

# GST Miscellaneous Provisions

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# Outline

- Job Work Procedure
- Presumption as to documents in certain cases
- Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence
- Common Portal
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- Special procedure for certain processes
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# Job Work Procedure (Section 143)

- A principal may send any inputs or capital goods, without payment of tax, to a job worker for job work and from there subsequently send to another job worker.
- The principal can bring back inputs, after completion of job work or otherwise, or capital goods, (other than moulds and dies, jigs and fixtures, or tools), within one year and three years, respectively, of their being sent out, to any of his place of business, without payment of tax.
- The principal can supply such inputs, after completion of job work or otherwise, or capital goods, (other than moulds and dies, jigs and fixtures, or tools), within one year and three years, respectively, of their being sent out from the place of business of a job worker on payment of tax within India, or with or without payment of tax for export.

# Job Work Procedure (Section 143)

- The principal shall not supply the goods from the place of business of a job worker unless the said principal declares the place of business of the job worker as his additional place of business except in a case—
  - *(i) where the job worker is registered under section 25; or*
  - *(ii) where the principal is engaged in the supply of such goods as may be notified by the Commissioner.*
- The period of one year and three years may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding one year and two years respectively.

# Job Work Procedure (Section 143)

- The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal.
- Where the inputs or capital goods are not received back or supplied within time specified it shall be deemed that such inputs or capital goods had been supplied by the principal to the job worker on the day when the said inputs or capital goods were sent out.

# Job Work Procedure (Section 143)

- Any waste and scrap generated during the job work may be supplied by the job worker directly from his place of business on payment of tax, if such job worker is registered, or by the principal, if the job worker is not registered.
- For the purposes of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or the job worker

# Presumption as to documents in certain cases ( Section 144)

- Where any document (produced/seized/received *under this Act or any other law for the time being in force*)--
  - (i) *is produced by any person; or*
  - (ii) *has been seized from the custody or control of any person; or*
  - (iii) *has been received from any place outside India in the course of any proceedings.*and such document is tendered by the prosecution in evidence against him or any other person who is tried jointly with him, the court shall—
  - (a) *unless the contrary is proved by such person, presume*
    - (i) *the truth of the contents of such document;*
    - (ii) *that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;*
  - (b) *admit the document in evidence notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.*

## Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence (Section 145)

- The following shall be deemed to be a document for the purposes of this Act and the rules made there under and shall be admissible in any proceedings there under, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.
  - (a) *a micro film of a document or the reproduction of the image or images embodied in such micro film (whether enlarged or not); or*
  - (b) *a facsimile copy of a document; or*
  - (c) *a statement contained in a document and included in a printed material produced by a computer, subject to such conditions as may be prescribed; or*
  - (d) *any information stored electronically in any device or media, including any hard copies made of such information,*



## Admissibility of micro films.....

- In any proceedings under this Act or the rules made thereunder, where it is desired to give a statement in evidence by virtue of this section, a certificate,—
  - (a) identifying the document containing the statement and describing the manner in which it was produced;*
  - (b) giving such particulars of any device involved in the production of that document as may be appropriate for the purpose of showing that the document was produced by a computer,*
- shall be evidence of any matter stated in the certificate and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

## Common Portal – Sec 146, Deemed Exports – Sec 147, Special procedure for certain processes – Sec 148

- The Government may, on the recommendations of the Council, notify -
  - a) **Sec 146** - Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns, computation and settlement of integrated tax, electronic way bill and for carrying out such other functions.
  - b) **Sec 147** - Certain supplies of goods as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange, if such goods are manufactured in India.
  - c) **Sec 148** - Subject to such conditions and safeguards as may be prescribed, notify certain classes of registered persons, and the special procedures to be followed by such persons.

# Goods and service tax compliance rating

## Section 149

- Every registered person may be assigned a goods and services tax compliance rating score –
  - By the Government based on his record of compliance with the provisions of this Act,
  - May be determined on the basis of such parameters as may be prescribed,
  - May be updated at periodic intervals and intimated to the registered person and also placed in the public domain in such manner as may be prescribed.

# Obligation to furnish information return (Section 150)

- Any person who is responsible for
  - Maintaining record of registration or statement of accounts or
  - Any periodic return or
  - Document containing details of payment of tax and other details of transaction of goods or services or both or
  - Transactions related to a bank account or consumption of electricity or
  - Transaction of purchase, sale or exchange of goods or
  - Property or right or interest in a property under any law for the time being in force
- Shall furnish an information return of the same in respect of such periods, within such time, in such form and manner and to such authority or agency as may be prescribed.

# Information return

- If the information furnished is found defective or incomplete , the same shall be rectified within 30 days , If not rectified it shall be treated as not furnished.
- Where a person who is required to furnish information return has not furnished the same within the time specified the said authority may serve upon him a notice requiring furnishing of such information return within a period not exceeding ninety days from the date of service of the notice and such person shall furnish the information return.

# Information return

- The Following shall furnish information return:
  - *a taxable person; or*
  - *a local authority or other public body or association; or*
  - *any authority of the State Government responsible for the collection of value added tax or sales tax or State excise duty or an authority of the Central Government responsible for the collection of excise duty or customs duty; or*
  - *an income-tax authority appointed under the provisions of the Income-tax Act, 1961 (43 of 1961); or*
  - *a banking company within the meaning of clause (a) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934); or*
  - *a State Electricity Board or an electricity distribution or transmission licensee under the Electricity Act, 2003 (36 of 2003), or any other entity entrusted with such functions by the Central Government or the State Government; or*
  - *the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908 (16 of 1908); or*

# Information return

- *a Registrar within the meaning of the Companies Act, 2013 (18 of 2013); or*
- *the registering authority empowered to register motor vehicles under the Motor Vehicles Act, 1988 (59 of 1988); or*
- *the Collector referred to in clause (c) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013); or*
- *the recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956); or*
- *a depository referred to in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996 (22 of 1996); or*
- *an officer of the Reserve Bank of India as constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934); or*
- *the Goods and Services Tax Network, a company registered under the Companies Act, 2013 (18 of 2013); or*
- *a person to whom a Unique Identity Number has been granted under sub-section (9) of section 25; or*
- *any other person as may be specified, on the recommendations of the Council, by the Government,*

# Power to collect statistics Section 151

- Commissioner may, if considers it necessary so to do, by notification, direct that statistics be collected related to any matter dealt with.
- Commissioner or authorized person may call upon concerned persons to furnish information or return relating to any matter in respect of which statistics is to be collected



## Bar on disclosure of information – Sec 152

- No information of any individual return or part thereof be published without the previous consent in writing of the concerned person or authorized person
- A person who is not engaged in the collection of statistics or compilation or computerization shall not be permitted to see or have access to any collected information or individual return (Exception : Prosecution under this Act)
- Information relating to class of taxable persons or class of transactions can be published, if in the opinion of commissioner it is desirable in the public interest.

## **Taking assistance from an expert – Sec 153**

- Any officer not below the rank of Assistant commissioner may take assistance of any expert at any stage of scrutiny, inquiry, investigation or any proceedings before him.
- Assistance of expert may be taken having regard to nature and complexity of the case and the interest of revenue.

# Power to take samples – Sec 154

- The Commissioner or any officer authorized by him may take samples of goods from possession of any taxable person
- Commissioner or officer authorized to provide receipt of any samples so taken.

## **Burden of proof – Sec 155**

### **Persons deemed to public servants – Sec 156**

#### **Section 155:**

- A person who claims he is eligible for input tax credit, the burden of proving such claim shall lie on such person

#### **Section 156:**

- All persons discharging functions under GST Acts shall be deemed to be public servants within meaning of Section 21 of Indian Penal Code

## Disclosure of information by a public servant – Sec 158

- Public Servant shall not disclose the details obtained from: -
  - All particulars contained in any statement made
  - Return furnished
  - Accounts or documents produced in accordance with this Act
  - Any record of evidence given in the course of any proceedings under this Act.
- No Court shall require any officer appointed or authorised under the Act:-
  - To produce before it
  - To give evidence before itin relation to matters which cannot be disclosed

## Protection of action under this act – Sec 157

- No suit, prosecution or other legal proceedings shall not lie against
  - President , State president, Members, officers, other employees of Appellate Tribunal
  - Any other person authorized under the Act or rules
- Against anything which is done in good faith or intended to be done in good faith under CGST Act or Rules thereunder.

# Disclosure of information by a public servant

- Following details can be disclosed :
  - Any particulars of statement, return, accounts, documents, evidence, affidavit or deposition for the purpose of any prosecution.
  - Any particulars required to be given to the Central/State Government/ person acting, for carrying out objects of the Act.
  - If such disclosure is necessary for the service of notice/demand
  - Any particulars required to be disclosed to a civil court
  - Any particulars required to any officer appointed for the purpose of audit of tax receipts or refund of tax levied under GST Act
  - Particulars relevant for any inquiry into the conduct of any GST officer

## Disclosure of information by a public servant

- Following details can be disclosed (.....Continued) :
  - Such facts to an officer of Central/State Government for enabling the Government to levy or realise any tax or duty
  - Such particulars, if such disclosure is necessary before a public servant or any statutory authority
  - Such particulars as relevant to conduct inquiry on professionals
  - Disclosures to any agency appointed for purposes of upgrading or maintaining any automated system
  - Any particulars to an officer of the Central / State Government
  - Information relating to any class of taxpayers/transactions for publication (if in public interest)



## Publication of Info in certain cases – Sec 159

- Commissioner or any other officer if of the opinion that is necessary in public interest to publish, it may cause to be published:
  - the name of any person
  - other particulars relating to any proceedings/prosecution under the Act in respect of such person in such manner as it thinks fit.
- However, no publication related to penalty can be made until :
  - the time for presenting an appeal to the Appellate Authority under section 107 has expired without an appeal having been presented or;
  - the appeal, if presented, has been disposed of.
- If commissioner or any other officer authorised in this behalf permits :
  - In the case of firm, company or other association of persons, the names of the partners of the firm, directors, managing agents, secretaries and treasurers or managers of the company, or the members of the association, as the case may be, may also be published.

# When Assessment proceedings etc. not invalid – Sec 160

- No Proceedings like assessment, appeal, review, rectification, notice, summon etc. done, accepted, made, issued, initiated or purports to, under this act will be invalid, if such proceedings are in substance and effect in conformity with or according to the intents, purposes and requirements of this Act or any existing law.
- The service of any notice, order or communication shall not be called in question, if:
  - the notice, order or communication, as the case may be, has already been acted upon by the person to whom it is issued or
  - where such service has not been called in question at or in the earlier proceedings commenced, continued or finalised pursuant to such notice, order or communication.

# Rectification of errors apparent on the face of record – Sec 161

- Any authority, who has passed or issued any decision or order or notice or certificate or any other document may rectify any error which is apparent on the face of record in such decision or order or notice or certificate or any other document,
  - either on its own motion
  - where such error is brought to its notice by any officer appointed under this Act or an officer appointed under the SGST/UTGST Act
  - by the affected person within a period of three months from the date of issue of such decision or order or notice or certificate or any other document, as the case may be.
- No such rectification shall be done after a period of six months from the date of issue of such decision or order or notice or certificate or any other document

## **Rectification of errors apparent on the face of record – Sec 161**

- The said period of six months shall not apply in such cases where the rectification is purely in the nature of correction of a clerical or arithmetical error, arising from any accidental slip or omission
- The principles of natural justice shall be followed by the authority carrying out such rectification, where such rectification adversely affects any person,.

# Sections 162 / 163 / 164 / 165

## **Bar on jurisdiction of civil courts – Section 162 :**

- Save as provided in sections 117 and 118, no civil court shall have jurisdiction to deal with or decide any question arising from or relating to anything done or purported to be done under this Act.

## **Levy of fee - Section 163:**

- Wherever a copy of any order or document is to be provided to any person on an application made by him for that purpose, there shall be paid such fee as may be prescribed.

## **Power of Government to make rules – Section 164:**

- The Government may, on the recommendations of the Council, by notification, make rules for carrying out the provisions of this Act, even with retrospective effect but not earlier than the date on which provisions come into force.
- May also provide for a penalty not exceeding Rs. 10,000/- for contravention of rules mentioned above.

## **Power to make regulations – Section 165**

- The Board may, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act

# Sections 167 - (Power delegation) 168 (Power of issue of instructions)

## Delegation of Powers – Section 167:

- The Commissioner may, by notification, direct that subject to such conditions, if any, as may be specified in the notification delegate the powers to other officers as specified in the notification.

## Power to issue instructions or directions – Section 168:

- The Board may,
  - if it considers it necessary or
  - expedient so to do for the purpose of uniformity in the implementation of this Act,
- issue such orders, instructions or directions to the central tax officers as it may deem fit,
- thereupon all such officers and all other persons employed in the implementation of this Act shall observe and follow such orders, instructions or directions.

# Service of notice in certain circumstances – Sec 169

- Following methods are accepted as methods of servicing of any communication :

## Method 1

- by giving or tendering it directly or by a messenger including a courier to the addressee or the taxable person or
- to his manager or authorised representative or
- an advocate or a tax practitioner holding authority to appear in the proceedings on behalf of the taxable person or
- to a person regularly employed by him in connection with the business, or
- to any adult member of family residing with the taxable person;

## Method 2

- Registered post or speed post or courier with acknowledgement due

# Service of notice in certain circumstances – Sec 169

## Other Methods:

- by sending a communication to his e-mail address provided at the time of registration or as amended from time to time
- by making it available on the common portal
- by publication in a newspaper circulating in the locality in which the taxable person or the person to whom it is issued is last known to have resided, carried on business or personally worked for gain;
- if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence
- if such mode is not practicable for any reason, then by affixing a copy thereof on the notice board of the office of the concerned officer
- When such decision, order, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved



# Rounding off of tax- – Sec 170

- **Amounts covered:** Tax, interest, penalty, fine or any other sum payable, and refund or any other sum due, under the Act
- In case of the assessee, the rounding off must be done for every part of the tax contained in the invoice.
- The above provision is applicable for the assessee, for the department (while issuing show cause notice or passing the order, etc.) and also for the Appellate Authorities
- where amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise it shall be ignored.

## Removal of difficulties (Section 172)

- If any difficulty arises in giving effect to any provisions of this Act, the Government may, on the recommendations of the Council,, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made there under, as may be necessary or expedient for the purpose of removing the said difficulty.
- Order to be published in official gazette
- No such order shall be made after the expiry of a period of three years from the date of commencement of this Act.
- Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

## **Anti Profiteering Measure (Section 171)**

- Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.
- The Central Government may on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether benefit is passed to recipients.

# Repeal and saving (Section 174)

- The following acts are repealed:
  - The Telangana Value Added Tax Act, 2005, saving except in respect of goods included in the Entry 54 of the State List of the Seventh Schedule to the Constitution,
  - The Telangana Entertainments Tax Act, 1939
  - The Telangana Tax on Entry of Motor Vehicles into Local Areas Act, 1996
  - The Telangana Tax on Entry of Goods into Local Areas Act, 2001
  - The Telangana Tax on Luxuries Act, 1987
  - The Telangana Horse Racing and Betting Tax Regulations, 1958
  - The Telangana Rural Development Act, 1996

# Repeal and saving (Section 174)

- Central Excise Act, 1944 (except as respects goods included in entry 84 of the Union List of the Seventh Schedule to the Constitution)
- The Medicinal and Toilet Preparations (Excise Duties) Act, 1955,
- The Additional Duties of Excise (Goods of Special Importance) Act, 1957
- The Additional Duties of Excise (Textiles and Textile Articles) Act, 1978,
- the Central Excise Tariff Act, 1985
- Chapter V of the Finance Act, 1994 (Service tax , Omitted by Section 173)

# Repeal and saving

- The repeal of the said Acts
  - Revive anything not in force or existing at the time of such amendment or repeal; or
  - affect the previous operation of the amended Acts or repealed Acts and orders or anything duly done or suffered thereunder; or
  - affect any right, privilege, obligation, or liability acquired, accrued or incurred under the amended Acts or repealed Acts or orders under such repealed or amended Acts: Provided that any tax exemption granted as an incentive against investment through a notification shall not continue as privilege if the said notification is rescinded on or after the appointed day; or
  - affect any tax, surcharge, penalty, fine, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed against the provisions of the amended Acts or repealed Acts; or

# Quick Evaluation

- 1) Where any person claims that he is eligible for input tax credit under GST Act, the burden of proving such claim shall lie on tax officer.  
True/False
- 2) Any information stored electronically in any device or media, shall be deemed to be a document for the purposes of GST Act.  
True/False
- 3) The Common Goods and Services Tax Electronic Portal for facilitating registration, payment of tax, furnishing of returns notified by government is:  
[a\) www.gstcouncil.gov.in](http://www.gstcouncil.gov.in) [b\) www.gstn.org](http://www.gstn.org) [c\) www.gst.gov.in](http://www.gst.gov.in) [d\) www.tgct.gov.in](http://www.tgct.gov.in)
- 4) A State Tax Officer , having regard to the nature and complexity of the case and the interest of revenue, take assistance of any expert at any stage of scrutiny, inquiry, investigation or any other proceedings before him  
True/False
- 5) Communicating an order passed under GST Act to email address (provided at the time of registration or as amended from time to time) of such taxable person is not a valid form of service.  
True/False

# Quick Evaluation

- 6) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.  
True/False
- 7) Who have power to give notification, directing to collect statistics relating to any matter dealt with by or in connection with this Act?  
a) Joint Commissioner                      c) Additional Commissioner  
b) Assessing officer                          d) Commissioner
- 8) The Commissioner or an officer authorized by him may take samples of goods from the possession of any taxable person, without giving any receipt for any samples so taken.  
True/False
- 9) The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal.  
True/False
- 10) Deemed export provision is applicable for both goods and services.  
True/False





THANK YOU