

[CTRL + R]

Amendments to GST,
Customs & FTP

CA FINAL NOV 23 EXAMS

© THARUN RAJ

INDEX OF AMENDMENTS

Segment	Segment Name	Amendment Heading	Type of Amendment	Effective Date	Pg. No.
1	Introduction to GST	No Amendments in this segment			
2	Taxable Event under GST	1. Clarification on No Claim Bonus(NCB) on whether to consider as supply of service or not	Circular no 186/18/2022	27.12.2022	1
		2. Amendment in RCM for supplies provided by government to business entities which is now extended to COURTS AND TRIBUNALS	Notification No 02/2023	1.3.2023	2
3	Invoice and Time of Supply	3. Amendment in Rule 46 relating to mentioning of details of Receipt in Invoice	Notification No 26/2022	26.12.2022	3
		4. Amendment in Rule 46A relating to specifying particulars in Invoice-cum-Bill of supply	Notification No 26/2022	26.12.2022	4
		5. Clarification on Exemption relating to Mandatory Generation of e-invoices for the Entity as a whole	Circular no 186/18/2022	27.12.2022	5
4	Place of Supply	No Amendments in this segment			
5	Value of Supply	6. Clarification on No Claim Bonus(NCB) as to whether it should be allowed as deduction in value of supply	Circular no 186/18/2022	27.12.2022	6
		7. Clarification on applicability of GST on Incentive paid by CG to Acquiring Bank for Promotion of Ru pay Debit Cards and low value BHIM-UPI Transactions	Circular no 190/02/2023	13.01.2023	7
6	Input Tax Credit	8. Amendment with Retrospective effect on Sec 16(2) read with rule 37 relating to Reversal of ITC	Notification No 26/2022	01.10.2022	9
		9. Amendment in Rule 37A relating to Non payment of tax by supplier	Notification No 26/2022	26.12.2022	10
		10. Clarification on Availment of ITC when Place of supply is outside India	Circular no 184/16/2022	27.12.2022	11
7	Exemptions & Charge	11. Explanation has been given for services by way of renting of residential dwelling to a registered person	Notification No 15/2022	01.01.2023	13
		12. Entry 23A relating to service by way of access to a road or bridge on payment of annuity has been omitted	Notification No 15/2022	01.01.2023	13
		13. Amendment in Exemption relating to Entrance examination conducted by Educational Institution	Notification No 01/2023	01.03.2023	14

Segment	Segment Name	Amendment Heading	Type of Amendment	Effective Date	Pg. No.
		14. Clarification made on GST applicability on supply by air force mess or similar messes to its Personnel	Circular no 190/02/2022	13.01.2023	14
8	Composition Scheme	No Amendments in this segment			
9	Registration	15. Amendment in Section 25 read with rules 8,9,10B and 25 relating to Aadhaar Authentication	Notification no 26 and 27/2022 and Notification no 4 and 5/2022	26.12.2022	15
		16. Amendment in Rule 12(3) relating TDS/TCS registrant for cancellation of registration	Notification No 26/2022	26.12.2022	18
10	Payment Process	17. Rule 87(8) has been amended relating to Updation of Electronic cash ledger on the basis of e-scroll of RBI	Notification No 26/2022	26.12.2022	19
11	Returns	18. Rule 88C with Rule 59(6) has been amended relating to differential liability between GSTR 1 and GSTR 3B	Notification No 26/2022	26.12.2022	20
		19. Amendment in Section 47 relating to Late fees payable for Delayed filing of annual return(GSTR-9/GSTR-9B/9C	Notification No07/2023	31.03.2023	21
12	Accounts and Records	No Amendments in this segment			
13	Assessment and Audit	No Amendments in this segment			
14	Appeals and Revision	20. Amendment in Rule 108(3) and 109 relating to appeal filed against the order of Adjudicating Authority	Notification No 26/2022	26.12.2022	22
		21. New Rule 109C has been added for withdrawal of appeal application filed before the first Appellate Authority	Notification No 26/2022	26.12.2022	24
15	Search, Seizure and release of goods	No Amendments in this segment			
16	Offences, penalties and prosecution	No Amendments in this segment			
17	Advance Ruling	No Amendments in this segment			
18	Demand and Recovery	22. Clarification on Notices u/s 74(1) not sustainable	Circular No 185/17/2022	27.12.2022	28

Segment	Segment Name	Amendment Heading	Type of Amendment	Effective Date	Pg. No.
		23. Clarification on "Other Proceedings" u/s 84	Circular No 187/19/2022	27.12.2022	29
19	Refund under GST	24. Rule 89(2) has been amended relating to Refunds to Unregistered Person and relevant date for filing of refund	Notification No 26/2022 read with circular No 188/20/2022	27.12.2022	30
		25. Amendment in E-Way bill Generation for transporting imitation jewellery	Notification No 26/2022	26.12.2022	32
20	Mis. Provisions	26. Amendments in Anti-Profiteering	Notification No 23 & 24/2022	1.12.2022	32
21	Taxable event under customs	No Amendments in this segment			
22	Classification of goods	No Amendments in this segment			
23	Types of customs duties	No Amendments in this segment			
24	Valuation under Customs	Customs(Assistance in Value Declaration of Identified Imported Goods) Rules,2023 (CAVR 2023) notified	Notification No 03/2023 read with Circular No.01/2023	11.01.2023	34
25	Import and Export procedures	Amendment in Sec 51A relating to Electronic Cash Ledger(ECL)	Notification No 18/2023 and Notification No 19/2023 amending Notification No 19/2022 read with Circular No.09/2023	01.05.2023	36
26	Exemptions under Customs	No Amendments in this segment			
27	Assessment and Audit under customs	No Amendments in this segment			

Segment	Segment Name	Amendment Heading	Type of Amendment	Effective Date	Pg. No.
28	Duty Drawback	No Amendments in this segment			
29	Baggage	No Amendments in this segment			
30	Warehousing	No Amendments in this segment			
31	FTP				



Segment – 1

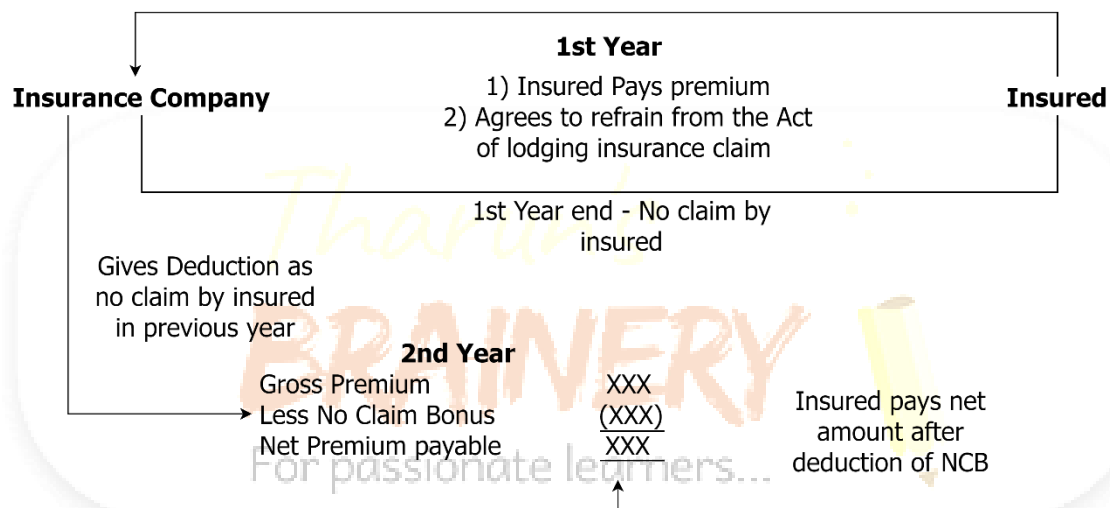
Introduction to GST

No Amendments in this Segment

Segment – 2

Taxable Event under GST

No supply of service by the insured to the insurance company in lieu of 'No Claim Bonus' offered by said insurance company to him - Circular No. 186/18/2022 GST dated 27.12.2022



Issue involved: whether the deduction on account of 'No Claim Bonus' (NCB) allowed by the insurance company from the insurance premium payable by the insured, can be considered as consideration for the supply provided by the insured to the insurance company, for agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s)?

As per practice prevailing in the insurance sector, the insurance companies deduct 'No Claim Bonus' from the gross insurance premium amount, when no claim is made by the insured person during the previous insurance period(s). The customer/ insured procures insurance policy to indemnify himself from any loss/ injury as per the terms of the policy and **is not under any contractual obligation not to claim insurance claim during any period covered under the policy, in lieu of NCB.**

It is, therefore, clarified that **there is no supply provided by the insured to the insurance company** in form of agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s) and **NCB cannot be considered as a consideration for any supply provided by the insured to the insurance company.**

Provisions of reverse charge mechanism (RCM) notification extended to the Courts and Tribunals also - Notification No. 02/2023 CT (R) dated 28.02.2023 and Notification No. 02/2023 IT (R) dated 27.02.2023

Notification No. 13/2017 CT (R) dated 28.06.2017 as amended has notified specified categories of supply of services wherein whole of the tax shall be paid on reverse charge basis by the recipient of services.

Clause (h) of explanation to this notification earlier provided that provisions of this notification, in so far as they apply to the Central Government and State Governments, shall also apply to the Parliament and State Legislatures. Thus, in case of notified services supplied by Central Government, State Governments, Parliament and State Legislatures, GST will be paid by the recipient.

This provision has now been extended to the Courts and Tribunals also in respect of taxable services supplied by them such as renting of premises to telecommunication companies for installation of towers, renting of chamber to lawyers, etc.

Note: Above amendment incorporated in IGST Act Notification No. 10/2017 IT(R) dated 28.06.2017 accordingly.

Service Provider	Service Recipient	Taxability	Person liable to pay GST
Central Government/State Government/Local Authority	Business entity	Covered under exemption (Specific exemptions/general exemptions)	N.A
Central Government/State Government/Local Authority	Business entity	Not covered under exemption i.e., TAXABLE	Business entity (RCM)
Parliament/State legislature	Business entity	Covered under exemption (Any entry in Notification No. 12/2017)	N.A
Parliament/State legislature	Business entity	Not covered under exemption i.e., TAXABLE	Business entity (RCM)
Courts/Tribunals	Business entity	Legal Services – Not a supply	N.A
Courts/Tribunals	Business entity	Other Services – Covered under Supply and covered under exemption (Any entry in Notification No. 12/2017)	N.A
Courts/Tribunals	Business entity	Other Services – Covered under Supply and not covered under exemption i.e., TAXABLE	Business entity

Segment – 3

Invoice & Time of Supply

Where taxable service supplied by/through ECO/supplier of OIDAR services to unregistered recipient, tax invoice to contain the name and address of the recipient, PIN code and the name of the State irrespective of value of supply - Notification No. 26/2022 CT dated 26.12.2022

Rule 46 prescribes the particulars that a tax invoice issued by a registered person should contain. It, inter alia, prescribes that:

- Where recipient is registered, tax invoice shall contain the name, address and GSTIN/UIN of the recipient [Clause (d)].
- Where the recipient is unregistered, tax invoice shall contain name and address of the recipient and the address of delivery, along with the name of the State and its code, only where the value of taxable supply \geq ₹ 50,000 [Clause (e)].
- In case where the value of taxable supply $<$ ₹ 50,000, invoice shall contain such details only when the recipient requests that such details be recorded in the tax invoice [Clause (f)].

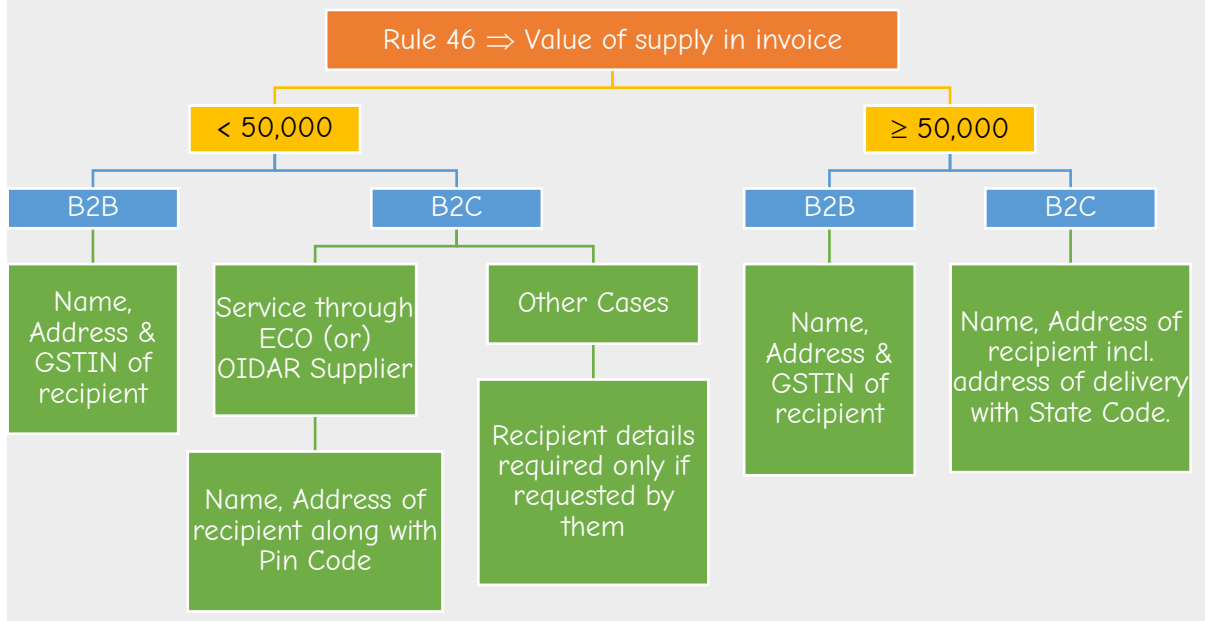
In case of supply of services to unregistered persons through online platforms in particular, recipients' addresses were not properly captured, which affected flow of revenue to the appropriate destination States.

Therefore, following proviso has been inserted to clause (f) of rule 46 to ensure mandatory recording of address of unregistered recipients of service along with the PIN code when the said services were provided through online platform by a registered person even if the value of taxable supply $<$ ₹ 50,000: For passionate learners...

“Where any taxable service is supplied by or through an electronic commerce operator or by a supplier of online information and database access or retrieval services to a recipient who is unregistered, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the name and address of the recipient along with its PIN code and the name of the State and the said address shall be deemed to be the address on record of the recipient.”

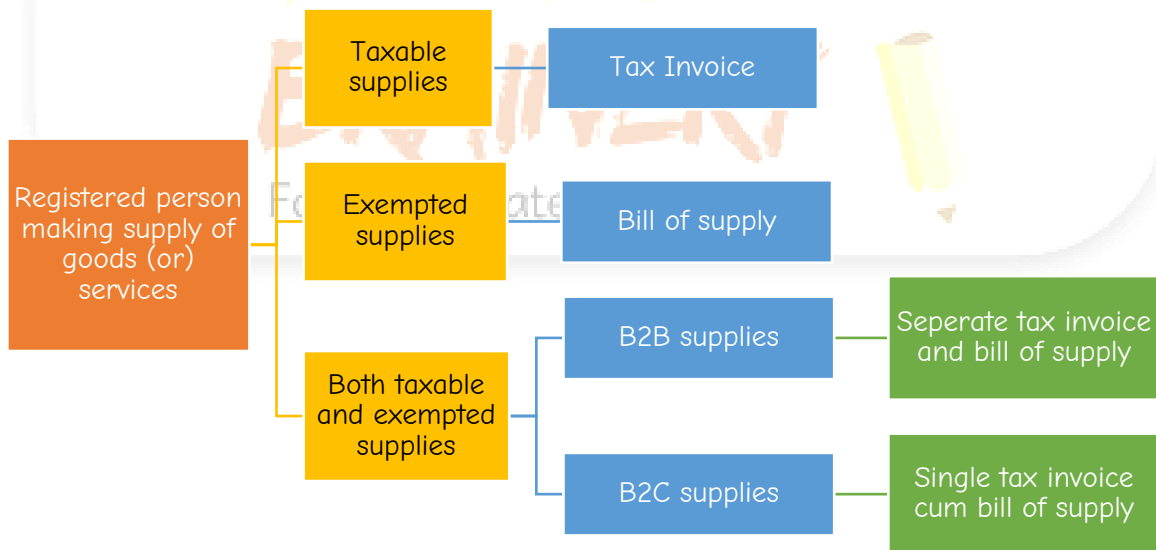
Notes:

Whether details of recipient to be mentioned in Invoice?



Invoice-cum-bill of supply [Rule 46A amended] - Notification No. 26/2022 CT dated 26.12.2022

Background provisions:



Rule 46	Contents of Tax invoice
Rule 49	Contents of Bill of Supply
Rule 54	Contents of tax invoice in special cases

Rule 46A amended:

Rule 46A provides that, notwithstanding anything contained in rule 46 or rule 49 or rule 54, a registered person supplying taxable as well as exempted goods or services or both to an unregistered person may issue a single “invoice-cum-bill of supply” for all such supplies.

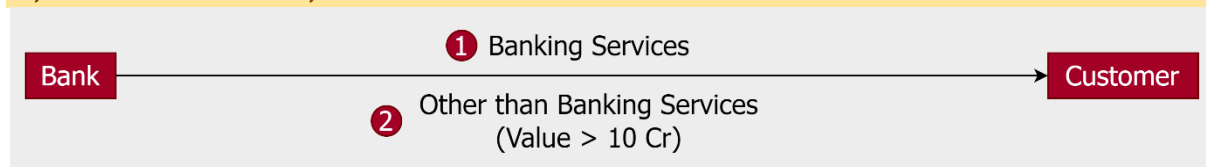
It may be observed in this regard that the non-obstante clause in rule 46A actually removes the obligation on the part of a registered person who is supplying taxable as well as exempted goods

or services or both to an unregistered person to include the particulars as prescribed in rule 46 or rule 49 or rule 54, as applicable, while issuing the single "invoice-cum-bill of supply".

Consequently, rule 46A is amended accordingly to make that obligatory on the part of a registered person, who is supplying taxable as well as exempted goods or services or both to an unregistered person, to include the relevant particulars as prescribed in rule 46 or rule 49 or rule 54, as applicable, while issuing a single "invoice-cum-bill of supply" by inserting following proviso:

The said single "invoice-cum-bill of supply" shall contain the particulars as specified under rule 46 or rule 54, as the case may be, and rule 49.

Exemption from generation of e-invoices available for the entity as a whole and not restricted by the nature of supply being made by the said entity Circular No. 186/18/2022 GST dated 27.12.2022



Issue involved: In terms of Notification No. 13/2020 CT dated 21.03.2020, as amended, certain entities/sectors are exempted from mandatory generation of e-invoices as per rule 48(4). The issue which arose for consideration was whether this exemption from mandatory generation of e-invoices is available for the entity as whole, or whether the same is available only in respect of certain supplies made by the said entity.?

It is hereby clarified that the said exemption from generation of e-invoices is for the entity as a whole and is not restricted by the nature of supply being made by the said entity.

Whether services provided by other than banking services requires mandatory generation of E-Invoices?

It is clarified through CBIC Circular that the exemption for mandatory generation of E-Invoices is for the entity as a whole and not for certain supplier.

Therefore, Services provided by Bank other than banking services is exempt from mandatory generation of E-Invoice.

Note: Even though this clarification is w.r.to banking sector, even for other suppliers covered in non-applicability of E-Invoice (i.e., BIGGEST), the principal laid down in this circular can be applied.

Segment – 4

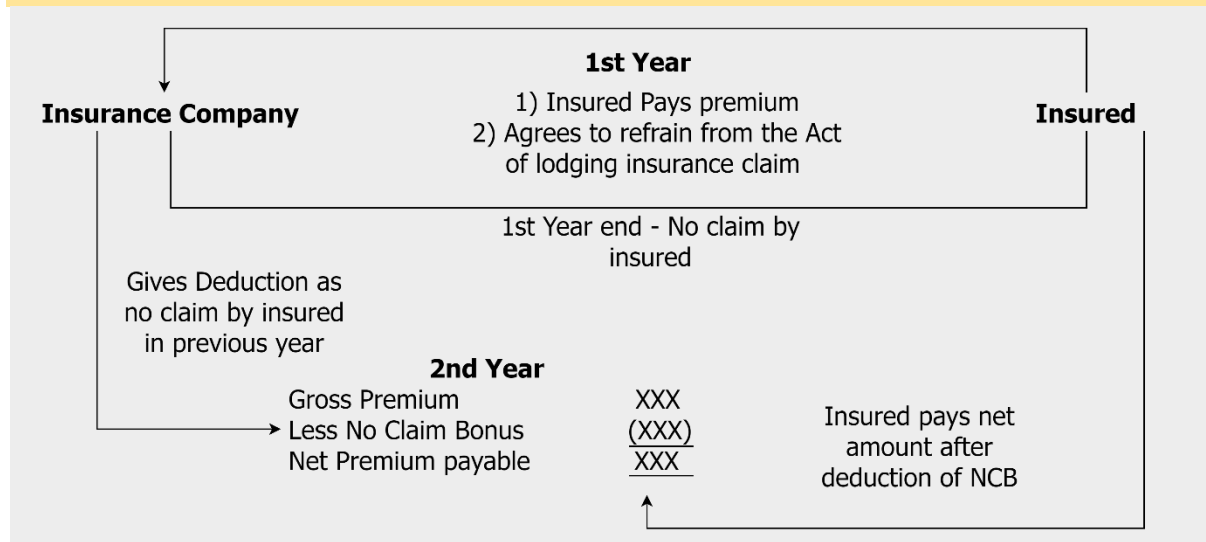
Place of Supply

No Amendments in this segment

Segment – 5

Value of Supply

No Claim Bonus permissible as deduction under section 15(3)(a) for the purpose of calculation of value of supply of the insurance services provided by insurance company to insured - Circular No. 186/18/2022 GST dated 27.12.2022



Issue involved: whether 'No Claim Bonus' (NCB) provided by the insurance company to the insured can be considered as an admissible discount for the purpose of determination of value of supply of insurance service provided by the insurance company to the insured.?

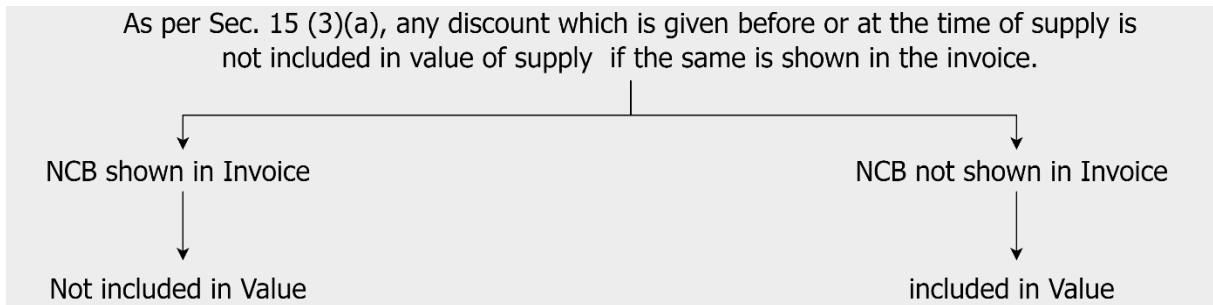
As per section 15(3)(a), value of supply shall not include any discount which is given before or at the time of supply if such discount has been duly recorded in the invoice issued in respect of such supply.

The insurance companies make the disclosure of the fact of availability of discount in form of NCB, subject to certain conditions, to the insured in the insurance policy document itself and also provide the details of the NCB in the invoices also.

The pre-disclosure of NCB amount in the policy documents and specific mention of the discount in form of NCB in the invoice is in consonance with the conditions laid down for deduction of discount from the value of supply under section 15(3)(a).

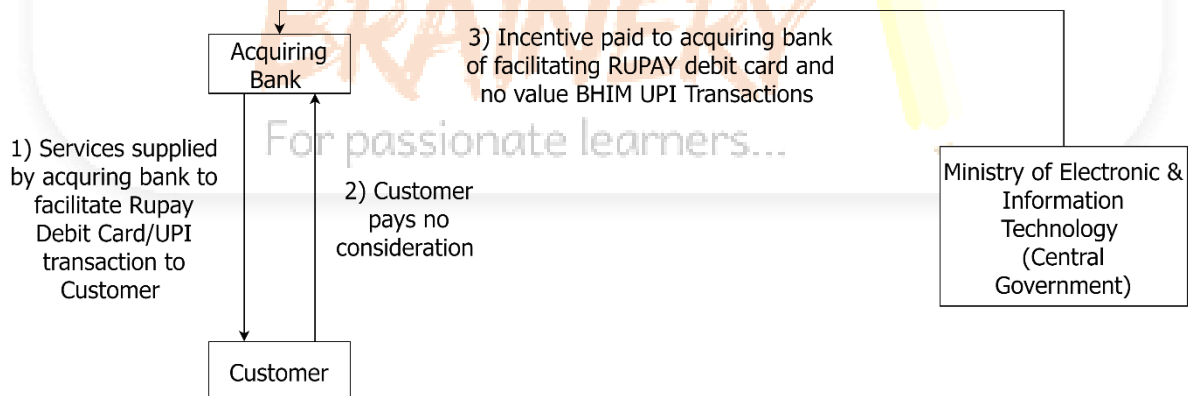
It is, therefore, clarified that NCB is a permissible deduction under section 15(3)(a) for the purpose of calculation of value of supply of the insurance services provided by the insurance company to the insured.

Accordingly, where the deduction on account of NCB is provided in the invoice issued by the insurer to the insured, GST shall be leviable on actual insurance premium amount, payable by the policy holders to the insurer, after deduction of NCB mentioned on the invoice.



Note: However usually NCB is shown by the insurance company in invoice as a deduction from the gross premium payable.

Clarification on applicability of GST on incentive paid by MeitY to acquiring banks under Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions - Circular No. 190/02/2023 GST dated 13.01.2023



Issue involved: whether GST is applicable on the incentive paid by Ministry of Electronics and Information Technology (MeitY) to acquiring banks under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions?

Under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM- UPI transactions, the Government pays the acquiring banks an incentive as a percentage of value of RuPay Debit card transactions and low value BHIM-UPI transactions up to ₹ 2000.

The Payments and Settlements Systems Act, 2007 prohibits banks and system providers from charging any amount from a person making or receiving a payment through RuPay Debit cards or BHIM-UPI.

The service supplied by the acquiring banks in the digital payment system in case of transactions through RuPay/BHIM UPI is the same as the service that they provide in case of transactions through any other card or mode of digital payment. The only difference is that the consideration for such services, instead of being paid by the merchant or the user of the card, is paid by the Central Government in the form of incentive.

However, it is not a consideration paid by the Central Government for any service supplied by the acquiring bank to the Central Government. The incentive is in the nature of a subsidy directly linked to the price of the service and the same does not form part of the taxable value of the transaction in view of the provisions of section 2(31) and section 15. It is hereby clarified that incentives paid by MeitY to acquiring banks under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of subsidy and thus not taxable.



CABINET DECISIONS
15 DECEMBER, 2021

Promotion of RuPay Debit Cards

Cabinet approves incentive scheme for promotion of RuPay Debit

Banks to be incentivised for Low-value (upto ₹2000) BHIM-UPI transactions by way of paying percentage of value of transactions

Benefits:

- Will facilitate acquiring Banks in building robust digital payment ecosystem
- Promote RuPay Debit card and BHIM-UPI digital transactions
- Deepen digital payments in the country
- Make accessible digital modes of payments to unbanked and marginalized populations



Segment – 6

Input Tax Credit

Only proportionate reversal of ITC required in case of part payment of the value of supply plus tax in respect of an inward supply within 180 days - Notification No. 26/2022 CT dated 26.12.2022

- Second proviso to section 16(2) read with rule 37 (as amended lately with effect from 01.10.2022) provides that the registered person must pay to the supplier, the value of the goods and/or services along with the tax within 180 days from the date of issue of invoice.
- However, where a registered person, who has availed of ITC on any inward supply fails to pay to the supplier thereof, the amount towards the value of such supply plus tax payable thereon, within 180 days, he shall pay an **amount equal to the ITC availed** in respect of such supply along with interest.
- However, it gave the impression that the whole of ITC pertaining to such supply was to be reversed even though a part of the payment could have been made by the recipient to the supplier.
- That appeared to be an inadvertent departure from the principle of proportionate reversal under the original rule.
- Consequently, rule 37(1) has been amended retrospectively with effect from 01.10.2022 to provide for reversal of an amount of ITC proportionate to the amount not paid by the recipient to the supplier vis-à-vis the invoice value.

Relevant extract of rule 37(1) is as follows:

A registered person, who has availed of ITC on any inward supply of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, but fails to pay to the supplier thereof, the amount towards the value of such supply, **whether wholly or partly**, along with the tax payable thereon, within the time limit specified in the second proviso to sub-section (2) of section 16, shall pay **or reverse** an amount equal to the input tax credit availed in respect of such supply, **proportionate to the amount not paid to the supplier**, along with interest payable thereon under section 50, while furnishing the return in Form GSTR-3B for the tax period immediately following the period of one hundred and eighty days from the date of the issue of the invoice.

Conclusion:

- If recipient has not made payment (Value + Tax) to supplier within 180 days from the date of invoice, then so much of the ITC **proportionate to the amount not paid to the supplier** availed by recipient shall be reversed along with interest @ 18% p.a FROM the first date after the date of utilization of ITC TILL the date of reversal. (However, interest not payable if availed ITC is not utilized).
- Also, as and when the **proportionate payment** is made to supplier by recipient, **proportionate ITC can be availed** based on the proportionate payment made.

Reversal of input tax credit in the case of non-payment of tax by the supplier and re-availment thereof [New rule 37A] - Notification No. 26/2022 CT dated 26.12.2022

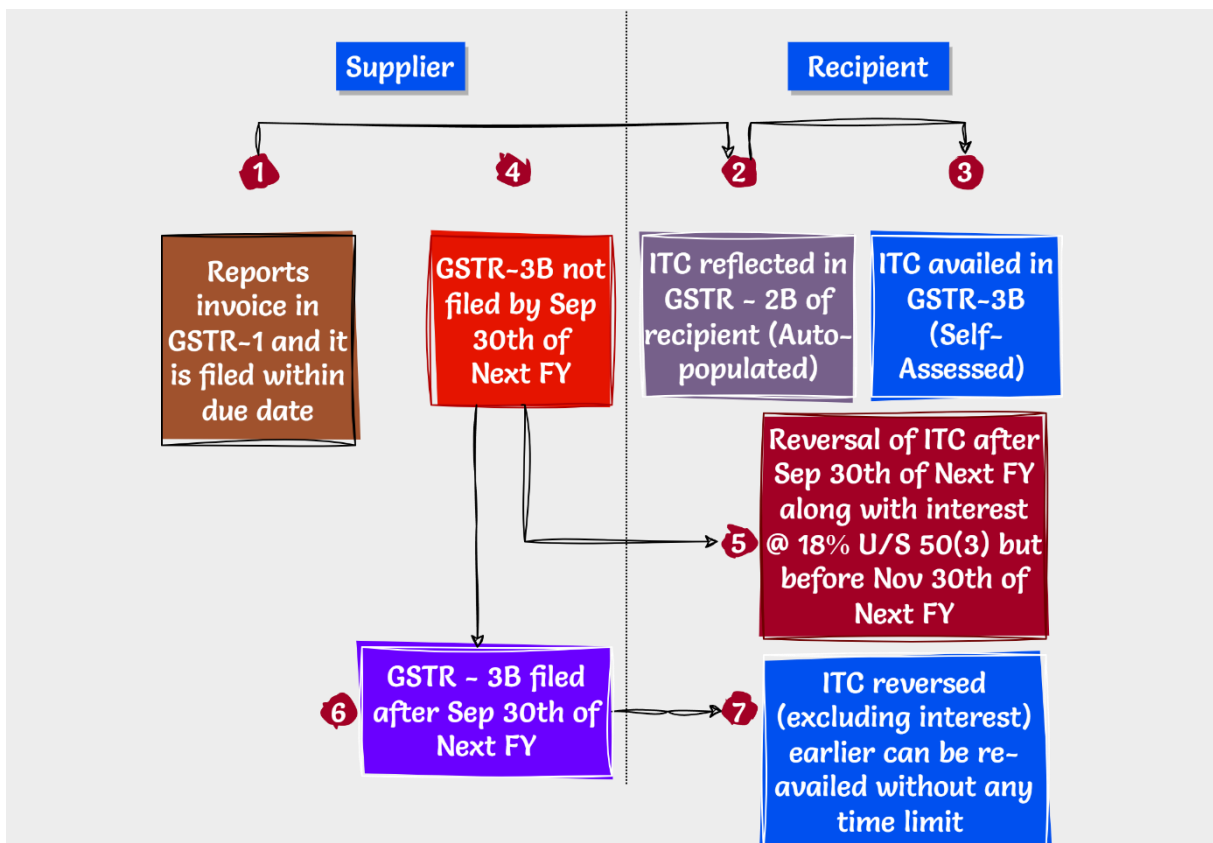
Newly inserted rule 37A covers a situation where a registered person (recipient) avails ITC in GSTR-3B for a tax period in respect of such invoice/debit note, the details of which have been furnished by its supplier in the statement of outward supplies (in Form GSTR-1/using IFF).

However, supplier does not furnish return in Form GSTR-3B for the tax period corresponding to the said statement of outward supplies till 30th September following the end of FY in which the ITC in respect of such invoice/ debit note has been availed.

In such a case, the said amount of ITC shall be reversed by the said recipient, while furnishing a return in Form GSTR-3B on or before 30th November following the end of such FY during which such ITC has been availed.

However, where the said amount of ITC is not so reversed by recipient, such amount shall be payable by the said person along with interest thereon under section 50.

Further, where the said supplier subsequently furnishes the return in Form GSTR-3B for the said tax period, the said registered person may re-avail the amount of such credit in the return in Form GSTR-3B for a tax period thereafter.



Recipient entitled to ITC where the place of supply determined in terms of the proviso to section 12(8) of the IGST Act, 2017 is outside India - Circular No. 184/16/2022 GST dated 27.12.2022

Section 12(8) of the IGST Act provides that the place of supply of services by way of transportation of goods, including by mail or courier to a registered person shall be the location of such registered person, where location of the supplier as well as the recipient of services is in India.

However, the proviso to the aforesaid sub-section provides that where the transportation of goods is to a place outside India, the place of supply of the said service shall be the place of destination of such goods.

Since in such cases the place of supply of services is the concerned foreign destination and not the State where the recipient is registered under GST, doubts were being raised regarding the availability of ITC of the said services to the recipient located in India.

Thus, clarifies as under:

Sl. No.	Issue	Clarification
(i)	In case of supply of services by way of transportation of goods, including by mail or courier, where the transportation of goods is to a place outside India, and where the supplier and recipient of the said supply of services are located in India, what would be the place of supply of the said services?	The place of supply of services by way of transportation of goods, including by mail or courier, where both the supplier and the recipient are located in India, is determined in terms of section 12(8) of the IGST Act ¹ . Hence, in case of supply of services by way of transportation of goods, including by mail or courier, where the transportation of goods is to a place outside India, and where the supplier and recipient of the said supply of services are located in India, the place of supply is the concerned foreign destination where the goods are being transported, in accordance with the proviso to section 12(8) of IGST Act.
(ii)	In the case given in (i) above, whether the supply of services will be treated as inter-State supply or intra-State supply?	The aforesaid supply of services would be considered as inter-State supply in terms of section 7(5) of the IGST Act since the location of the supplier is in India and the place of supply is outside India. Therefore, IGST would be chargeable on the said supply of services.
(iii)	In the case given in (i) above, whether the recipient of service of transportation of goods would be eligible to avail	Section 16 lays down the eligibility and conditions for taking ITC whereas, section 17 provides for apportionment of credit and blocked credits under circumstances specified therein.

¹ Rule 12(8) of the IGST Act reads as follows: The place of supply of services by way of transportation of goods, including by mail or courier to, —

(a) a registered person, shall be the location of such person;

(b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation: Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.

	<p>ITC in respect of the said input service of transportation of goods?</p>	<p>The said provisions of law do not restrict availment of ITC by the recipient located in India if the place of supply of the said input service is outside India.</p> <p>Thus, the recipient of service of transportation of goods shall be eligible to avail ITC in respect of the IGST so charged by the supplier, subject to the fulfilment of other conditions laid down in section 16 and 17 of the CGST Act.</p>
--	---	--

Example: X is the person registered under the GST in the state of West Bengal who intends to Export goods to a person Y located in Singapore. X avails the services for transportation of goods by Air to Singapore from an Air Cargo operator Z, who is also registered under GST in the state of West Bengal. Can X claim ITC w.r.t input services availed from Z?

→ POS in this case is ending point of goods as per Sec. 12 of IGST Act i.e., Singapore. As, the same is interstate supply, it is chargeable to IGST.

Therefore, X would be eligible to take ITC of IGST in respect of supply of services received by him from Z, Subject to the fulfilment of other conditions laid down in Sec. 16 & 17 of CGST Act.

Tharun's
BRAINERY
 For passionate learners...



Segment – 7

Exemptions & Charge

Renting of residential property for residential purpose to registered individual for personal purpose is exempted - **Notification No. 15/2022 CT(R) dated 30.12.2022**

Sl. No.	Description of services	Effective from
12	<p>Services by way of renting of residential dwelling for use as residence except where the residential dwelling is rented to a registered person.</p> <p>Explanation – For the purpose of exemption under this entry, this entry shall cover services by way of renting of residential dwelling to a registered person where, -</p> <p>(i) the registered person is proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence; and</p> <p>(ii) such renting is on his own account and not that of the proprietorship concern.</p>	01.01.2023

Renting [Incl. leasing, licensing etc.,] - following are exempted

Immovable property

Building

Residential property for residential purpose to an unregistered person

Explanation: Renting to registered individual for their family stay is treated as renting to unregistered person and it is exempted.

Withdrawal of existing exemptions w.r.to toll charges - Notification No. 15/2022 CT(R) dated 30.12.2022

Sl. No.	Description of services	Effective from
23A	Service by way of access to a road or a bridge on payment of annuity.	01.01.2023

Exemption available to educational institutions and Central and State educational boards for conduct of entrance examination extended to any authority/ board/ body set up by the Central/State Government including National Testing Agency for conduct of entrance examination for admission to educational institutions - Notification No. 01/2023 CT(R) dated 28.02.2023

Services provided by educational institution by way of conduct of entrance examination against consideration in the form of entrance fee

“Central and State Educational Boards” are treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students.

Therefore,

- National Board of Examination (NBE) (or)
- National Testing Agency (or)
- any authority/board/body setup by CG/SG for conducting entrance examination

is an ‘Educational Institution’ in so far as it provides services by way of conduct of entrance examination, to the students is EXEMPTED.

Clarification on applicability of GST on accommodation services supplied by Air Force Mess and other similar messes to its personnel - Circular No. 190/02/2023 GST dated 13.01.2023

Issue involved: Whether GST is payable on accommodation services supplied by Air Force Mess to its personnel?

All services supplied by Central Government, State Government, Union Territory or local authority to any person other than business entities (barring a few specified services such as services of postal department, transportation of goods and passengers etc.) are exempt from GST vide Entry 6.

Therefore, it is hereby clarified that **accommodation services provided by Air Force Mess and other similar messes, such as, Army mess, Navy mess, Paramilitary and Police forces mess to their personnel or any person other than a business entity are covered by Entry 6** provided the services supplied by such messes qualify to be considered as services supplied by Central Government, State Government, Union Territory or local authority.

Segment – 9

Composition Scheme

No Amendments in this segment

Segment – 9

Registration

Amendments relating to procedure for registration - Rule 8 and rule 9 have been amended to carry out the following amendments:

- (i) PAN-linked mobile number and e-mail address (fetched from CBDT database) will be captured and recorded in Form GST REG-01 and OTP-based verification will be conducted at the time of registration on such PAN-linked mobile number and email address to restrict misuse of PAN of a person by unscrupulous elements without knowledge of the said PAN-holder.
- (ii) A pilot project is to be conducted in State of Gujarat for Biometric based Aadhaar authentication and risk-based physical verification of registration applicants. Amendment in rule 8 and rule 9 have been made to facilitate the same. This will help in tackling the menace of fake and fraudulent registrations.

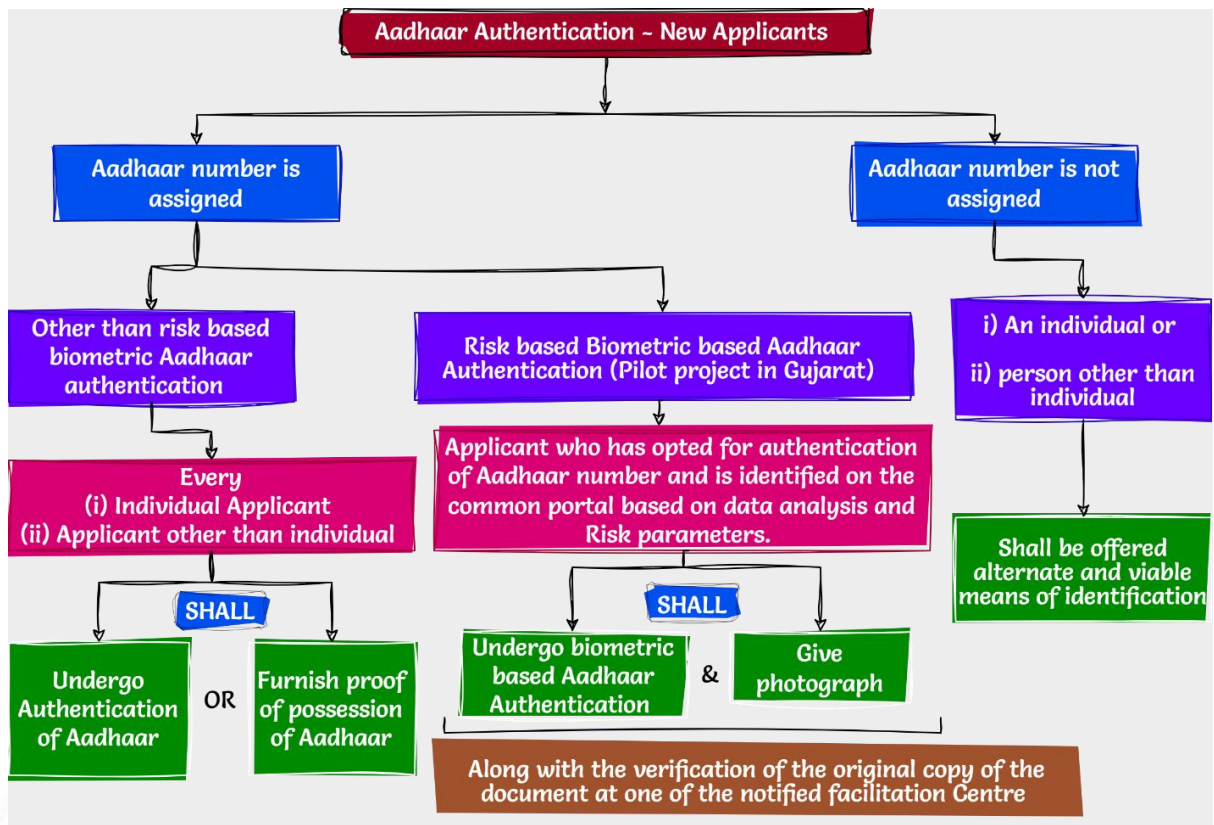
Risk-based biometric-based aadhaar authentication of registration applicants – Pilot project in Gujarat [Sub-rules (4A), (4B) and (5) amended]

In order to improve the registration process, biometric based aadhaar authentication of the high-risk applicants who opt for authentication of Aadhaar number has been introduced on a pilot basis in the State of Gujarat.

An applicant who has opted for authentication of Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, shall be followed by biometric-based Aadhaar authentication and taking photograph:

- (i) of the applicant where the applicant is an individual or
- (ii) of such individuals where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in Form GST REG-01 at one of the notified Facilitation Centres.

The application shall be deemed to be complete only after completion of the process laid down hereunder. An acknowledgement shall be issued to the applicant only after completion of biometric-based authentication.



Aadhaar authentication w.r.to Persons already registered:

Every registered person shall undergo authentication/furnish proof of possession of Aadhaar number, in prescribed form and manner and within the prescribed time. **The manner in which aadhaar authentication needs to be done by a registered person is prescribed as under: -**

- A registered person, who has been issued a certificate of registration under GST, shall undergo authentication of the Aadhaar number of: -
 - ✓ Proprietor, in the case of proprietorship firm,
 - ✓ Any partner, in the case of a partnership firm,
 - ✓ Karta, in the case of a Hindu undivided family,
 - ✓ Managing director or any whole-time director, in the case of a company,
 - ✓ Any of the Members of the Managing Committee of an Association of persons or body of individuals or a Society, or
 - ✓ Trustee in the Board of Trustees, in the case of a Trust; and of the Authorized Signatory,
- in order to be eligible for the following purposes:
 - ✓ for filing of application for revocation of cancellation of registration [Rule 23]
 - ✓ for filing of refund application in Form RFD-01 [Rule 89]
 - ✓ for refund of the IGST paid on goods exported out of India [Rule 96]

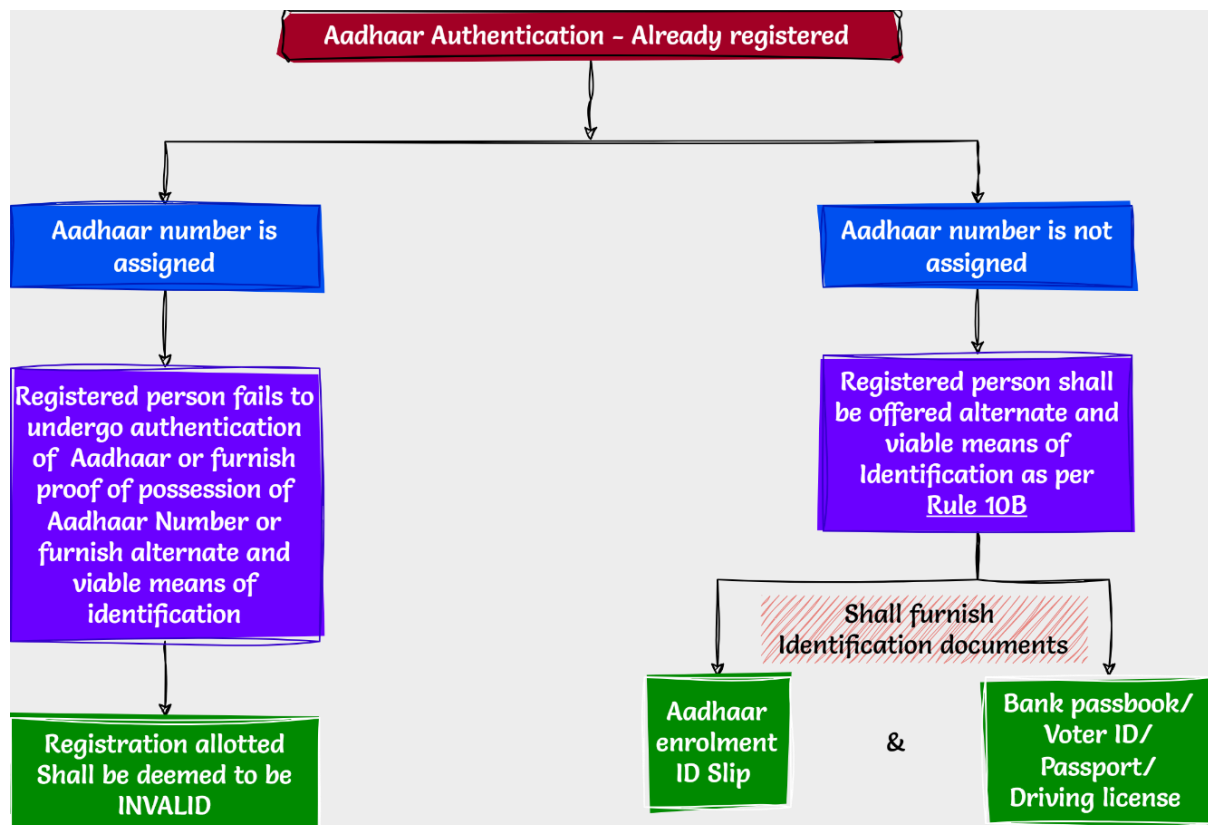
If an Aadhaar number is not assigned to an existing registered person, such person shall be offered alternate and viable means of identification in the prescribed manner². Such manner has been prescribed as follows: If Aadhaar number has not been assigned to the person required to

² First proviso to section 25(6A)

undergo authentication of the Aadhaar number, such person shall furnish the following identification documents, namely: – (a) his/ her Aadhaar Enrolment ID slip; and (b) (i) Bank passbook with photograph; or (ii) Voter identity card issued by the Election Commission of India; or (iii) Passport; or (iv) Driving license issued by the Licensing Authority

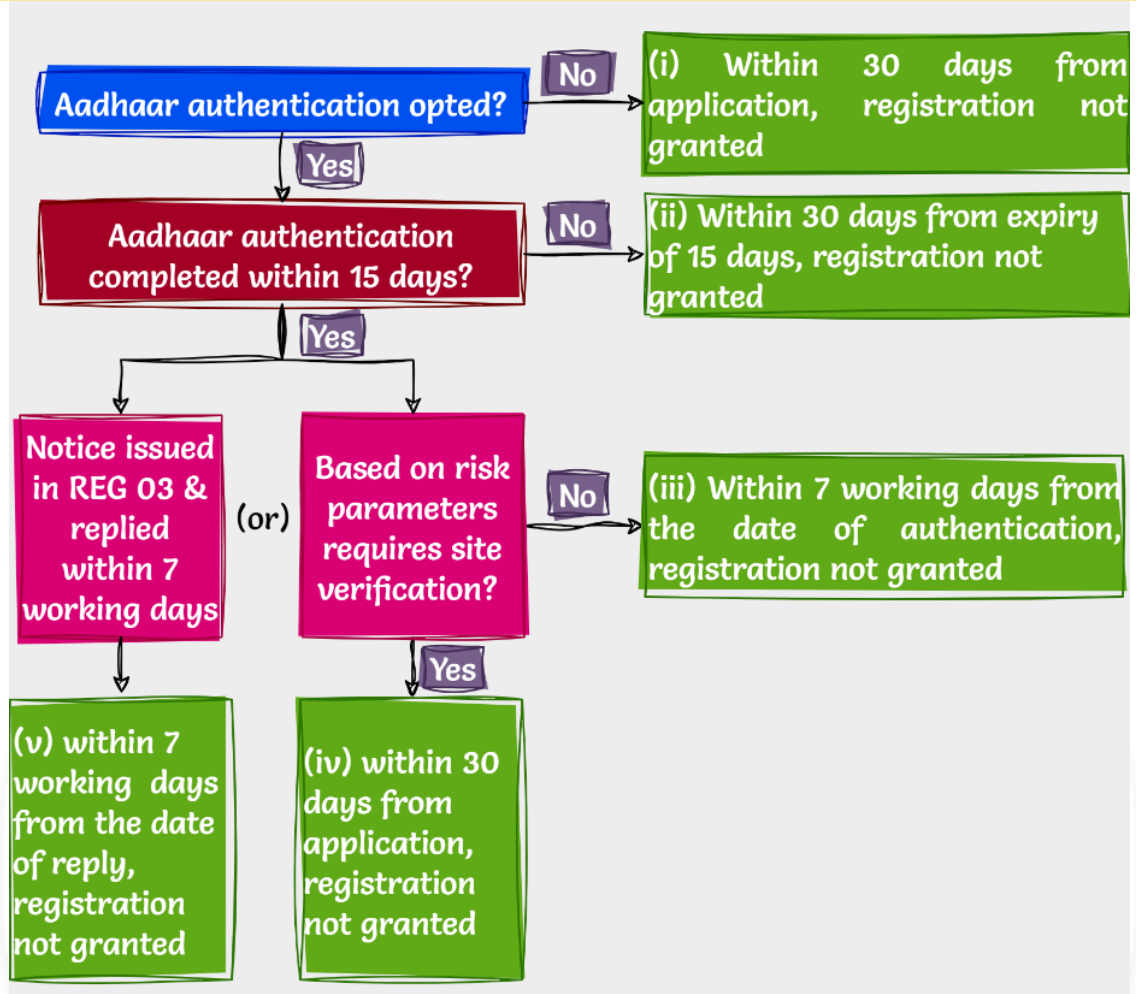
However, once Aadhaar number is allotted to such person, he shall undergo the authentication of Aadhaar number within a period of 30 days of the allotment of the Aadhaar number.

In case of failure to undergo aadhaar authentication/furnish proof of possession of Aadhaar number/furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of CGST Act shall apply as if such person does not have a registration³.



³ Second proviso to section 25(6A)

Deemed Registration



For passionate learners...

Option made available to TDS/TCS registrant to apply for cancellation of registration [Rule 12(3) amended] - Notification No. 26/2022 CT dated 26.12.2022

Rule 12(3) has been suitably amended to provide as follows:

Where, on a request made in writing by a person to whom a registration has been granted under rule 12(2) or upon an enquiry or pursuant to any other proceeding under the CGST Act, the proper officer is satisfied that a person to whom a certificate of registration has been issued is no longer liable to deduct tax at source under section 51 or collect tax at source under section 52, the said officer may cancel the registration issued and such cancellation shall be communicated to the said person electronically.

Payment Process

Electronic Cash Ledger to be updated on the basis of e-Scroll of the RBI in case of failure of bank to communicate details of Challan Identification Number to the common portal [Rule 87(8) amended] - Notification No. 26/2022 CT dated 26.12.2022

In cases where bank fails to communicate the Challan Identification Number (CIN) details of taxes paid through e-payment mode to GST System for updating the Electronic Cash Ledger (ECL), the ECL of such taxpayers are updated next day on the basis of RBI e-Scroll file containing the successful payment made against the CINs as shared by banks with RBI. However, there is presently no provision in the CGST Rules, 2017 providing for such updation of ECL based on e-Scroll of RBI.

In this regard, CAG highlighted the need for having a specific provision in law for updation of ECL on the basis of e-Scroll of RBI. Thus, in order to regularize the process of updating ECL of the taxpayer on the basis of e-Scroll data received from the RBI in the cases where payment has been received successfully, but bank fails to share the signed CIN with GST System, following proviso has been inserted to rule 87(8):

Where the bank fails to communicate details of Challan Identification Number to the common portal, the Electronic Cash Ledger may be updated on the basis of e-Scroll of the RBI in cases where the details of the said e- Scroll are in conformity with the details in challan generated in Form GST PMT-06 on the common portal.

For passionate learners...

Returns under GST

Taxpayer to be intimated the difference in liability in Form GSTR-1 and Form GSTR-3B and be requested to pay the differential liability or explain the difference [New rule 88C introduced and rule 59(6) amended] - Notification No. 26/2022 CT dated 26.12.2022

Where the tax payable by a registered person, in accordance with the statement of outward supplies furnished by him in Form GSTR-1 or using the IFF in respect of a tax period, exceeds the amount of tax payable by such person in accordance with the return for that period furnished by him in Form GSTR-3B, by such amount and such percentage, as may be recommended by the Council, the said registered person shall be intimated of such difference.

Such registered person shall be intimated in prescribed form, electronically on the common portal, and a copy of such intimation shall also be sent to his e-mail address. In said intimation, the said difference between GSTR-1 and GSTR-3B will be highlighted and he will be directed to:

- (a) pay the differential tax liability, along with interest under section 50, through prescribed form; or
- (b) explain the aforesaid difference in tax payable on the common portal, within a period of 7 days.

Such registered person shall, upon receipt of the aforesaid intimation, either:

- (a) pay the amount of the differential tax liability, as specified in intimation, fully or partially, along with interest under section 50, and furnish the details thereof electronically on the common portal; or
- (b) furnish a reply electronically on the common portal, incorporating reasons in respect of that part of the differential tax liability that has remained unpaid, if any, within the period of 7 days.

Where any amount specified in the said intimation remains unpaid within 7 days' period and where no explanation or reason is furnished by the registered person in default or where the explanation or reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be recoverable in accordance with the provisions of section 79.

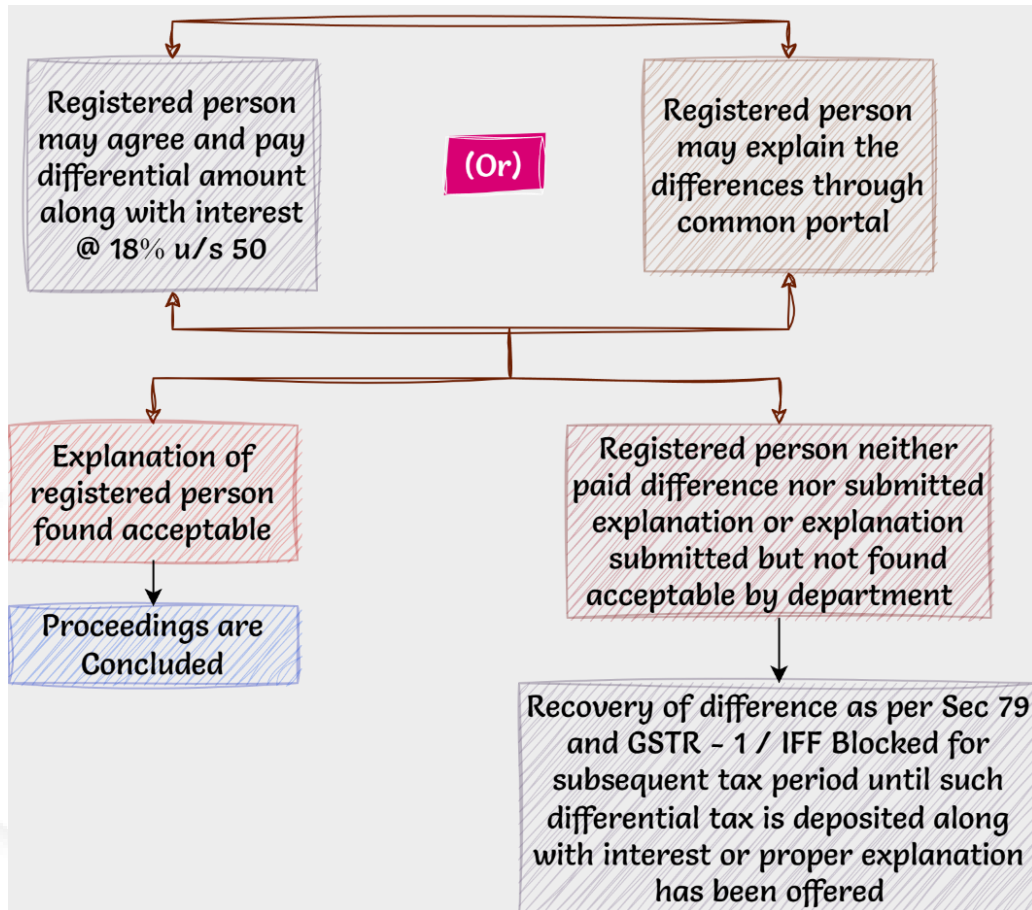
Further, a registered person, to whom such an intimation of difference between GSTR-1 and GSTR-3B for a tax period is issued, will be blocked from furnishing the GSTR-1/using IFF for subsequent tax period unless he deposits amount specified in intimation or explains the reasons for any unpaid amount.

In other words, a registered person, to whom intimation is issued under rule 88C, has been issued on the common portal in respect of a tax period, shall not be allowed to furnish the details of outward supplies in Form GSTR-1/using IFF for a subsequent tax period, unless he has either deposited the amount specified in the said intimation or has furnished a reply explaining the reasons for any amount remaining unpaid, as required under the provisions of rule 88C above [Rule 59(6)⁴ amended].

⁴ Rule 59(6) stipulates the cases where a registered person is debarred from furnishing details of outward supplies in Form GSTR-1/IFF.

Liability in GSTR – 1 > Liability in GSTR-3B by prescribed amount or %.

**Intimation in Common Portal and Copy sent to E-Mail of Registered Person
(Within 7 Days)**



Maximum late fees payable under section 47 for delayed filing of annual return, rationalized – Notification No. 7/2023 dt: 31/03/2023:

Total amount of late fee payable under section 47 **from the financial year 2022-23** onwards, by the registered person who fail to furnish annual return by the due date, shall be as follows:

GSTR – 9/GSTR – 9B/9C	ATO during PY ≤ ₹5 Crores:	₹25 for every day	0.02% of turnover in the state or UT.
	ATO during PY > ₹5 Crores but ≤ ₹20 Crores	₹50 for every day	0.02% of turnover in the state or UT.
	ATO during PY > ₹20 Crores	₹100 for every day	0.25% of turnover in the state or UT.

Note: An equal amount of late fee is payable under SGST Act also. Late fee under IGST is not applicable, if late fee under CGST & SGST is paid.

Segment – 12

Accounts & Records

No Amendments in this segment

Segment – 13

Assessment & Audit

No Amendments in this segment

Segment – 14

Appeals & Revision

In case of appeal filed against the order of adjudicating authority which is uploaded on common portal, requirement of submission of certified copy of said order dispensed with [Rules 108(3) and 109 amended] - Notification No. 26/2022 CT dated 26.12.2022

An appeal against any decision or order passed by an adjudicating authority to Appellate Authority [First appeal to Commissioner (Appeals) or Additional Commissioner (Appeals)] can be filed either:

- (i) by the aggrieved person (taxpayer) [Section 107(1) read with rule 108] or
- (ii) by the Department [Section 107(2) read with rule 109].

Earlier, as per rule 108(3), in respect of an appeal filed by the aggrieved person (taxpayer), a certified copy of the decision/order appealed against was required to be submitted within 7 days of filing the appeal in Form GST APL-01.

The date of filing appeal in case where certified copy was submitted within 7 days of filing appeal is the date of issuance of provisional acknowledgement, otherwise it is the date of submission of the certified copy.

Similarly, rule 109(2) relating to appeal filed by the Department provided for requirement of submission of certified copy of the order appealed against within 7 days of filing application in Form GST APL-03, in all cases.

However, in GST regime, when an order which is appealed against is issued or uploaded by the adjudicating authority on the common portal, the same can be viewed by the Appellate Authority.

Accordingly, the requirement of submission by the appellant of a certified copy of such an uploaded order to vouch for its authenticity, pales into insignificance considering that the order has been uploaded by the adjudicating authority using his Digital Signature Certificate and the same is available for viewing or downloading by the Appellate Authority on the portal.

However, in cases where the decision or order has been passed manually and has not been uploaded on the common portal, the same is not available to the Appellate Authority on the common portal. In such cases, non-submission of the certified copy by the appellant restricts the Appellate Authority from entertaining the same.

Resultantly, in order to provide clarity on the requirement of submission of certified copy of the order appealed against and the issuance of final acknowledgment by the Appellate Authority, rule 108(3) and rule 109 have been substituted.

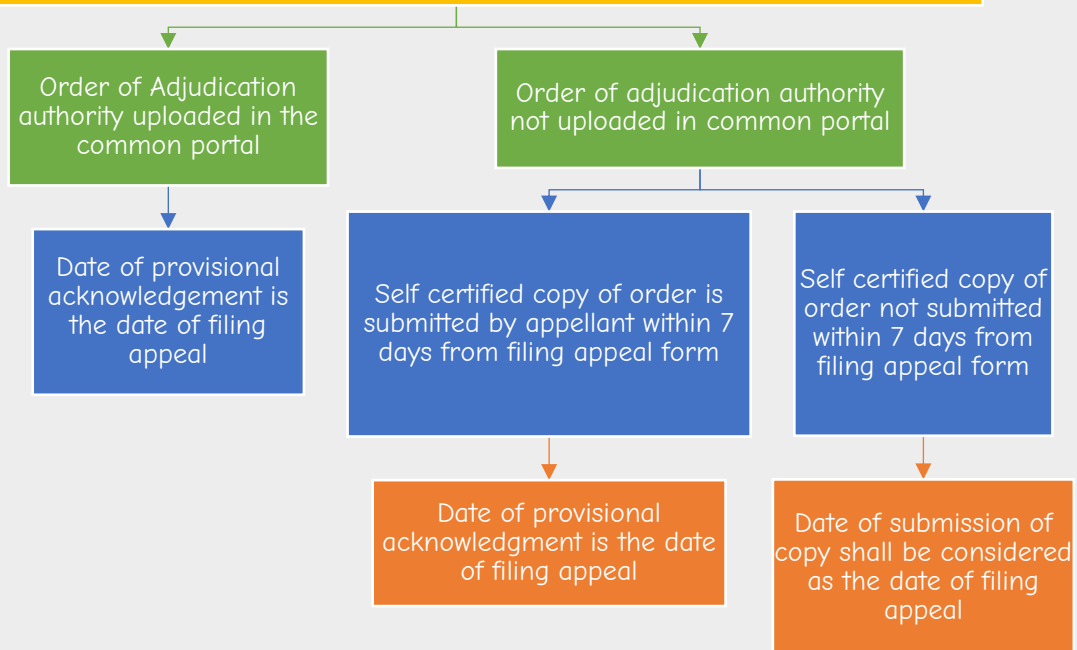
Substituted rule 108(3)

- Where the decision or order appealed against is uploaded on the common portal, a final acknowledgment, indicating appeal number, shall be issued by the Appellate Authority or an officer authorised by him in this behalf. The date of issue of the provisional acknowledgment⁵ shall be considered as the date of filing of appeal.
- However, where the decision/order appealed against is not uploaded on the common portal, the appellant shall submit a self-certified copy of the said decision or order within a period of 7 days from the date of filing of Form GST APL-01. The final acknowledgment, indicating appeal number, shall be issued by the Appellate Authority or an officer authorised by him in this behalf. The date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal.
- Further, where the said self-certified copy of the decision/order is not submitted within a period of 7 days from the date of filing of Form GST APL-01, the date of submission of such copy shall be considered as the date of filing of appeal.

Substituted rule 109 - Application to the Appellate Authority

- An application to the Appellate Authority under section 107(2) shall be filed in Form GST APL-03, along with the relevant documents, either electronically or otherwise as may be notified by the Commissioner and a provisional acknowledgment shall be issued to the appellant immediately.
- Where the decision/order appealed against is uploaded on the common portal, a final acknowledgment, indicating appeal number, shall be issued by the Appellate Authority or an officer authorised by him in this behalf. The date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal.
- However, where the decision or order appealed against is not uploaded on the common portal, the appellant shall submit a self-certified copy of the said decision or order within a period of 7 days from the date of filing of Form GST APL-03. The final acknowledgment, indicating appeal number, shall be issued by the Appellate Authority or an officer authorised by him in this behalf. The date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal.
- Further, where the said self-certified copy of the decision or order is not submitted within a period of 7 days from the date of filing of Form GST APL-03, the date of submission of such copy shall be considered as the date of filing of appeal.

⁵ It is important to note that when an appeal is filed by aggrieved person to the Appellate Authority in Form GST APL-01, along with the relevant documents, a provisional acknowledgement is issued to the appellant immediately.

Rule 108(3) & Rule 109**Date of filing appeal in case of first appeal to Appellate authority (or) second appeal to GSTAT**

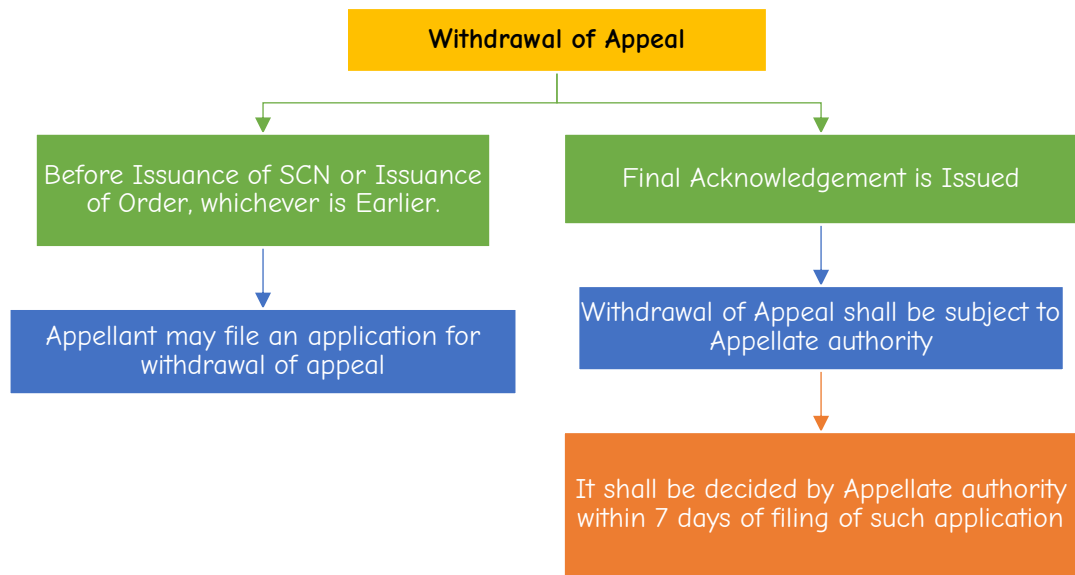
Provision for enabling withdrawal of the appeal application filed before the first Appellate Authority introduced [New rule 109C] - Notification No. 26/2022 CT dated 26.12.2022

Earlier, there was no provision in the GST law for withdrawal of the appeal filed under sections 107(1) & 107(2) before the first appellate authority against decision or orders of adjudicating authority by aggrieved person or authorized officer respectively. Thus, new rule 109C has been inserted to provide for withdrawal of appeal before the issuance of SCN or order under section 107(11), whichever is earlier to enable the appellant to file application for withdrawal of appeal application.

Rule 109C relating to withdrawal of appeal provides as follows:

- The appellant may, at any time before issuance of show cause notice under section 107(11) or before issuance of the order under the said sub-section, whichever is earlier, in respect of any appeal filed in Form GST APL-01 or Form GST APL-03, file an application for withdrawal of the said appeal by filing an application.
- However, where the final acknowledgment in Form GST APL-02 has been issued, the withdrawal of the said appeal would be subject to the approval of the Appellate Authority and such application for withdrawal of the appeal shall be decided by the Appellate Authority within 7 days of filing of such application:
- Further, any fresh appeal filed by the appellant pursuant to such withdrawal shall be filed within the time limit specified in sub-section (1) or sub-section (2) of section 107, as the case may be.

Rule 109(c)



Note: Fresh Appeal can be made pursuant to such withdrawal subject to time limit of filing appeal.

Segment – 15

Search, Seizure and Release of goods

No Amendments in this segment

Segment – 16

Offences, penalties and prosecution

No Amendments in this segment

Segment – 17

Advance Ruling

No Amendments in this segment

Segment – 18

Demand and Recovery

Clarification pertaining to cases where it is concluded that the notice issued under section 74(1) not sustainable for reason that the charges of fraud etc. not been established against the noticee and tax payable being determined deeming as if the notice was issued under section 73(1) - [Circular No. 185/17/2022 GST dated 27.12.2022](#)

Section 75(2) provides that in cases where the appellate authority or appellate tribunal or court concludes that the notice issued by proper officer under section 74(1) is not sustainable for reason that the charges of fraud or any willful-misstatement or suppression of facts to evade tax have not been established against the noticee, then the proper officer shall determine the tax payable by the noticee, deeming as if the notice was issued under section 73(1).

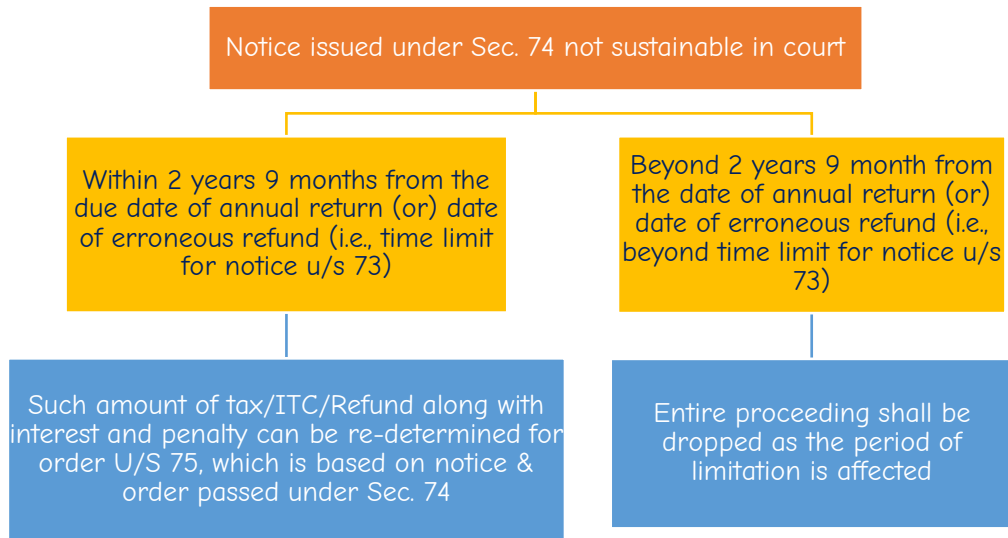
In this regard, clarifies following issues:

Issues	Clarification
<p>In some of the cases where the show cause notice (SCN) has been issued by the proper officer to a noticee under section 74(1) for demand of tax not paid/ short paid or erroneous refund or ITC wrongly availed or utilized, the appellate authority or appellate tribunal or the court concludes that the said notice is not sustainable under section 74(1) for the reason that the charges of fraud or any willful-misstatement or suppression of facts to evade tax have not been established against the noticee and directs the proper officer to re-determine the amount of tax payable by the noticee, deeming the notice to have been issued under section 73(1), in accordance with the provisions of section 75(2).</p> <p>What would be the time period for re-determination of the tax, interest and penalty payable by the noticee in such cases?</p>	<ul style="list-style-type: none"> Section 75(3) provides that an order, required to be issued in pursuance of the directions of the appellate authority or appellate tribunal or the court, has to be issued within 2 years from the date of communication of the said direction. Accordingly, in cases where any direction is issued by the appellate authority or appellate tribunal or the court to re-determine the amount of tax payable by the noticee by deeming the notice to have been issued under section 73(1) in accordance with the provisions of section 75(2), the proper officer is required to issue the order of redetermination of tax, interest and penalty payable within the time limit as specified in section 75(3), i.e. <u>within a period of 2 years from the date of communication of the said direction by appellate authority or appellate tribunal or the court, as the case may be</u>
<p>How the amount payable by the noticee, deeming the notice to have been issued under section 73(1), shall be re-computed/re-determined by the proper officer as per provisions of section 75(2)?</p>	<ul style="list-style-type: none"> In cases where the amount of tax, interest and penalty payable by the noticee is required to be re-determined by the proper officer in terms of section 75(2), the demand would have to be re-determined keeping in consideration the provisions of section 73(2) read with section 73(10). Therefore, in cases where the proper officer has to re-determine the amount of tax, interest and penalty payable deeming the

notice to have been issued under section 73(1) in terms of section 75(2), the same can be re-determined for so much amount of tax short paid or not paid, or ITC wrongly availed or utilized or that of erroneous refund, in respect of **which SCN was issued within the time limit as specified under section 73(2) read section 73(10)**. Thus, only the amount of tax short paid or not paid, or ITC wrongly availed or utilized or tax payable on account of erroneous refund, along with interest and penalty payable, in terms of section 73 can be re-determined, **where SCN was issued within 2 years and 9 months from the due date of furnishing of annual return for the respective FY or from the date of erroneous refund.**

In case, where the SCN under section 74(1) was issued for tax short paid or tax not paid or wrongly availed or utilized ITC or for erroneous refund beyond a period of 2 years and 9 months from the due date of furnishing of the annual return for the FY to which such demand relates to or from the date of erroneous refund, and the appellate authority concludes that the notice is not sustainable under section 74(1) thereby deeming the notice to have been issued under section 73(1), the entire proceeding shall have to be dropped, being hit by the limitation of time as specified in section 73.

- In cases, where the SCN in terms of section 74 was issued for tax short paid or not paid tax or wrongly availed or utilized ITC or on account of erroneous refund **within 2 years and 9 months** from the due date of furnishing of the annual return for the said FY to which such demand relates to, or from the date of erroneous refund, as the case may be, the entire amount of the said demand in the SCN would be covered under re-determined amount.
- Where **the SCN under section 74(1) was issued for multiple FYs**, and where notice had been issued before the expiry of the time period as per section 73(2) for one FY but after the expiry of the said due date for the other FYs, then the amount payable in terms of section 73 shall be re-determined only in respect of that FY for which SCN was issued before the expiry of the time period as specified in section 73(2).



If Notice was issued under Sec. 74 for multiple Financial year, and such demand order is not sustainable in court, then w.r.to those Financial Year for which time limit U/s 73 is satisfied, redetermination can be made & Order passed u/s 75.

Illustration:

SCN issued for following years on the charge of fraud upto 30.06.23.

2017-18	₹2 crore
2018-19	₹3 crore
2019-20	₹4 crore
2020-21	₹5 crore
2021-22	₹6 crore

Demand order passed on 31.12.23. But appeal made to Appellate Tribunal and it was decided by Tribunal that GST evaded was not due to Fraud. Assessee contended that notice is invalid. Comment.

As per sec 75(2) - Where any Appellate Authority or Appellate Tribunal or Court concludes that the notice issued by reason of fraud is not sustainable because it was found that person has not committed fraud etc. then proper officer shall determine the tax payable deeming notice issued u/s 73(1) (i.e. other than Fraud)

Financial Year	Time limit for issuance of notice under Sec. 73	Time limit for issuance of notice under Sec. 74	Whether notice u/s 73 issued on 30.06.23 is within time limit
2017-18	30/09/21	30/06/23	No
2018-19	30/09/22	30/06/24	No
2019-20	30/09/23	30/06/25	Yes
2020-21	30/09/24	30/06/26	Yes
2021-22	30/09/25	30/06/28	Yes

Hence demand can be determined for

2019-20	₹4 crore
2020-21	₹5 crore
2021-22	₹6 crore

For year 2017-18 and 2018 -19 - demand can't be made

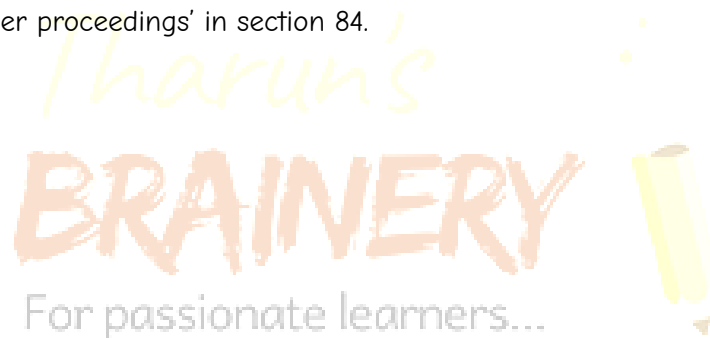
Proceedings conducted under IBC covered under the term 'other proceedings' in section 84 - **Circular No. 187/19/2022 GST dated 27.12.2022**

As per section 84, if the government dues against any person under CGST Act are reduced as a result of any appeal, revision or **other proceedings** in respect of such government dues, then an intimation for such reduction of government dues has to be given by the Commissioner to such person and to the appropriate authority with whom the recovery proceedings are pending. Further, recovery proceedings can be continued in relation to such reduced amount of government dues.

The word '**other proceedings**' is not defined in CGST Act. It is to be mentioned that the adjudicating authorities and appellate authorities under IBC are quasi-judicial authorities constituted to deal with civil disputes pertaining to insolvency and bankruptcy.

For instance, under IBC, NCLT serves as an adjudicating authority for insolvency proceedings which are initiated on application from any stakeholder of the entity like the firm, creditors, debtors, employees etc. and passes an order approving the resolution plan.

As the proceedings conducted under IBC also adjudicate the government dues pending under the CGST Act or under existing laws against the corporate debtor, the same appear to be covered under the term 'other proceedings' in section 84.



Refund under GST

Prescribing manner of filing an application for refund by unregistered persons [Rule 89(2) amended] - Notification No. 26/2022 CT dated 26.12.2022 read with Circular No. 188/20/2022 GST dated 27.12.2022

There are cases where the unregistered buyers, who had entered into an agreement/ contract with a builder for supply of services of construction of flats/ building, etc. and had paid the amount towards consideration for such service, either fully or partially, along with applicable tax, had to get the said contract/ agreement cancelled subsequently due to non-completion or delay in construction activity in time or any other reasons.

In a number of such cases, the period for issuance of credit note on account of such cancellation of service under the provisions of section 34 may already have got expired by that time. In such cases, the supplier may refund the amount to the buyer, after deducting the amount of tax collected by him from the buyer.

Similar situation may arise in cases of long-term insurance policies where premium for the entire period of term of policy is paid upfront along with applicable GST and the policy is subsequently required to be terminated prematurely due to some reasons. In some cases, the time period for issuing credit note under the provisions of section 34 may have already expired and therefore, the insurance companies may refund only the proportionate premium net off GST⁶.

Hitherto, there was no facility available to such unregistered buyers/ recipients for claiming refund of amount of tax borne by them in the event of cancellation of the contract/agreement for supply of services of construction of flat/ building or on termination of long-term insurance policy.

However, section 54(1) already provides that any person can claim refund, by making an application upto 2 years from the relevant date. Further, in terms of section 54(8)(e), in cases where the unregistered person has borne the incidence of tax and not passed on the same to any other person, the said refund shall be paid to him instead of being credited to Consumer Welfare Fund (CWF).

Thus, in order to enable such unregistered person to file application for refund under section 54(1) in the situations discussed above, a new functionality has been made available on the common portal which allows unregistered persons to take a temporary registration and apply for refund under the category '**Refund for Unregistered person**' in Form GST RFD - 01.

⁶ Where the time period for issuance of credit note under section 34 has not expired at the time of cancellation/termination of agreement/contract for supply of services, the concerned suppliers can issue credit note to the unregistered person.

In such cases, the supplier would be in a position to also pay back the amount of tax collected by him from the unregistered person and therefore, there will be no need for filing refund claim by the unregistered persons in these cases.

Accordingly, the refund claim can be filed by the unregistered persons only in those cases where at the time of cancellation/termination of agreement/contract for supply of services, the time period for issuance of credit note under section 34 has already expired.

Further, rule 89(2) has been amended to provide for the documents required to be furnished along with the application of refund by the unregistered persons and the statement to be uploaded along with the said refund application.

In such case, following documentary evidences are required:

- (a) a statement containing the details of invoices viz. number, date, value, tax paid and details of payment, in respect of which refund is being claimed along with copy of such invoices, proof of making such payment to the supplier, the copy of agreement or registered agreement or contract, as applicable, entered with the supplier for supply of service, the letter issued by the supplier for cancellation or termination of agreement or contract for supply of service, details of payment received from the supplier against cancellation or termination of such agreement along with proof thereof, **in a case where the refund is claimed by an unregistered person where the agreement or contract for supply of service has been cancelled or terminated;**
- (b) a certificate issued by the supplier to the effect that he has paid tax in respect of the invoices on which refund is being claimed by the applicant; that he has not adjusted the tax amount involved in these invoices against his tax liability by issuing credit note; and also, that he has not claimed and will not claim refund of the amount of tax involved in respect of these invoices, **in a case where the refund is claimed by an unregistered person where the agreement or contract for supply of service has been cancelled or terminated**

Moreover, it has been provided that a certificate by a Chartered Accountant or a Cost Accountant to the effect that there is no unjust enrichment in the case of the applicant is not required to be furnished in cases where refund is claimed by an unregistered person who has borne the incidence of tax even if the amount of refund claimed exceeds ₹ 2 lakh.

Relevant date for filing of refund

The relevant date in respect of cases of refund by a person other than supplier is the date of receipt of goods or services or both by such person as per clause (g) in Explanation (2) under section 54. In the given cases of refund, the date of issuance of letter of cancellation of the contract/ agreement for supply by the supplier will be considered as the date of receipt of the services by the applicant. In cases where the amount paid back by the supplier to the unregistered person on cancellation/termination of agreement/contract for supply of services is less than amount paid by such unregistered person to the supplier, only the proportionate amount of tax involved in such amount paid back shall be refunded to the unregistered person.

Segment – 20

Miscellaneous Provisions

E-way bill to be generated for transporting imitation jewellery [Rule 138(14) amended] - Notification No. 26/2022 CT dated 26.12.2022

- Rule 138(14) illustrates the cases where e-way bill is not required to be generated.
- One such case is where jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71) are being transported.
- Thus, jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71) can be transported without generating e-way bill.
- This provision has been amended to provide that henceforth, e-way bill needs to be generated for transporting imitation jewellery.



Competition Commission of India (CCI) replaces National Anti-profiteering Authority (NAA) for anti-profiteering complaints under GST [Rules 122, 124, 125, 134 and 137 omitted and rule 127 amended] - [Effective from 01.12.2022] [Notification Nos 23 & 24/2022 CT both dated 23.11.2022]

Rule 122	Constitution of the Authority	Omitted
Rule 123	Constitution of the Standing Committee and Screening Committees	Retained
Rule 124	Appointment, salary, allowances and other terms and conditions of service of the Chairman and Members of the Authority	Omitted
Rule 125	Secretary to the Authority	Omitted
Rule 126	Power to determine the methodology and procedure	Retained
Rule 127	Duties [Functions] of the Authority	Amended
Rule 128	Examination of application by the Standing Committee and Screening Committee	Retained
Rule 129	Initiation and conduct of proceedings	Retained
Rule 130	Confidentiality of information	Retained
Rule 131	Co-operation with other agencies or statutory authorities	Retained
Rule 132	Power to summon persons to give evidence and produce documents	Retained
Rule 133	Order of the Authority	Retained
Rule 134	Decision to be taken by the majority	Omitted
Rule 135	Compliance by the registered person	Retained
Rule 136	Monitoring of Order	Retained
Rule 137	Tenure of authority	Omitted

Section 171 contains the provisions relating to anti-profiteering measures under GST law. Chapter XV - Anti-profiteering of the CGST Rules prescribes the powers and functions of National Anti-profiteering Authority (NAA).

NAA was constituted under rule 137 by the Central Government to examine whether ITC availed by any registered person or the reduction in the tax rate had actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him; this was to ensure that the consumer was protected from arbitrary price increase in the name of GST. The term of the authority came to an end on 30.11.2022.

With effect from 01.12.2022, rule 137 has been omitted vide **Notification No. 24/2022 CT dated 23.11.2022**. Resultantly, NAA ceased to exist from 01.12.2022.

Further, with effect from 01.12.2022, NAA has been replaced by the Competition Commission of India (CCI).

Now, CCI is empowered to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him. Henceforth, all investigations, based on complaints filed by consumers, will be done by the Directorate General of Anti-profiteering (DGAP) which will then submit a report to CCI.

Consequentially, definition of 'Authority' provided in clause (a) of Explanation to this chapter has been appropriately substituted to mean the Authority notified under section 171(2) and rules 122, 124, 125 and 134 have also been omitted.

Further, consequential amendments are carried out in rule 127. Relevant extract of amended rule 127 reads as follows:

Rule 127 - Functions of the Authority

The authority shall discharge the following functions, namely: -

- (i).....
- (ii).....
- (iii)



भारतीय प्रतिस्पर्धा आयोग
Competition Commission of India

Segment – 21

Taxable Event under Customs

No Amendments in this segment

Segment – 22

Classification of goods

No Amendments in this segment

Segment – 23

Types of Customs Duties

No Amendments in this segment

Segment – 24

Valuation under Customs

Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023 (CAVR, 2023) notified - Notification No. 03/2023 Cus (N.T.) dated 11.01.2023 read with Circular No. 01/2023 Cus dated 11.01.2023

Background:

- Finance Act, 2022 amended section 14 of the Customs Act, 1962 to include provisions for rules enabling CBIC to specify the additional obligations of the importer in respect of a class of imported goods whose value is not being declared correctly.
- CBIC shared the draft Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2022 inviting suggestions and feedback from stakeholders.
- CBIC has now notified Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023.
- These will be operationalized from 11 February 2023.

Objective: It is a measure to address the issue of undervaluation in imports and it provides for rules to be framed by the Central Government whereby the Board can be enabled to specify the additional obligations of the importer in respect of a class of imported goods whose value is not being declared correctly, the criteria of selection of such goods, and the checks in respect of such goods.

If board has reasons to believe that the value of such goods may not declared truthfully or accurately having regard to trend of declared value (or) other criteria

Board may specify class of imported goods for which process to be followed by Importer.

Board may specify relevant class of Goods as identified Goods

How board declares goods as identified goods?

Written reference made to board by the officer

If found suitable by screening committee for detailed examination then it must be comprehensively examined by evaluation Committee

If Evaluation committee concludes that value of relevant class of goods may not be declared truthfully

Screening committee makes recommendation to the board based on the report submitted by Evaluation Committee

If recommendation accepted by the board then it will declare relevant goods as identified goods

For passionate learners...

Exceptions. - These rules shall not be applied to, -

- (a) imports not involving duty;
- (b) goods for which tariff value has been fixed by the Board in terms of section 14(2) of the Act;
- (c) goods which attract import duty on specific rate basis;
- (d) imports made in terms of authorization or license issued under duty exemption scheme of the Foreign Trade (Development and Regulation) Act, 1992 in which the inputs imported prior to export are physically contained in the export product;
- (e) imports where buyer and seller are related and an investigation on relationship has already been contemplated or finalized;
- (f) Project imports;
- (g) imports by Government, Public Sector Undertakings;
- (h) imports made in non-commercial quantities;
- (i) goods imported for the purpose of re-export; or
- (j) imports specified by the Board.

Segment – 25

Procedures under Customs

Phased implementation of Electronic Cash Ledger (ECL) in Customs w.e.f 01.04.2023 [Section 51A] - [Notification No.18/2023-Cus (N.T.) dated 30.03.2023 & Notification No. 19/2023-Cus (NT) dated 30.03.2023 amending Notification No. 19/2022- Customs (NT) dated 30.03.2022 read with Circular No. 09/2023 Cus dated 30.03.2023]

The Electronic Cash Ledger (ECL) functionality is covered in Section 51A of the Customs Act, 1962. It provides enabling provision whereby the importer, exporter or any person liable to pay duty, fees etc., under the Customs Act, has to make a non-interest-bearing deposit with the Government for the purpose of payment. Section 51A(4) provides that CBIC may by notification exempt certain deposits to which provisions of Electronic Cash Ledger will not be applicable. Accordingly, in the first phase from 01.04.2023 till 30.04.2023, CBIC has exempted following deposits from the provisions of section 51A of the Customs Act –

- (i) with respect to goods imported or exported in customs stations where customs automated system is not in place;
- (ii) with respect to accompanied baggage;
- (iii) with respect to goods imported or exported at international courier terminals;
- (iv) other than those used for making electronic payment of:
 - (a) any duty of customs, including cesses and surcharges levied as duties of customs;
 - (b) IGST;
 - (c) GST Compensation Cess;
 - (d) interest, penalty, fees or any other amount payable under the Act, or Customs Tariff Act, 1975.

In second phase, from 01.05.2023, the exemptions cited above would continue, except for the deposits with respect to goods imported or exported at International Courier Terminals. In other words, payments relating to Courier shipments would be required to be done through ECL from 01.05.2023 onwards.

The phased introduction of ECL is aimed at leveraging technology and reforming the payment process, inter-alia related to clearance of goods as the deposit may be held in ECL by the trade for making subsequent transaction-wise payments of various types. This has potential to easing compliance in numerous ways.

Segment – 26

Exemptions under Customs

No Amendments in this segment

Segment – 27

Assessment & Audit under Customs

No Amendments in this segment

Segment – 28

Duty Drawback

No Amendments in this segment

Segment – 29

Baggage

No Amendments in this segment

Segment – 30

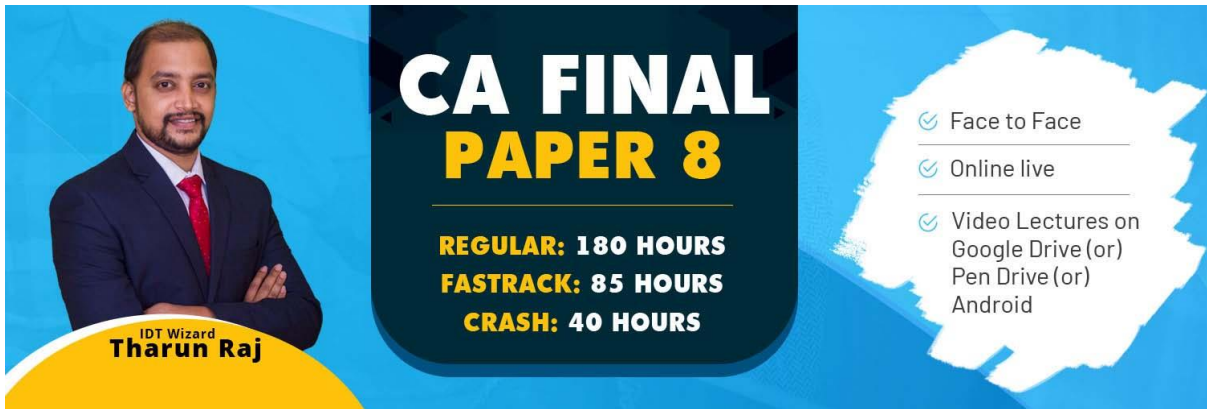
Warehousing under Customs

No Amendments in this segment

Segment – 31

Foreign Trade Policy

Coming Soon...



CA FINAL PAPER 8

REGULAR: 180 HOURS
FASTRACK: 85 HOURS
CRASH: 40 HOURS

- ✓ Face to Face
- ✓ Online live
- ✓ Video Lectures on Google Drive (or) Pen Drive (or) Android


IDT Wizard
Tharun Raj

 www.youtube.com/tharunsbrainery

 www.instagram.com/tharunsbrainery

 www.tharunraj.com

 admin@tharunraj.com

 [@tharunsbrainery](https://t.me/tharunsbrainery)

BRAINERY

For passionate learners...





THARUN'S BRAINERY
@THARUNSBRAINERY
28.3K subscribers

Customize channel

Manage videos

HOME VIDEOS SHORTS LIVE PLAYLISTS COMMUNITY CHANNELS ABOUT



IMPORTANT ANNOUNCEMENT FOR CA FINAL MAY'23 & NOV'...

3,848 views · 8 days ago

Registration Link: <https://www.tharunraj.com/product/ca...>

Visit www.tharunraj.com or Call 9150 938 938 / 9150 939 939 for more details

Multiple playlists

ICAI Study Material Questions - CA FINAL - IDT THARUN'S BRAINERY View full playlist	ICAI Study Material Questions - CA Intermediate - GST THARUN'S BRAINERY Updated 7 days ago View full playlist	Solved Workbook Questions CA Final IDT THARUN'S BRAINERY View full playlist	CA Final Nov 22 Rocket Revision and Amendments THARUN'S BRAINERY View full playlist	CA Final Past Exam, RTP and MTP THARUN'S BRAINERY Updated 7 days ago View full playlist

Popular videos ▶ Play all

CA Final IDT - Rocket Revision - Nov 2020 Exams 86K views · 2 years ago	DAY 01 CA INTERMEDIATE GST FREE BATCH FOR MAY... 62K views · 1 year ago	CA FINAL IDT NOV'22 & MAY'23 REGULAR BATCH ... DEMO - 1 55K views · 5 months ago	CA Final Nov'22 Re-Wise Book - New Multi Color... 50K views · 5 months ago	ROCKET REVISION CA FINAL IDT July 21 Exam ... 45K views · 1 year ago