > Payment > Create Challan.
- Follow the steps mentioned therein.

**Section 76(11)** further provides that the person who has borne the incidence of the amount, may apply for the refund of the same in accordance with the provisions of section 54.

### Statutory Provisions

#### **33. Amount of tax to be indicated in tax invoice and other documents.**

*Notwithstanding anything contained in this Act or any other law for the time being in force, where any supply is made for a consideration, every person who is liable to pay tax for such supply shall prominently indicate in all documents relating to assessment, tax invoice and other like documents, the amount of tax which shall form part of the price at which such supply is made.*

#### **33.1 Analysis**

With the *non-obstante* clause, this provision secures preference over any other provision to the contrary, whether in this Act or elsewhere. It states that in all documents, tax amount which shall form part of the price of supply, shall prominently be indicated.

This provision therefore holds the price charged to be the 'cum tax' price of the supply. Tax included in the price is that *actually assessed* on the supply.

It means that if the supply price is ₹1000/- which is inclusive of tax then every document must state that "the price of ₹1000 includes – say IGST of ₹180/- or alternatively say supply price is ₹ 820 and IGST ₹180 total ₹1000.

The GST law presupposes the fact that the tax, even, if not charged is deemed to have been passed on to the recipient unless proved contrary. If 'tax is charged' then the same is to be indicated on the tax invoice as is also required under rule 46(m). As a result, any claim of 'cum tax' computation when demands are being raised, will *not* be supported if tax invoice does not contain the amount of tax. Unlike in earlier tax regime, where it was held in *CCE, New Delhi v. Maruti Udyog Ltd. (2002) 141 ELT 3* that total price charged is presumed to include any duty that is collectable and 'back working' must be allowed to arrive at 'net duty'. GST law seems to disturb this principle by making an express provision in section 33 that the amount that is purported to be tax must appear explicitly on the tax invoice. As a result, if tax is *not* indicated on the tax invoice, then the entire amount indicated on the tax invoice will be treated to be 'ex tax' as a complete departure from *Maruti's* decision (cited above). In this context, it is important to refer rule 35 which states that where value of supply is inclusive of integrated tax, or as the case may, Central tax, State tax, Union Territory tax, the tax amount shall be determined by reverse calculation;

Where the price charged is 'cum tax' price of the supply, then the tax amount should be arrived at as per rule 35 and such tax amount should be indicated in the tax invoice [as also required under rule 46(m)] and other documents as envisaged under this section.



In case goods marked with “MRP” are sold at such MRP itself, then would it mean that (i) if tax is applicable on outward supply, then such tax amount is also included in the MRP amount and sales at MRP tantamount to the amount of output tax being collected from customer or (ii) sale at MRP only means, tax on outward supply is to the account of seller and *not* collected from customer. Experts are of the view that courts will be busy answering these questions in the case of MRP articles sold ‘at MRP’ (without mentioning tax amount in tax invoice) due to the departure from the principle in *Maruti’s* decision that seems visible in GST law. Reference may also be made to the implications of exempt supplies and suppliers under composition selling “MRP goods at MRP” and their potential disqualification under section 10(2).

### Statutory Provisions

#### 34. Credit and debit notes

- (1) <sup>43</sup>*[Where one or more tax invoices have] been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient* <sup>44</sup>*[one or more credit notes for supplies made in a financial year] containing such particulars as may be prescribed.*
- (2) *Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:*
- Provided that no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.*
- (3) <sup>45</sup>*[Where one or more tax invoices have] been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient* <sup>46</sup>*[one or more debit notes for supplies made in a financial year] containing such particulars as may be prescribed.*

<sup>43</sup> Substituted *vide Central Goods and Services Tax (Amendment) Act, 2018* w.e.f. 01.02.2019. Earlier it read as "Where a tax invoice has"

<sup>44</sup> Substituted *vide Central Goods and Services Tax (Amendment) Act, 2018* w.e.f. 01.02.2019. Earlier it read as "a credit note"

<sup>45</sup> Substituted *vide Central Goods and Services Tax (Amendment) Act, 2018* w.e.f. 01.02.2019. Earlier it read as "Where a tax invoice has"

<sup>46</sup> Substituted *vide Central Goods and Services Tax (Amendment) Act, 2018* w.e.f. 01.02.2019. Earlier it read as "a debit note"

(4) Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued and the tax liability shall be adjusted in such manner as may be prescribed.

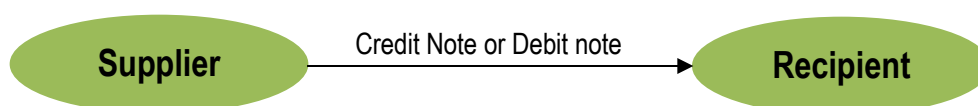
*Explanation: For the purposes of this Act, the expression "debit note" shall include a supplementary invoice.*

#### Related provisions of the Statute

| Section or Rule | Description  |
|-----------------|--|
| Section 2(37)   | Definition of Credit note  |
| Section 2(38)   | Definition of Debit note   |
| Rule 53         | Revised tax invoice and credit or debit notes  |
| Section 15      | Value of taxable supply  |
| Section 31      | Tax invoice  |
| Section 74      | Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful misstatement or suppression of facts. |
| Section 129     | Detention, seizure and release of goods and conveyances in transit.  |
| Section 130     | Confiscation of goods or conveyances and levy of penalty.  |

#### 34.1 Introduction

To begin with, one must fully unlearn the practices under the erstwhile law in order to clearly understand the concepts of credit note and debit note under the GST Law. A credit note or a debit note, for the purpose of the GST Law, can be issued by the registered person who has issued a tax invoice, i.e., the supplier. *Any such document, by whatever name called, when issued by the recipient to the registered supplier, is not a document recognized under the GST Law. Sections 34(1) & (2) of the Act deal with credit note and sections 34(3) & (4) deal with debit note.*



### 34.2 Analysis

- (i) Credit note and debit note cause some difficulty to quickly understand – who owes whom? Credit note is issued when the issuer ‘owes’ money to someone, that is, it is issued by the person who owes money. Debit note is issued when any money is ‘owed’ to the issuer, that is, it is again issued by the person who is the receiver of money.
- a. When a cash discount is allowed at the time of collecting payment from a customer in terms of an agreement entered into prior to the supply, then the supplier would issue a credit note to the customer to the extent of such cash discount, to declare that he ‘owes’ money. Then, the original amount due minus the credit note amount is the revised value of supply that the customer pays the supplier. To this extent, GST thereon would also stand reduced, subject to conditions which have been discussed in the subsequent paragraphs.
  - b. Now, if the supplier charges a penalty for delayed payment of consideration, the supplier would issue a debit note for the amount of penalty, to the customer to declare that money is ‘owed’ to the supplier. Then, the original amount due plus the debit note is the revised value of supply, that the customer pays the supplier. To this extent the GST thereon would also stand increased.
- (ii) The conditions applicable for the issue of credit note are listed below:
- a. The supplier may issue one or more credit notes for supplies made in a financial year through one or more tax invoices which have been issued by him earlier.
  - b. The credit notes so issued must be disclosed by the supplier in the return for the month in which they are issued. However, maximum time limit for making such declaration is the earlier of the following two:
    1. the date of furnishing of the annual return for the FY in which the original tax invoice was issued; or
    2. return for the month of September immediately succeeding the FY in which the original tax invoice was issued (i.e., for a tax invoice issued in April 2018, as well as a tax invoice issued in March 2019, the relevant credit notes cannot be issued after September 2019);
  - c. The recipient, on declaring the same, must claim a reduction in his input tax credit if the same had been availed against the original tax invoice.
  - d. A credit note cannot be issued if the incidence of tax and interest on such supply has been passed by him to any other person.
  - e. Every credit note must be linked to specific original tax invoice(s).
  - f. It is important to remember that there cannot be bunching of two financial years for issue of a credit note. Therefore for a tax invoice issued in March 2019 and another issued in June, 2019, a single credit note cannot be issued against both the invoices.

- g. In case of a credit note issued for a discount, the discount must be provided in terms of an agreement entered into before or at the time of supply, as provided in clause (i) of section 15(3) (b) of the Act.
  - h. The GST Law provides an exhaustive list of situations under which the registered supplier is entitled to issue a credit note saying, 'I OWE'. These situations are ::
    - 1. Actual value of supply is lower than that stated in the original tax invoice;
    - 2. Tax charged in the original tax invoice is higher than that applicable on the supply;
    - 3. Goods supplied are returned by the recipient;
    - 4. Goods or services supplied are deficient.
  - i. The credit note contains all the applicable particulars as specified in rule 53(1A) of the CGST Rules, 2017.
- (iii) The GST Law mandates that a registered supplier may issue one or more debit notes for supplies made in a financial year through one or more tax invoices issued by him earlier under the following circumstances:
- a. Actual value of supply is higher than that stated in the original tax invoice;
  - b. Tax charged in the original tax invoice is lower than that applicable on the supply;
  - c. The debit note needs to be linked to the original tax invoice(s);
  - d. The debit note contains all the applicable particulars as specified in rule 53(1A) of the CGST Rules, 2017;
  - e. A debit note issued under section 74, 129 or 130 would not entitle the recipient to avail credit in respect thereof as blocked through section 17(5)(i), and the supplier shall specify prominently, on such debit note the words "INPUT TAX CREDIT NOT ADMISSIBLE"; as provided in Rule 53(3).
  - f. It is important to remember here that unlike in the case of credit note, there is no time limit for declaration of the details of debit note in the return. As such, a debit note in relation to a supply made in a financial year can be issued any time. On the other hand, a credit note can be issued only till 30<sup>th</sup> September following the end of the financial year in which supply related to such credit note was made assuming annual return is filed after such date.
- (iv) Except in the circumstances specified, credit note or debit note is not permitted to be issued merely because a financial adjustment is required to be made in respect of the receivable or payable. It needs to be noted that any credit note / debit note not issued in terms of section 34 would not be a valid document under the GST Law. For instance, if a credit note has been issued in respect of goods returned after the due date for credit note, a credit note may be issued by the supplier for reduction in the amount payable by the recipient. However, he cannot declare such credit note in his return and claim a reduction

in tax liability. On the other hand, the recipient of tax may be impelled to reverse the input tax credit that had been availed thereon. This position of law is also clarified vide *Circular 72/46/2018 dated 26.10.18* (issued with respect to time expired drugs or medicines) wherein it is clarified that for claiming the reduction in output tax liability in case of return of goods (whether the goods have been expired or otherwise), the credit note should have been issued within the time limit specified under section 34(2). It is further clarified that any credit notes issued after expiry of the time limit specified under section 34(2), there is no requirement to declare such credit note on the common portal by the supplier as tax liability cannot be adjusted in such case.

- (v) Review the circumstance for issuing credit note. As per *Circular No. 72/46/2018 dated 26.10.2018*, there is no time limit to issue credit note but only for effecting 'tax adjustment'. Credit note where tax adjustment is not involved need not even be filed on the portal as per this circular. Further, on review of Tables 5E and 5J of GSTR 9C, it is evident that such credit notes will suffer tax without any relief to the recipient by way of tax adjustment.
- (vi) Credit note (and to lesser extent, debit note) under section 34 must be contrasted with financial credit note issued in trade. Above Circular No. 72 along with *Circular No. 92/11/2019-GST dated 7<sup>th</sup> Mar 2019* make it clear that (a) financial credits notes are extant practices in trade and (b) if tax adjustment is not made, then such credit notes are not to be reported in GSTR 1. It is important to recognize that credit notes (and even debit notes) are issued to record a bilateral agreement where treatment of credit note in issuer-suppliers' books (and GST records) must be mirrored in the recipient-customers' books (and GST records). It would be worrisome if issuer-supplier accounts the financial credit note as expenditure (in other words, an inward supply) but the recipient-customer accounts the same as reduction from cost of purchase. Experts caution against taking this issue lightly particularly when post-supply transactions are riddled with different interpretations of contractual understanding applied to GST. Another view was based on some interesting and fundamental contract law principles but was withdrawn *ab initio* through *Circular No. 112/31/2019-GST dated 3.10.2019* (by 37<sup>th</sup> GST Council decision) without stating whether those principles were not applicable to GST or the circular was erroneous due to certain reasons.
- (vii) Credit notes are also issued for accounting any unilateral treatment such as write-off of bad debts, etc., Therefore, care must be taken to identify whether the CN-DN (a) are to reflect a bilateral arrangement or unilateral arrangement (b) is harmoniously reflected in both parties' books (and GST records) or not (c) are a reflection of pre-supply understanding with a contingency or a post-supply understanding reached subsequently (d) is a traditional document issued when in fact a tax invoice (from the other party) ought to be issued and (e) is 'earned' by any activity by the recipient or is an 'entitlement' that is admitted subsequently. GST treatment will greatly vary based on the answers to these questions.

- (viii) Care must be taken to examine the 'time of supply' applicable to debit note as amount additionally claimed by supplier is not another supply but additional consideration towards original supply. To expect that additional consideration must enjoy a new time of supply would run counter to the only exception that can be found in section 12(6) / 13(6) where time of supply is shifted to 'realization date'. Although debit note is issued in *bona fide* cases, there is no provision in law that admits 'shifting' of time of supply specially for 'debit notes'. Refer related discussion in the context of 'special charges' in the Chapter on time of supply under section 12(6) relating to effect of issuance of debit note after a certain interval of time.

Support can also be found by comparison with section 19(3) where non-return of inputs by job-worker clearly attracts interest liability from the original date of dispatch of inputs as that is the date on which the non-returned inputs are 'deemed' to be supplied. On the other hand, non-return of goods sent on-approval under section 31(7) is 'treated' to be supplied on the date of expiry of six months. Therefore, any 'shifting' of time of supply (and hence implications on interest) has been expressly provided by law in a number of related provisions and when there is no express 'shifting' for debit notes, 'artificial shifting' seems to be a misadventure in interpretation of this law.

- (ix) CBIC Circular No. 137/07/2020-GST dated 13<sup>th</sup> April 2020 issued certain clarifications on advance receipt, cancellation of contract, credit notes, refund voucher, etc., which is relevant not only in the context of COVID19 economic slowdown, but also otherwise in the normal course of any business. Relevant extracts as below:

*Issue 1:* An advance is received by a supplier for a service contract which subsequently got cancelled. The supplier has issued the invoice before supply of service and paid the GST thereon. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?

*Clarification 1:* In case GST is paid by the supplier on advances received for a future event which got cancelled subsequently and for which invoice is issued before supply of service, the supplier is required to issue a "credit note" in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim.

However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under "Excess payment of tax, if any" through Form GST RFD-01.

*Issue 2:* An advance is received by a supplier for a service contract which got cancelled subsequently. The supplier has issued receipt voucher and paid the GST on such advance received. Whether he can claim refund of tax paid on advance or he is required to adjust his tax liability in his returns?

*Clarification 2:* In case GST is paid by the supplier on advances received for an event which got cancelled subsequently and for which no invoice has been issued in terms of section 31 (2) of the CGST Act, he is required to issue a “refund voucher” in terms of section 31 (3) (e) of the CGST Act read with rule 51 of the CGST Rules.

The taxpayer can apply for refund of GST paid on such advances by filing Form GST RFD-01 under the category “Refund of excess payment of tax”.

*Issue 3:* Goods supplied by a supplier under cover of a tax invoice are returned by the recipient. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?

*Clarification 3:* In such a case where the goods supplied by a supplier are returned by the recipient and where tax invoice had been issued, the supplier is required to issue a “credit note” in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim in such a case.

However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under “Excess payment of tax, if any” through FORM GST RFD-01.

### 34.3 Comparative review

- (i) Rule 9 of CENVAT Credit Rules, 2004 gives details of the documents and accounts which need to be mandatorily adhered to in order to avail the benefit of CENVAT Credit.
- (ii) As per this rule, CENVAT Credit can be availed based on: -
  - (a) an invoice, or
  - (b) supplementary invoice
- (iii) In the context of excise laws, though credit notes may be issued in situations where taxable value is reduced, typically, no adjustment is made for excise valuation purpose (except when the assessment is provisional). Instead of debit notes for increase in taxable value/tax, supplementary invoices are issued (this is a valid document for taking CENVAT credit). There is no time limit for issuance of credit/debit notes (supplementary invoice).
- (iv) In the context of service tax laws, credit notes may be issued in situations where taxable value is reduced. Adjustment of excess tax paid is permissible in specified situations. Instead of debit notes for increase in taxable value/tax, supplementary invoices are issued (this is a valid document for taking CENVAT credit). While the law stipulates the time limit for issuance of credit note (viz., end of September following the financial year in which the supply was effected or filing of annual return whichever is earlier), there is no time limit for that has been specified for issuance of debit notes (supplementary invoice).

However, credit availed on tax paid on supplementary invoices could be disputed in circumstances where additional tax was payable by reason of fraud, collusion, wilful mis-statement, suppression of facts, contravention of any of the provisions with intent to evade duty/taxes.

- (v) Most State VAT laws have provisions relating to issue of credit or debit notes for difference in value of supply and tax. A time period, usually 6 months from the date of sale, is prescribed for issuance of credit/debit notes for adjustment against taxable value. Some States provide that if the credit has already passed on in the original invoice, the tax component shall not be adjusted by issuance of credit note (this is because the buyer would have taken credit in such cases and the credit is left undisturbed).

#### 34.4 Issues and concerns

1. It is a common practice of trade and industry to issue volume discounts / turnover discounts, at the end of a certain period, say a financial year. Clearly, such discounts cannot be provided at the time of supply to reflect the same on the tax invoice. On the other hand, although the discount is a post-supply discount which is established in terms of an agreement entered into before or at the time of supply, the discount cannot be specifically linked to any one invoice. By virtue of this drawback, discounts of such nature would not permit the supplier to claim a reduction in his output tax liability. However, to redress this issue, the Central Goods and Services Tax (Amendment) Act, 2018 with effect from 1.2.2019 provides for the issuance of one or more credit notes or debit notes against multiple supplies in a financial year.
2. The GST Law has not provided a scenario whereby a supplier forgoes a certain part of consideration, in full and final settlement of the dues from a recipient, even where such a reduction can be identified with a specific invoice. In other words, the supplier would be required to issue a tax invoice for the agreed value and discharge tax on the whole value, while he collects only a part payment thereof from the recipient and would not be permitted to reduce his output tax liability, since the reduction is not on account of a deficiency in service / goods. Given this anomaly, a reasonable inference can be drawn to say that the reduction is on account of reduction in the value of supply, being the reduction in the amount of consideration received, wherein "price is in fact the sole consideration". The tax department in such a situation could – (a) resort to reverse the input tax credit on a pro-rata basis and (b) subject the value of the said credit note to output tax. It is also important to note that if the tax department resorts to such action, the recipient too would not be in a position to avail any credits of such tax paid at a later point in time. It will not be out of place to mention that the recipient, in any event, will be subject to reversal of input tax credit to the extent he does not affect payment to the supplier against the original invoice by virtue of the provisions of Section 16(2) of the CGST Act, 2017 however, experts believe that non-payment of invoice amount is not the same as accounting-adjustment of invoice amount by netting-off with financial or other credit notes.



**34.5 FAQs**

- Q1. Can credit notes/debit notes be raised without raising an appropriate tax invoice?
- Ans. No, credit notes/debit notes have to be raised with reference to specific invoice and not otherwise to get the benefit of tax adjustment.
- Q2. Is it mandatory to show the details of credit/debit notes in the periodic returns?
- Ans. Yes, the details of debit note and credit note are required to be mentioned in periodic returns. If not shown, they will not be considered for adjustment of tax liability.
- Q3. Are there any situations where credit note cannot be issued?
- Ans. Amongst others, a credit note cannot be issued if the incidence of tax and interest on such supply have been passed by the taxpayer to any other person.
- Q4. Can a supplier who has wrongly charged tax at 18% instead of 12% subsequently issue a credit note only to the extent of the excess tax charged?
- Ans. Yes, a credit note can be issued only towards the excess tax charged in an invoice.

**34.6 MCQs**

- Q1. What is the last date by which you need to issue credit note?
- (a) On or before Sept 30, following the end of the financial year
  - (b) The date of filing of the relevant annual return
  - (c) Earlier of the two dates mentioned in (a) and (b) above
  - (d) None of the above
- Ans. (c) Earlier of the two dates mentioned in (a) and (b) above
- Q2. What is the last date by which you need to issue debit note?
- (a) On or before Sept 30, following the end of financial year
  - (b) The date of filing of the relevant annual return
  - (c) Earlier of the two dates mentioned in (a) and (b) above
  - (d) None of the above
- Ans. (d) None of the above