

GST COMPLIANCE IN STATUTORY BANK BRANCH AUDIT

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GST Compliance w.r.t. Bank Audit

Bank Transactions under GST are pretty critical and complex as Banking Operations involves a variety of transactions like **issuing cheques / Drafts / cards / issue process, ATM operations, credit wing, securities, letter of credit, net banking, cash backs and reward points, loans and advances, deposits, point of sale transactions, etc.**

Banks and NBFCs also involve in different nature and volume of other services such as **lease transactions, hire purchase, actionable claims, fund and non-fund based services etc.**

Banks generally have multiple branches on pan India basis and each one is unique in its own nature of supplies, the transaction flow, types of customers & their unique requirements apart from various statutory obligations and local requirements, **overly burdened banking sector with complexity of compliance and voluminous tax accounting records and returns filling, reconciliation and audit requirements.**

WHETHER STATUTORY BANK BRANCH AUDITOR IS LIABLE TO AUDIT COMPLIANCE OF GST DURING THE YEAR?

Since it is a statutory audit and therefore, the auditor is duty bound to check the compliance related to GST and also to report if there is material non-compliance in relation to the GST. If the amount is material, then auditor need to issue the MOC also in relation to non-compliance.

COMPLIANCE AREA OF GST IN BANK BRANCH AUDIT

- GST registration
- Supply : Taxable and Exempted
- Reverse Charge Provisions
- Place of Supply
- Time of Supply, issue of Tax Invoice/Receipt Voucher/Payment Voucher
- Valuation
- GST Collection
- Input Tax Credit
- GST Payment & Return Filing
- GST TDS

GST REGISTRATION

Since bank is having turnover more than the threshold limit and therefore bank is liable to take the registration in all the states where the bank is having operations.

Generally bank operates on PAN India basis and therefore there is requirement to take the registration in every state and UT. All the branches in a single state or UT will be covered in a single registration in that particular state or UT as additional places of the bank.

Auditor need to ensure whether the branch under audit is registered in the GST Registration certificate as additional place? Auditor shall obtain the registration certificate and check this point specifically.

Auditor shall also check whether the branch has mentioned the GST Registration number on the display board outside the premises and has affixed the GST Registration Certificate inside the premises.

SUPPLY

It is not necessary that every transaction carried out by the bank is liable to GST. Bank generally deals in money. Money is out of the ambit of definition of goods and services u/s 2(52) and 2(102) of the CGST Act, respectively.

Definition of Money has been given u/s 2(75) of the CGST Act and it includes, cheques, drafts, pay orders, promissory notes, letters of credit, etc. Therefore, any activity dealing in money and aforesaid instrument will be out of the ambit of GST.

However, if any consideration is charged by the bank for any activity related to the money then such consideration will be liable to GST.

CHECKING OF OUTWARD SUPPLY AND ITS TAXATION:

SERVICES WHICH ARE LIABLE FOR PAYMENT OF GST BY BANK:

- Financial and related services;
- Rental and leasing services.
- Service provided by Banks to RBI

CHECKING OF OUTWARD SUPPLY AND ITS TAXATION:

SERVICES WHICH ARE LIABLE FOR PAYMENT OF GST BY BANK:

Illustrative list of various services such as:

- Processing Fees
- Documentation Charges
- Ledger Folio Charges
- DD Charges
- Issuance of Bank Statement Charges
- Stop Payment Charges
- Standing Instruction Charges
- Inspection Charges
- Bank Guarantee Commission Charges
- Issuance Charges of Letter of Credit
- Bills discounting charges
- CIBIL Charges
- Renewal Charges
- Cheque Bouncing Charges

Penal Interest

CHECKING OF OUTWARD SUPPLY AND ITS TAXATION:

SERVICES WHICH ARE LIABLE FOR PAYMENT OF GST BY BANK:

Services by way of:

- Loan Take over Transaction Charges/Securitization Charges
- Sale of Repossessed Assets
- Sale of scrap
- Interchange fees on card settlement paid/shared by banks
- Interest on Financial Lease

CHECKING OF OUTWARD SUPPLY AND ITS TAXATION:

SERVICES WHICH ARE EXEMPTED FOR PAYMENT OF GST BY BANK:

- Services by the Reserve Bank of India
- Services by way of—
 - (a) Extending Deposits, Loans or Advances in so far as the Consideration is represented by way of Interest or Discount (other than interest involved in credit card services);
 - (b) Inter se Sale or Purchase of Foreign Currency Amongst Banks or Authorised Dealers of Foreign Exchange or Amongst Banks and such Dealers.

CHECKING OF OUTWARD SUPPLY AND ITS TAXATION:

SERVICES WHICH ARE EXEMPTED FOR PAYMENT OF GST BY BANK:

- Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana
- Services by an acquiring bank, to any person in relation to settlement of an amount up to two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service.
- Services by the following persons in respective capacities – (a) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch; (b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); or (c) business facilitator or a business correspondent to an insurance company in a rural area

CHECKING OF OUTWARD SUPPLY AND ITS TAXATION:

SERVICES WHICH ARE EXEMPTED FOR PAYMENT OF GST BY BANK:

- Services by way of collection of contribution under the Atal Pension Yojana
- Services by way of collection of contribution under any pension scheme of the State Governments
- Service by way of Invoice/Cheque or other similar discounting
- Services provided to the Central Government, State Government, Union territory under any insurance scheme for which total premium is paid by the Central Government, State Government and Union territory.

CHECKING OF OUTWARD SUPPLY AND ITS TAXATION:

SERVICES WHICH ARE EXEMPTED FOR PAYMENT OF GST BY BANK:

Services in the nature of:

- Collateralised Borrowing and Lending Obligations (CBLO) Transactions
- Securitisation Transactions undertaken by Bank
- Repos and Reverse Repos transactions
- Income From Commercial Paper or Certificate of Deposit
- Promissory Notes
- Interest on debt instruments

SERVICES ON WHICH BANK ARE LIABLE TO PAY GST UNDER REVERSE CHARGE MECHANISM:

- Services supplied by a **recovery agent** to a banking company or a financial institution or a nonbanking financial company.
- Services provided by **business facilitator (BF)** to a banking company.
- Services supplied by **an individual advocate** including a senior advocate by way of legal services before any court, tribunal or authority, directly or indirectly, to any bank located in the taxable territory.
- Services provided by way of **sponsorship** to any body corporate or partnership firm.

SERVICES ON WHICH BANK ARE LIABLE TO PAY GST UNDER REVERSE CHARGE MECHANISM:

- Supply of Services by a **goods transport agency (GTA)** in respect of transportation of goods.
- **Security services** (services provided by way of supply of security personnel) provided by any person (other than body corporate) to bank.
- Services supplied by **individual Direct Selling Agents (DSAs)** other than a body corporate, partnership or limited liability partnership firm to bank or non-banking financial company (NBFCs).
- Services supplied by an **insurance agent** to any person carrying on insurance business

SERVICES ON WHICH BANK ARE LIABLE TO PAY GST UNDER REVERSE CHARGE MECHANISM:

- Services supplied by the **Central Government, State Government, Union territory or local authority** to bank excluding renting of immovable property and 4 specified services.
- Services supplied by the **Central Government, State Government, Union territory or local authority** by way of renting of immovable property to bank.
- Services supplied by a **director of a** bank to the bank.
- **Import** of goods or services.

HOW TO VERIFY THE COMPLIANCE OF PROPERLY ASCERTAINMENT OF LIABILITY?

Bank is working in CBS mode and there is customisation in relation to all the transaction.

Auditor shall check every kind of sample transaction in the system to make sure that system is capturing the transaction automatically correctly w.r.t. taxable supply and exempted supply, specially, penal interest.

If auditor finds that any wrong collection or non-collection of taxes, then it shall be reported. Also auditor shall quantify the amount for the whole year and issue the MOC if amount is material.

PLACE OF SUPPLY

Sec 12(12) Banking and Other Financial Services including Stock Broking

Location of recipient in suppliers records

(If not available, location of supplier)

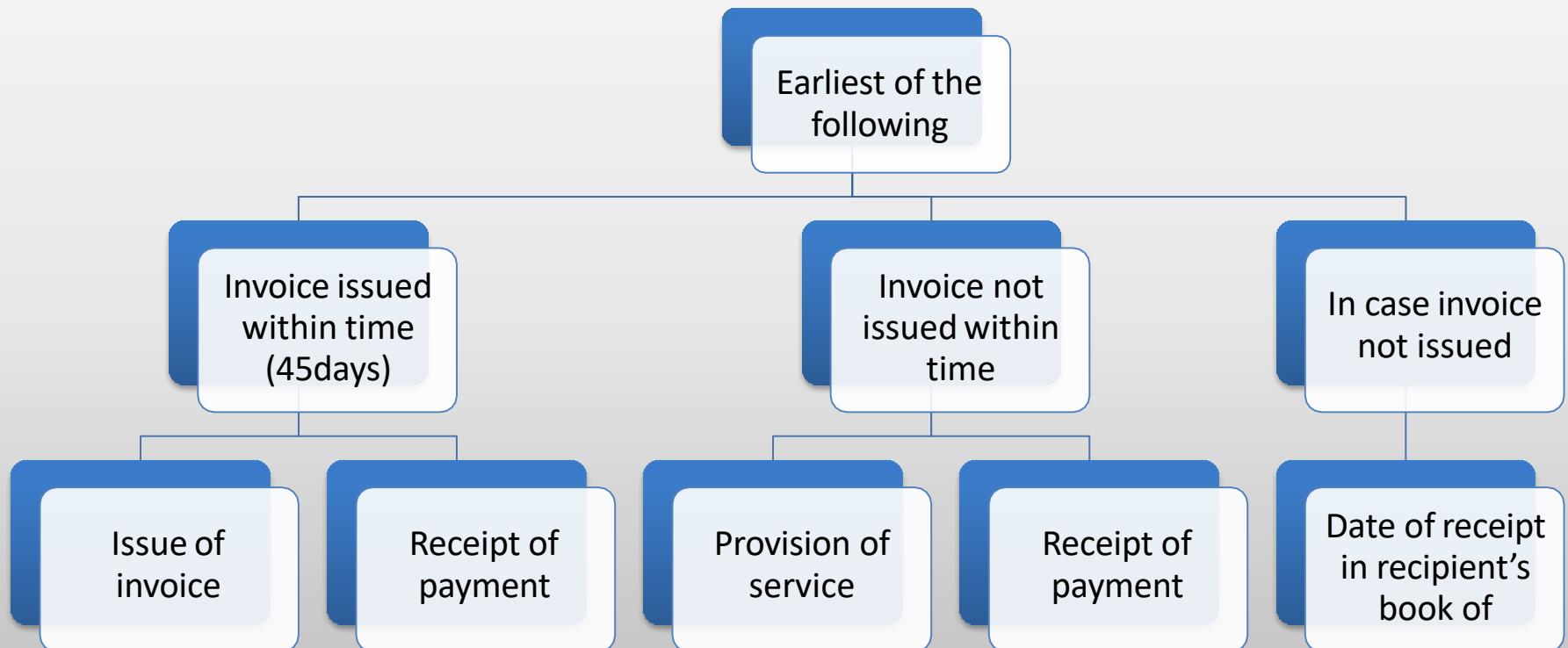
If account holder is located outside India then POS will be location of service provider, i.e., Bank (Section 13(8a) of the IGST Act.

Sec 12(13) Insurance Services

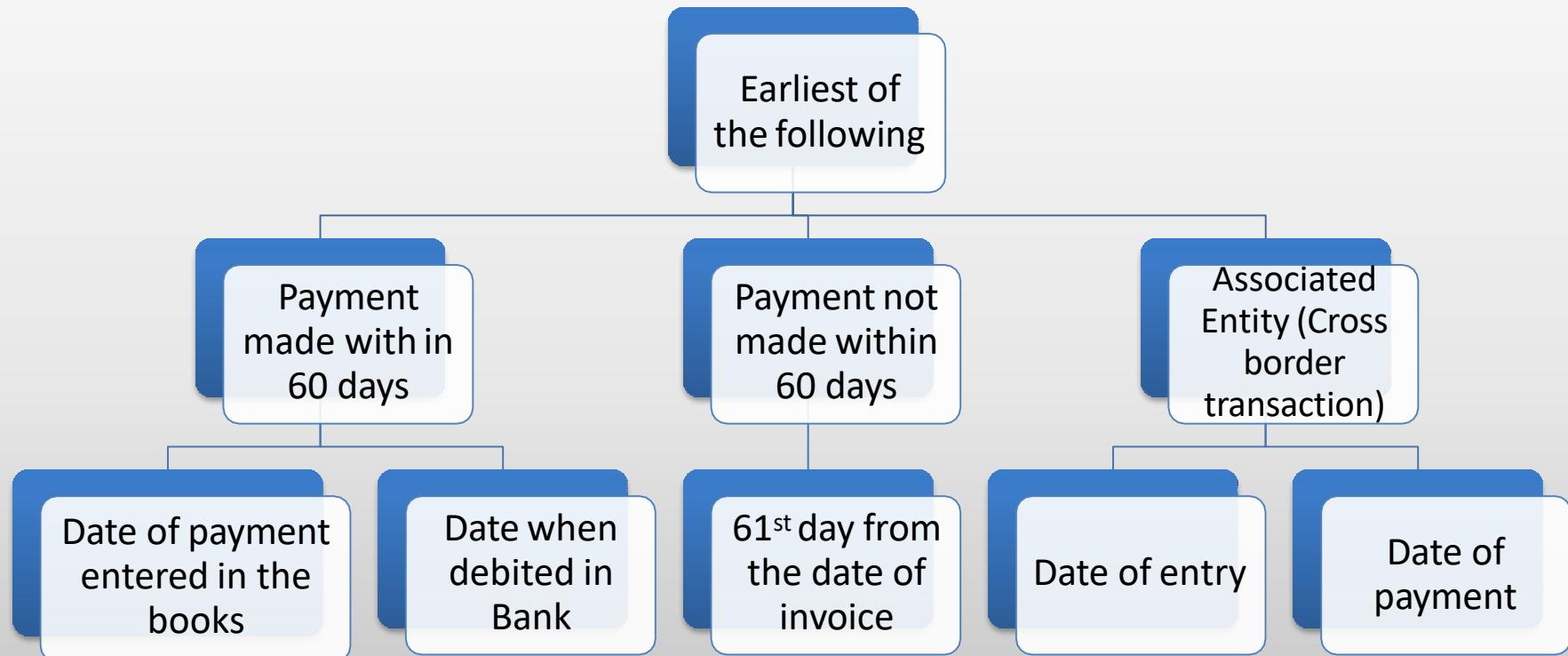
Registered recipient: Location of recipient

Unregistered recipient: Location of recipient in supplier's records

TIME OF SUPPLY

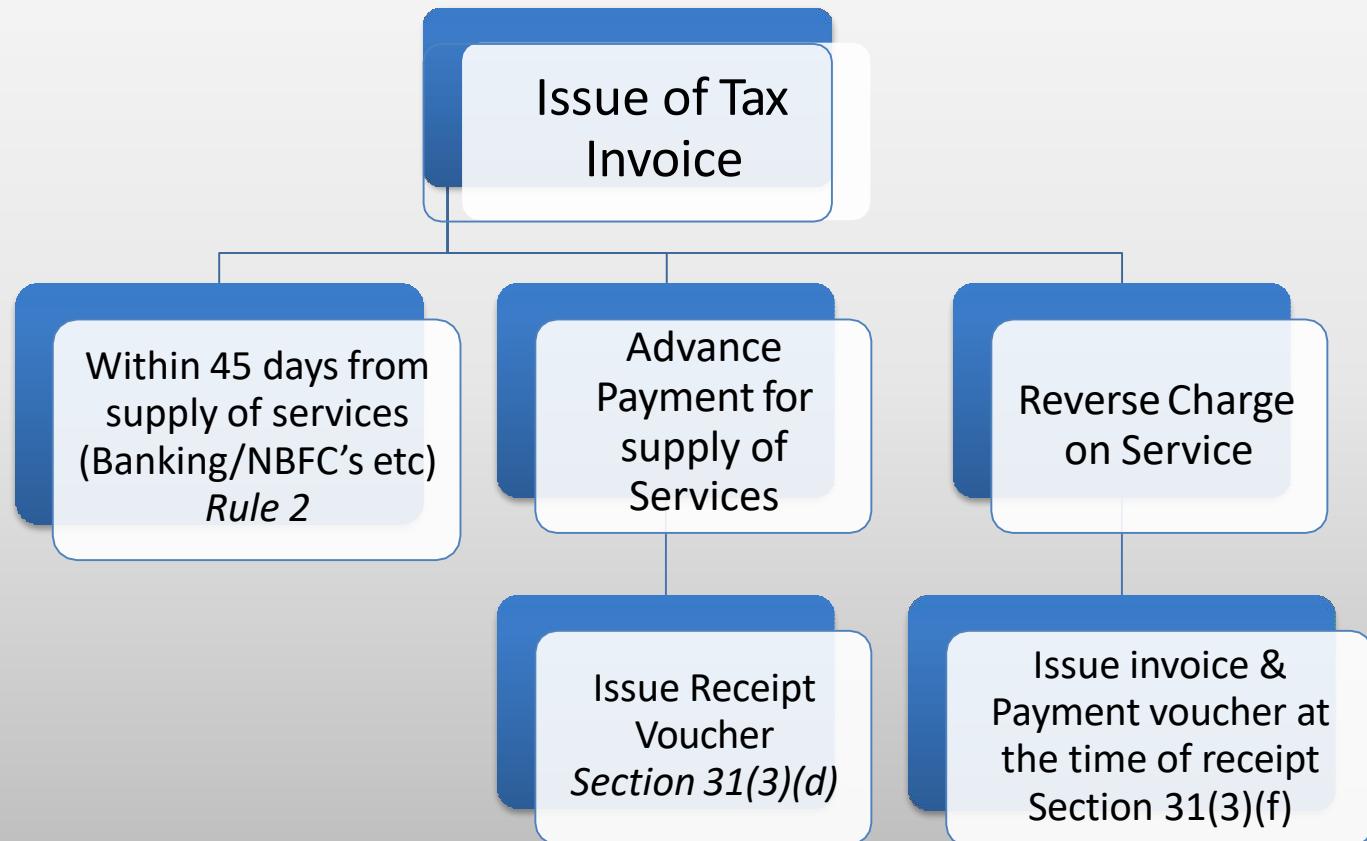


TIME OF SUPPLY FOR REVERSE CHARGE MECHANISM



If not possible under any of the above option (other than associated entity), the date of entry in the books of account of the recipient

TIME LIMIT FOR ISSUE OF TAX INVOICE, RECEIPT VOUCHER AND PAYMENT VOUCHER



Provided that taxable supplies of services between **distinct persons**, bank may issue the invoice **before or at the time bank records the same in his books of account before the expiry of the quarter during which the supply was made.**

ISSUE OF TAX INVOICE

Auditor shall verify whether consolidate tax invoice issued by the bank contains all the prescribed particulars?

(Serial number of invoice and address of the recipient of service are **optional**)

(Bank has option to issued a consolidated tax invoice or any other document in lieu of tax invoice for the supply of services made during a month, at the end of the month, either in physical form or electronically.)

ISSUE OF TAX INVOICE

Whether in case of export of goods or services, the following is mentioned on the tax invoice?:

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

ISSUE OF TAX INVOICE

Supplies not exceeding Rs. 200/-

If bank provides taxable services where value therein does not exceed a sum of Rs. 200/-, then bank is not required to issue tax invoice subject to following two conditions:

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

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

VALUATION OF TAXABLE SUPPLY

The value of a supply of goods or services or both shall be the transaction value

Transaction value i.e. '*the price actually paid or payable for the said supply of goods or services*'

*where the supplier and recipient are **not** related*

and price is the sole consideration

RELATED PERSON UNDER GST

Officers / Directors of one another's business

Legally recognized Partners in business

Employer – employee

A person directly / indirectly owns / controls / holds 25% of shares of both the persons

One directly / indirectly controls the other

Both are directly / indirectly controlled by a third person

Together, they directly / indirectly control a third person

Members of the same family

Sole agent / distributor / concessionaire of the other

VALUATION OF TAXABLE SUPPLY

Value of Supply

Inclusions

- Taxes, cesses, duties, fees, charges under any statute, other than taxes paid under GST regime;
- Amount incurred by Recipient which is liable to be paid by the Supplier
- Penalty
- Incidental charges like commission, packing
- Any amount charged for anything done by the supplier in respect of the supply of goods and /or services at the time of or before delivery
- Interest, Late fees (**Penal Interest**)
- Subsidies directly linked to price

Exclusions

- Post supply Discount
- Discount known at the time of agreement & at or before supply.
- Input tax credit has been reversed by the recipient of the supply

Rule 32(2) (a) DEALING IN FOREX INCLUDING MONEY CHANGING

Option-1

When exchanged from or/ to INR:

(Difference of Buying rate / Selling rate and RBI reference rate) X Total units of currency

Example : Sold 10,000 units of USD ,

Conversion rate USD 1=INR 60 ,

RBI Reference rate i.e. RRR: USD 1=INR 59

Value of Supply : INR (60-59) x 10,000 = INR 10000

Rule 32(2) (a) DEALING IN FOREX INCLUDING MONEY CHANGING

Option-1

If RBI reference rate is not available, value shall be 1% of gross amount of INR received or provided

Example : Purchased 5,000 units of KRW @ KRW1=INR 0.60

RBI Reference rate i.e. RRR: Not available

Value of Supply : $\{1\% \times (.60 \times 5000)\} = \text{INR } 30$

Rule 32(2) (a) DEALING IN FOREX INCLUDING MONEY CHANGING

Option-1

If neither of two currencies exchanged in INR,

the value shall be equal to 1% of the **lesser of the two amounts**

the person changing the money would have received by converting any of the two currencies into INR on that day at the reference rate provided by RBI.

Example : Exchanged 10,000 JPY for 80 EUR

RRR: {JPY1= INR= 0.50, EUR1=INR80

INR $(10,000 \times .50) = \text{INR } 5,000$

INR $(80 \times 80) = \text{INR } 6400$

Value of Supply : Lower of the two =INR $5000 \times 1\% = \text{INR } 50$

RULE 32(2)(b) : The Value In Terms Of Clause (B) For A Financial Year And Such Option Shall Not Be Withdrawn During The Remaining Part Of That Financial Year.

Option-2

Amount of currency exchanged up to Rs.1 lakh

1% of the gross amount of currency exchanged or Rs. 250/-, whichever is higher

Amount of currency exchanged exceeding Rs.1 lakh and up to Rs. 10 lakhs

Rs. 1,000/-plus 0.5% of the gross amount of currency exchanged above Rs. 100,000/-

Amount of currency exchanged exceeding Rs.10 lakhs

Rs. 5,500/- plus 0.10% of the gross amount of currency exchanged above Rs.10 lakhs or Rs. 60,000/-, whichever is lower

RULE 28: Value of supply of goods or services or both between distinct or related persons, other than through an agent

(a) The open market value of such supply

(b) if the open market value is not available

Value of supply of goods or services of like kind and quality

(c) if the value is not determinable under clause (a) or (b), be the value as determined by the application of rule 30 or rule 31, in that order:

Provided that where goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person

Where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of goods or services

RULE 30: VALUE OF SUPPLY OF GOODS OR SERVICES OR BOTH BASED ON COST

The value shall be 110% of the:

- cost of production or manufacture or
- cost of acquisition of such goods or
- cost of provision of such services.

RULE 31: RESIDUAL METHOD

The same shall be determined using REASONABLE MEANS consistent with the principles and the general provisions of section 15 and the provisions of this Chapter:

Provided that in the case of supply of services, the supplier may opt for this rule, ignoring rule 30.

GST COLLECTION

Whether bank is collecting tax from the service recipient?

If bank has not collected GST from any service recipient on any taxable service, then the same need to be paid by the bank by making reverse calculation.

It need to be take care of specially while issuing MOC, if required.

INPUT TAX CREDIT

Since bank provide many services which are exempted in nature and therefore, bank shall take the ITC only in respect of services which are taxable in nature.

However, it is very difficult to keep such record practically because bank takes ITC against goods/services received without linking it to the taxable or exempted services, i.e., ITC is common.

ITC shall be matched as per books and as per returns submitted.

Bank has two options for availing and reversing ITC.

INPUT TAX CREDIT

OPTION I

Reverse the credit pertaining to exempted services as per the method stated in Section 17(2) of the CGST Act, 2017 read with the relevant State Act and Rules thereof.

OPTION II

Avail 50% of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse.

However, Bank shall **not avail ITC** on following if it opts for Option 2:

- Input used for non-business purposes.
- credit attributable to the supplies specified in Section 17(5).

Further, the condition of 50% restriction would not be applicable in case of the tax paid on supplies made by one registered person to another registered person having the same PAN.

INPUT TAX CREDIT

Auditor shall check that bank has taken ITC only if **following conditions are satisfied:**

- Tax Invoice/Debit note or any other prescribed duty paying documents is received.
- All the relevant applicable particulars are contained in Inward Invoice.
- Goods/service has been received.
- Credit is being reflected in GSTR-2A. Bank shall also need to comply with Rule 36(4), i.e., credit availed shall not exceed 20%/10% as being reflected in GSTR-2A of the bank.
- ITC has been duly taken in GSTR-3B filed by the bank.
- Payment to the vendor has been made within 180 days.
- The goods/service is not covered u/s 17(5).
- If ITC is related to previous year then the same shall be taken in GSTR-3B on or before the due date of filing of GSTR for the month of September or filing of Annual Return whichever is earlier.

GST PAYMENT AND RETURN FILING

- Whether the bank has paid the liability on or before 20th from the end of the month?
- In case where the payment is being made with delay, then whether the same has been made with applicable interest @ 18% p.a. for the days delay or @ 24% p.a. in case Excess claim of ITC or excess reduction in output tax liability?
- Whether the bank has filed all the returns in timely manner, i.e., GSTR-1(Outward Supply), GSTR-3B (Monthly Summary), GSTR-6 (ISD), GSTR-7 (TDS), GSTR-9 (Annual Return) along with GSTR-9C (Audit)?
- In case return is filed with the delay, then whether the same has been paid with applicable late fees?

GST TDS

Section 51 of the CGST Act, 2017 read with notification number 50/2018 specified that bank shall deduct the TDS @ 2% on making payment to any person under a contract if the total value of the consideration exceeds Rs. 2.50 lac.

The TDS so deducted shall be deposited on or before the 10th day from the end of the month in which TDS has been deducted.

If there is delay in depositing such TDS with the government, then the same shall be deposited along with interest @ 18% p.a.

GST TDS

Bank shall also furnish GSTR-7 on or before the 10th day from the end of the month in which TDS has been deducted.

If there is delay in filing of TDS return with the government, then the same shall be filed along with late fees @ Rs. 200/- per day (subject to Maximum Rs. 10,000/-).

Bank shall issue TDS Certificate as GSTR-7A to the vendors on or before the 5th day from the end of the month in which TDS has been deducted.

If there is delay in issue of TDS certificate to the vendors, then the same shall be filed along with late fees @ Rs. 200/- per day (subject to Maximum Rs. 10,000/-).

ILLUSTRATIVE CHECKLIST FOR GST COMPLIANCE

- Whether the registered person has properly availed the Input Tax Credit of the GST paid on the input services, input, capital goods as the case may be?
- Whether GST have been properly charged by the head office, regional offices, zonal offices in case of inter unit / branch transactions?
- Whether the registered person have filed the applicable returns on timely basis as notified by the Government?
- Whether the registered person has made the payment of GST on timely basis?
- Whether the head office has not availed depreciation u/s 32 of the Income Tax Act, 1961 on the amount of GST on the capital goods on which input tax credit has been availed?

ILLUSTRATIVE CHECKLIST FOR GST COMPLIANCE

- Whether GST have been paid on making payment by the banks to the specified registered persons under section 9(3) of the CGST Act such as sponsorship services, GTA services, etc.?
- Whether IGST has been paid on ‘import of services’?
- Whether the bank has taken the CENVAT Credit on the basis of proper duty paying documents, containing all particulars as prescribed by CGST Rules read with section 31 of the CGST Act, 2017, i.e., serially numbered invoice / bill not exceeding sixteen characters, containing the requisite information like, Name, address and GST Number of Bank, Name, address and Goods and Services Tax No. of recipient, date of issue, HSN Code of goods, etc.?
- Whether an amount equal to the input tax credit availed by the recipient added to output tax liability of supplier along with interest, where the recipient fails to pay supplier of goods or services an amount towards the value of supply along with tax payable within 180 days from the date of issue of invoice by the supplier?

ILLUSTRATIVE CHECKLIST FOR GST COMPLIANCE

- Whether the credit taken in respect of services covered under reverse charge mechanism is taken only after making payment of GST?
- Whether the banking company or a financial institution including a non-banking financial company has either availed of, every month, an amount equal to 50% of the eligible input tax credit on inputs, capital goods and input services in that month OR has availed the amount of the input tax credit attributable to the taxable supplies including zero-rated supplies?
- Whether the banks have mentioned the GST Registration number on the display board outside the premises and have affixed the GST Registration Certificate inside the premises?
- Whether the banks (HO/ZO/RO) have sought registration as input service distributor under CGST Rules, 2017 or whether the supplies centrally procured have been treated as outward supply from HO/ZO/RO to respective branches?

ILLUSTRATIVE CHECKLIST FOR GST COMPLIANCE

- In either case, auditor shall ensure that the returns are being regularly filed. Auditor shall also ensure that if the respective office is registered as 'input service distributor', whether invoice is issued for distributing the Input Tax Credit as per Rule 54 of the CGST Rules, 2017?
- Whether the branches have taken the appropriate credit on the invoice/challan/bill or any other documents issued by the head office, regional office, zonal office as an input service distributor?
- Whether the branches have mentioned their GST number on the statement, challan, bill, invoice or any other documents issued to the customer for the services rendered by the Bank?
- Whether bank maintains the records specified by Rule 56 of the CGST Rules, 2017?

ILLUSTRATIVE CHECKLIST FOR GST COMPLIANCE

- Whether branch has deducted TDS @ 2% as per section 51 of the CGST Act read with notification number 50/2018 on payment made to registered person above Rs. 2.50 lac in a single contract?
- Whether branch has received any notice from GST Department? Whether compliance to that notice has been done? If the liability is disputed then whether the same has been shown as contingent liability in the financials?

NOTE: Please also refer Frequently Asked Questions (FAQ) issued by CBIC on Banking, Insurance and Stock Brokers Sector updated as on 27.12.2018 which would assist the auditee in GST Audit.

[http://www.cbic.gov.in/resources//htdocs-cbec/gst/27122018-
UPDATED_FAQs%20ON%20BANKING,%20INSURANCE%20AND%20STOCK
K%20BROKERS.pdf;jsessionid=1B50BE18BCC2EFE4C3B9DC77FE902354](http://www.cbic.gov.in/resources//htdocs-cbec/gst/27122018-UPDATED_FAQs%20ON%20BANKING,%20INSURANCE%20AND%20STOCK%20BROKERS.pdf;jsessionid=1B50BE18BCC2EFE4C3B9DC77FE902354)



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