

Compliances of Service Tax/GST in Banking Sector



The Institute of Chartered Accountants of India
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Foreword

The banking system is also highly regulated considering its importance within the financial system in channelizing resources and helping in economic growth. Banking and other Financial Services were brought under the scope of Service Tax net from 16.07.2001 and subsequently Goods and Services Tax (GST) has been implemented from 1st July 2017 which is a biggest tax reform in India since 1947. Post GST regime the services provided by banks are subject to GST which is liable @18% instead of 15% of the earlier regime. During the financial year 2017-18 the provisions of service tax applied till June 2017 and thereafter for 9 months provisions for GST law have been made applicable since July, 2017.

Considering that no significant material was available for providing guidance to the members to check the compliance of service tax/ GST in banking sector, I am happy to note that the Indirect Taxes Committee of ICAI is coming with this e-publication '*Compliances of Service tax/ GST in Banking Sector*'. This publication analyse the provisions of the law in respect of Income earned by banks, expenses incurred by banks, CENVAT Credit / Input, Routine procedural checks, Questionnaire for Service/GST Tax Audit of Banks etc. The e-publication will assist members to verify the service tax/GST compliance by Banks specially when doing the Bank Branch/Central Statutory and Concurrent Audit.

I congratulate the Indirect Taxes Committee of ICAI for this contribution in particular, CA. Madhukar N. Hiregange, Chairman, CA. Sushil Goyal, Vice-Chairman and the members of Indirect Taxes Committee for getting the material updated.

I am sure that the members would find this publication immensely useful while providing their services to the Banking Sector as auditors or otherwise.

Date: 6th April 2018
Place: New Delhi

CA. Naveen N. D. Gupta
President

Preface

Banking Sector plays a key role in Indian Economy. For safe and sound banking sector, one of the most crucial factors is reliable financial information supported by quality bank audits. By conducting audits of financial statements of banks, the auditors play a key role in building a resilient banking sector. Bank audit involves huge volumes and complexity of transactions, wide geographical spread of banks' network, enormous range of products and services offered by banks, extensive use of technology in banks etc. All these factors make the task of the bank auditors quite challenging in doing the audits and especially when there is a change in taxation law w.e.f 01.07.2017 i.e. GST.

The shift from centralised registration to state wise registration, place of supply provisions, restrictive credit of 50%, ISD Compliance under GST regime, reverse charge transactions and especially transitional credits & its compliance is area of review during the audit. Considering the intricacies involved, the Indirect Taxes Committee has revised its e-publication titled "Compliances of Service tax / GST in Banking Sector". The revised booklet has been updated with the Service Tax / GST provisions applicable to Banking Sector for the financial year 2017-18.

We extend our gratitude to CA. Naveen N. D. Gupta, President, ICAI and CA Prafulla Chhajed, Vice-President, ICAI for their encouragement to the initiatives of the Indirect Taxes Committee. We would like to thank CA. Kevin Shah for updating this publication and CA. Jatin Christopher, CA. Raja Jindal and CA. Gaurav Gupta for reviewing it.

We trust this publication will be of practical use to members while conducting the bank audit assignments. We look forward to feedback from members for further improvement in this publication in subsequent years. Suggestions may be sent at tdtc@icai.in.

Date: 6th April 2018

Place: New Delhi

CA. Madhukar Narayan Hiregange
Chairman
Indirect Taxes Committee

CA. Sushil Kumar Goyal
Vice Chairman
Indirect Taxes Committee

Contents

<i>Foreword</i>	<i>iii</i>
<i>Preface</i>	<i>v</i>
1. Banking Sector – Overview on Service tax/GST	1
2. Incomes Earned By Banks.....	19
3. Expenses incurred by banks	27
4. CENVAT Credit/Input Tax Credit.....	45
5. Routine Procedural Checks under Service tax/GST regime	52
6. Questionnaire for Service Tax Audit/GST of Banks	61
Annexure A: Reconciliation of Turnover	78
Annexure B: Details of Challan/ Details of Discharge of Liabilities	82
Annexure C: Details of CENVAT/ITC taken, Utilized and Reversed.....	85
Annexure D: Details of transactions where incorrect tax paid (Section-77)-GST	91
Appendix: Clarification regarding Questionnaire for Service Tax/GST Audit of Banks.....	92

Chapter 1

Banking Sector – Overview on Service tax/GST

SERVICE TAX APPLICABILITY ON BANKS

Service Tax was introduced in India on 01.07.1994. However, Banking and Other Financial Services had been brought within the ambit of Service Tax w.e.f. 16.07.2001.

Services mentioned in section 65 (12)(a) of the Finance Act, 1994 were made taxable, if provided by:

- (a) Banking company and financial institution including NBFCs from July 16, 2001; or
- (b) Any other body corporate from August 16, 2002; or
- (c) Any other commercial concern from September 10, 2004.

Services mentioned in section 65 (12)(b) of the Finance Act, 1994 are taxable, if provided by:

- (a) Banking companies, financial institutions including NBFCs and other body corporates from July 1, 2003; or
- (b) Commercial Concerns from September 10, 2004.

Further, with effect from May 16, 2008, section 65(12) has been amended to levy service tax on foreign exchange broking and purchase or sale of foreign currency, including money changing, provided by a foreign exchange broker or an authorised dealer in foreign exchange or an authorised money changer also.

Banking Services under Negative List of Services w.e.f July 1, 2012

After the **introduction of Negative List i.e. with effect from July 1, 2012**, Service Tax is applicable on all services provided by banks except followings:

- Services by the Reserve Bank of India;

Compliances of Service Tax/ GST in Banking Sector

- Services by way of—
 - (i) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount;
 - (ii) *inter se* sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.

Rate of Service Tax

Period	Service Tax			EC	SHEC	SBC	KKC	Total Rate
16.07.2001 to 13.05.2003	5%	-	-	-	-	-	-	5%
14.05.2003 to 09.09.2004	8%	-	-	-	-	-	-	8%
10-09-2004 to 17-04-2006	10%	2%	-	-	-	-	-	10.20%
18-04-2006 to 10-05-2007	12%	2%	-	-	-	-	-	12.24%
11-05-2007 to 23-02-2009	12%	2%	1%	-	-	-	-	12.36%
24-02-2009 to 31-03-2012	10%	2%	1%	-	-	-	-	10.30%
01-04-2012 to 31-05-2015	12%	2%	1%	-	-	-	-	12.36%
01.06.2015 to 14-11-2015	14%	-	-	-	-	-	-	14%
15.11.2015 to 31.05.2016	14%	-	-	0.5%	-	-	-	14.5%
With effect from 01.06.2016	14%	-	-	0.5%	-	0.5%	-	15%

BANKING SERVICES UNDER GST W.E.F JULY 1, 2017

GST is applicable on Banking services as far as it qualifies the taxable event i.e Supply of Services. However, following Supplies made without consideration as

Banking Sector – Overview on Service tax/GST

specified in Schedule I of the CGST Act, 2017 are subject to tax, which is a paradigm shift from the earlier regime :

- Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
- Inter Unit Supply: Supply of goods/ services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business.

Therefore, any supply of goods or services or both supplied or received by one branch bank to another or by Head office bank to branch bank or vice versa without consideration, shall be considered as supply under GST for payment of tax.

- Activity performed by employer to employee without consideration will be taxable under GST, except where the value such supply does not exceed Rs. 50,000 in a financial year.

Although no consideration is involved yet, payment of tax needs to be done on value determined in terms of section 15 of the CGST Act read with Rule 28 of the CGST Rules.

Since, such transactions are generally not captured in books of accounts therefore, auditor should apply substantial audit procedure to check compliances .

Tax Framework

Under GST

Service Tax under earlier regime was levied and collected by the Central Government, however, with the implementation of GST, CGST/SGST is levied by Central / State Government respectively on all Intra state supply and

IGST is levied by the Central Government on all inter state supplies Central Government.

Relevant Exemptions under GST

GST is applicable on all services provided by the banks except followings:

- Services by the Reserve Bank of India;
- Services by way of—

Compliances of Service Tax/ GST in Banking Sector

- (i) 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);
- (ii) *inter se* sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.
- Services by an acquiring bank, to any person in relation to settlement of an amount upto two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service.

Explanation. — For the purposes of this entry, “acquiring bank” means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card
- 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
- 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.
- 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.
- Services by an intermediary of financial services located in a multi services SEZ with International Financial Services Centre (IFSC) status to a customer located outside India for international financial services in currencies other than Indian rupees (INR).

Where-

IFSC is a person,-

- (i) who is permitted or recognised as such by the Government of India or any Regulator appointed for regulation of IFSC; or

Banking Sector – Overview on Service tax/GST

- (ii) who is treated as a person resident outside India under the Foreign Exchange Management (International Financial Services Centre) Regulations, 2015; or
- (iii) who is registered under the Insurance Regulatory and Development Authority of India (International Financial Service Centre) Guidelines, 2015 as IFSC Insurance Office; or (iv) who is permitted as such by Securities and Exchange Board of India (SEBI) under the Securities and Exchange Board of India (International Financial Services Centres) Guidelines, 2015.

The above service has been exempted intra-state supply of services from the payment of GST *vide Notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017.*

Exemption under IGST

- services are received by RBI from outside India in relation to management of foreign reserves. [Notification No. 09/2017-Integrated Tax (rate) dated 28-6-2017]
- services imported by a unit or a developer in the Special Economic Zone for authorised operations [Notification No. 18/2017-Integrated Tax (rate) dated 5-7-2017]

Rate of GST on Banking & Other Financial Services

There is an increase in the tax rate from 15% in service tax (erstwhile indirect tax) to 18% under GST on the transaction charges levied on the financial services provided by the banks in relation to credit card, fund transfer, ATM transactions, processing fees on loans etc.

Note- It is essential to note that Service Tax was applicable in India excluding the State of Jammu & Kashmir. While GST is applicable in India including sea water upto 12 nautical miles including Jammu & Kashmir (w.e.f 1.08.2017)

POINT OF TAXATION IN SERVICE TAX /TIME OF SUPPLY UNDER GST

Point of Taxation (POT) Rules, 2011

Rule 3-General Rule		
In case invoice issued within 30 days* from date of completion of service	POT would be date of invoice or date of payment	whichever is earlier

Compliances of Service Tax/ GST in Banking Sector

invoice not issued within 30 days* from the date of completion of service	POT would be date of completion of service or date of payment	whichever is earlier
*45 days in case of banking and other financial institutions including NBFCs.		
In case of advance received by service provider	POT would be date of receipt of each advance	
Date of completion of service in case of continuous supply of service shall be the date of completion of each event.		
Rule 4-Change in Effective rate of tax		
Invoice issued	Payment received	POT shall be
A. In case taxable service is provided BEFORE the change in effective rate of tax		
AFTER	AFTER	date of invoice or date of receipt of payment, whichever is earlier
BEFORE	AFTER	date of invoice
AFTER	BEFORE	date of receipt of payment
B. In case taxable service is provided AFTER the change in effective rate of tax		
BEFORE	BEFORE	date of invoice or date of receipt of payment, whichever is earlier
AFTER	BEFORE	date of invoice
BEFORE	AFTER	date of receipt of payment
Rule 5-New Services/New levy on services		
No tax is payable in following 2 cases:- 1) to the extent invoice issued and payment received before service became taxable 2) payment received before service became taxable and invoice issued		

Banking Sector – Overview on Service tax/GST

within 14 days of date when service is taxed for the first time.	
Rule 7-Reverse Charge or Associated Enterprises	
For reverse charge, POT is date of making payment to service provider, or first day occurring immediately after a period of 3 months from date of invoice	whichever is earlier
In case of “associated enterprises”, where the person providing the service is located outside India, POT is :-	
date of debit in the books of service receiver or date of making payment	whichever is earlier
In case of change in service tax liability or extent of liability of service recipient, date of issuance of invoice to be POT if service provided and the invoice issued before date of such change, but payment not made as on such date	
In case of services provided by the Government or local authority to any business entity, the POT will be -	
any payment, part or full, in respect of such service becomes due or payment made.	whichever is earlier.

Time of Supply

The time of supply of services provided by the banks shall be determined in reference to section 13 of the CGST Act, 2017 shall be the earliest of the following dates, namely: —

- (a) the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or
- (b) the date of provision of service, if the invoice is not issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or
- (c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply

Explanation: -

- “The date of receipt of payment”: The date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier

Compliances of Service Tax/ GST in Banking Sector

- Date of issue of invoice: If the supplier of services is an insurer or banking company or financial institution including NBFC, invoice is to be issued within 45 days from the date of supply of service.

It is pertinent to mention that where the supplier of taxable service receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice relating to such excess amount.

Time of supply in case of reverse charge

1. In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be, earlier of the following dates, namely:-
 - (a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
 - (b) the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier;

Provided that where it is not possible to determine the time of supply under clause (a) or clause (b), the time of supply shall be the date of entry in the books of account of the recipient of supply

Provided further that in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.

VALUATION OF TAXABLE SUPPLY

Valuation of taxable supply under Service Tax- is to be done pursuant to section 67 of the Finance Act, 1994 read with Service Tax (Determination of Value) Rules, 2006

Value of taxable service- [Section 67]	
where consideration is in terms of money	Gross amount charged by service provider is taken as value of taxable service.
where consideration not wholly or	value shall be such amount in

Banking Sector – Overview on Service tax/GST

partly in terms of money	money which with the addition of service tax charged is the consideration.
in case gross amount charged is inclusive of service tax	value shall be such amount as, with the addition of tax payable, is equal to the gross amount charged.
<p>Gross amount charged includes any amount received towards the taxable service before, during or after provision of such service. It includes payment by cheque/credit card, credit notes/debit notes and book adjustment etc.</p> <p>Consideration includes</p> <ul style="list-style-type: none"> • amount payable for the taxable services provided or to be provided • reimbursable expenditure/cost incurred by service provider and charged in the course of providing taxable service, except in certain specified circumstances • amount retained by the lottery distributor/selling agent from gross sale amount of lottery ticket [in addition to the fee or commission] or discount received [Face value of lottery ticket - Price at which the distributor/selling agent gets such ticket]. 	
Service Tax (Determination of Value) Rules, 2006 in respect of Banking sector	
Valuation of money changing service [Rule 2B]	
When a currency is exchanged from, or to, Indian Rupees (INR)	(Buying Rate/Selling Rate - RBI reference rate at that time) x Total units of currency
Where RBI reference rate for a currency is not available	1% of the gross amount of Indian Rupees provided or received by the money changer
Where neither of the currencies exchanged is Indian Rupee	1% of the lesser of the two amounts the money changer would have received by converting any of two currencies into Indian rupees on that day (at the RBI reference rate)

Compliances of Service Tax/ GST in Banking Sector

Value of taxable supply under GST

The value of a supply of goods or services or both shall be: Transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply

Where Explanation to Section 15 of the CGST Act deems the persons below to be “related persons”:

- Officers / Directors of one another’s business
- 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

S-15(2)	Transaction Value INCLUDES:	Transaction Value EXCLUDES discount
(i)	Amounts charged by supplier to recipient in respect of any taxes, duties, cesses, fees and charges levied under any statute, other than taxes paid under GST regime;	(iv) Before / at the time of supply Single condition: Such discount is duly recorded in the invoice
(ii)	Amount incurred by Recipient which is liable to be paid by the Supplier;	■ After the supply: Cumulative conditions: Agreement establishing discount entered into before / at the time of supply
(iii)	Charges by Supplier to Recipient being: Incidental expenses (e.g.: packing, commission) Charges for anything done by the Supplier at the time or	Discount specifically linked to relevant invoices ITC reversed by the recipient to the extent of discount

Banking Sector – Overview on Service tax/GST

before the supply, in respect thereof Interest/ late fee/ penalty for delayed payment of consideration Subsidies directly linked to price – for supplier receiving the subsidy (excluding Central and State Govt subsidies; i.e., Government subsidies will not be included in transaction value)	
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To determine value of certain specific transactions, Determination of Value of Supply rules have been prescribed in CGST Rules, 2017 (Rule 27-35). The two Rules pertaining to banking Sector are:

Banking sector provides services of purchase and sale of foreign currency to its customers, the value of which can be ascertained in terms of Rule 32(2) of the CGST Rules as:		
OPTION –I	OPTION -II	
When exchanged from or/ to INR: (v) Difference of Buying rate / Selling rate and RBI reference rate X Total units of currency (If RBI reference rate is not available, value shall be 1% of gross amount of INR received or provided) (vi) If neither of two currencies exchanged in INR, (vii) the value shall be equal to 1% of the lesser of the two amounts (viii) the person changing the money would have received by converting any of the two currencies into INR (ix) on that day at the reference	Where Amount of currency exchanged	
	Upto Rs.1 lakh	1% of the gross amount of currency exchanged or Rs. 250/-, <i>whichever is higher</i>
	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/-
	exceeding	Rs. 5,500/- plus

Compliances of Service Tax/ GST in Banking Sector

rate provided by RBI.	Rs.10 lakhs	0.10% of the gross amount of currency exchanged above Rs.10 lakhs or Rs. 60,000/-, whichever is lower
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Valuation of services between the distinct and related persons (excluding agents)

Generally, banks would have lot of common/ shared services being supported from Head Office such as call centre, security software etc. Further, many times one branch would internally provide service to other branches for example: resolving issue of a customer having PAN India accounts, providing local information etc. to other branches etc.

Service tax- No service tax will apply as not taxable in pre-GST regime

GST- The value will be determined in terms of Rule 28 of the CGST Rule

(a) The open market value of such supply	
(b) If open market value is not available	Value of supply of goods or services of like kind and quality
(c) If value of supply is not determinable under clause (a) or (b)	Value as determined by application of Rule 30 or Rule 31, in that order
<i>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</i>	
<i>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</i>	

Banking Sector – Overview on Service tax/GST

Value of supply based on cost i.e. cost of supply plus 10% mark-up. (Rule 30 of the CGST Rules 2017)

Value of supply determined by using reasonable means should consistent with principles and general provisions of GST law. (Rule 31 of the CGST Rules 2017)

PLACE OF PROVISION OF SERVICES UNDER SERVICE TAX /PLACE OF SUPPLY UNDER GST

Place of Provision of Service Rules, 2012		
Rule	Applicability	Place of Provision of service shall be
1.	<i>General rule</i>	<i>location of service receiver (if not available, then location of service provider)</i>
2.	<i>Performance based service (Goods/ individual)</i>	<i>location where the services are actually performed</i>
3.	<i>Immovable Property related services</i>	<i>Location (intended location) of immovable property</i>
4.	<i>Event related services</i>	<i>place where the event is actually held</i>
5.	<i>Where any service referred to in rules 4, 5, or 6 is provided at more than one location, including a location in taxable territory</i>	<i>location in taxable territory where the greatest proportion of the service is provided</i>
6.	<i>Location of service provider and service receiver is in taxable territory</i>	<i>location of service receiver</i>
7.	<i>Specified services-Banking, OIDAR, Intermediary, Hiring</i>	<i>location of service provider</i>
8.	<i>Transportation of goods, other than by way of mail or courier</i>	<i>place of destination of the goods</i>
9.	<i>GTA</i>	<i>location of person liable to pay tax</i>
10.	<i>Transportation of passengers</i>	<i>place of embarkation of passenger on conveyance for continuous journey</i>

Compliances of Service Tax/ GST in Banking Sector

11.	<i>Services on Board of conveyance</i>	<i>First scheduled departure point of conveyance</i>
12.	<i>Powers to notify description of services or circumstances-Central Government</i>	<i>Place of effective use and enjoyment of a service</i>
13.	<i>Order of application of rules</i>	<i>Later rule will prevail</i>

Place of supply

WHERE THE LOCATION OF SUPPLIER OF SERVICES AND THE LOCATION OF THE RECIPIENT OF SERVICES IS IN INDIA		
Default Rule for the services other than the 12 specified services		
S. No.	Description of Supply	Place of Supply
(1)	B2B	Location of such Registered Person
(2)	B2C	(i) Location of the recipient where the address on record exists, and (ii) Location of the supplier of services in other cases
Rule for the 12 specified services		
1.	Immovable property related to services, including hotel accommodation	Location at which the immovable property or boat or vessel is located or intended to be located If located outside India: Location of the recipient.
2.	Restaurant and catering services, personal grooming, fitness, beauty treatment and health service	Location where the services are actually performed ³ .
3.	Training and performance appraisal	B2B: Location of such Registered Person B2C: Location where the services are actually performed
4.	Admission to an event or amusement park	Place where the event is actually held or where the park or the other place is located

Banking Sector – Overview on Service tax/GST

5.	Organisation of an event	B2B: Location of such Registered person B2C: Location where the event is actually held If the event is held outside India: Location of the recipient
6.	Transportation of goods, including mails	B2B: Location of such Registered Person B2C: Location at which such goods are handed over for their transportation
7.	Passenger transportation	B2B: Location of such Registered Person B2C: Place where the passenger embarks on the conveyance for a continuous journey
8.	Services on board a conveyance	Location of the first scheduled point of departure of that conveyance for the journey
9.	Banking and other financial services including stock broking services	Location of the recipient of services on the records of the supplier Location of the supplier of services if the location of the recipient of services is not available
10.	Insurance services	B2B: Location of such Registered Person B2C: Location of the recipient of services on the records of the supplier
11.	Advertisement services to the Government	The place of supply shall be taken as located in each of such States Proportionate value in case of multiple States
12.	Telecommunication services	Services involving fixed line, circuits, dish etc., and place of supply is the location of such fixed equipment. In case of

Compliances of Service Tax/ GST in Banking Sector

		mobile/Internet post-paid services, it is the location of billing address of the recipient. In case of sale of pre-paid voucher, the place of supply is the place of sale of such vouchers. In other cases, it is the address of the recipient in records
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WHERE THE LOCATION OF THE SUPPLIER OF SERVICES OR THE LOCATION OF THE RECIPIENT OF SERVICES IS OUTSIDE INDIA		
Default Rule for the cross-border supply of services other than nine specified services		
S. No.	Description of Supply	Place of Supply
(1)	Any	Location of the recipient of service If not available in the ordinary course of business: The location of the supplier of service
Rule for the 9 specified services		
1.	Services supplied for goods that are required to be made physically available from a remote location by way of electronic means (Not applicable in case of goods that are temporarily imported into India for repairs and exported	The location where the services are actually performed. The location where the goods are situated
2.	Services supplied to an individual and requiring the physical presence of the receiver	The location where the services are actually performed.
3.	Immovable property-related services, including hotel accommodation	Location at which the immovable property is located.
4.	Admission to or organisation of an event	The place where the event is actually held

Banking Sector – Overview on Service tax/GST

5.	If the said three services are supplied at more than one locations. i.e. (i) Goods & individual related (ii) Immovable property-related (iii) Event related	
5.1	At more than one location, including a location in the taxable territory	Its place of supply shall be the location in the taxable territory where the greatest proportion of the service is provided5.2In
5.2	In more than one State	Its place of supply shall be each such State in proportion to the value of services provided in each State

Place of supply for banking sector

- In case, where the location of the banks or location of the recipient of service is in India, section 12(12) of the IGST Act, 2017, provides for the place of supply of services -

The place of supply of banking and other financial services, including stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services.

Provided that, if the location of recipient of services is not on the records of the supplier, the place of supply shall be the location of the supplier of services

- In case, where the location of the banks or location of the recipient of service is outside India, section 13(8) of the IGST Act, 2017, provides that-

The place of supply of the following services shall be the location of the supplier of services, namely: —

- (a) *services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders;*
- (b) *intermediary services;*
- (c) *services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month*

Compliances of Service Tax/ GST in Banking Sector

Explanation - For the purposes of this sub-section, the expression, —

- (a) “account” means an account bearing interest to the depositor, and includes a non-resident external account and a non-resident ordinary account;*
- (b) “banking company” shall have the same meaning as assigned to it 2 of 1934. under clause (a) of section 45A of the Reserve Bank of India Act, 1934;*
- (c) “financial institution” shall have the same meaning as assigned to it 2 of 1934. in clause (c) of section 45-I of the Reserve Bank of India Act, 1934*
- (d) “non-banking financial company” means, —*
 - (i) a financial institution which is a company;*
 - (ii) a non-banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner; or*
 - (iii) such other non-banking institution or class of such institutions, as the Reserve Bank of India may, with the previous approval of the Central Government and by notification in the Official Gazette, specify.*

Chapter 2

Incomes Earned By Banks

Incomes are earned by banks from various sources other than interest. The interest income forms the major part of the incomes but in recent years due to globalisation such a scenario has been changed and accordingly the banking sector has involved themselves into numerous activities resulting into variety of incomes. All such incomes are recorded in the books of accounts under various heads which we have to analyse and decide taxability on the same. Some incomes so earned and their taxability are as under:

1. Interest income

Under Service tax: [i.e. till 30.06.2017]

No service tax is applicable on income earned by way of interest income as the same is excluded by way of entry (n) of the negative list. Therefore, inquiry into the same may be restricted whether the income is rightly characterized as 'interest' to enjoy the exclusion from service tax.

Under GST: [i.e. from 01.07.2017]

The income earned by way of grant of loans, deposits etc is a taxable supply. However, by virtue of entry 27(a) of Notification 12/2017 dated 28.06.2017 and entry 28(a) of Notification No. 09/2017-Integrated Tax (Rate) dated 28.06.2017, no GST is payable on income earned by way of interest **except interest income earned through credit card**. The relevant extract of the said entry is as under:

Sl No.	Chapter, Section, Heading, Group or Service Code (Tariff)	Description of services	Rate (%)	Condition
27	Heading 9971	(a) Services by way of— (a) extending deposits, loans or advances in so far as the consideration is	NIL	NIL

Compliances of Service Tax/ GST in Banking Sector

		<i>represented by way of interest or discount</i> <u>(other than interest involved in credit card services);</u>		
--	--	--	--	--

Therefore, audit from the perspective of GST into the same may be restricted to the fundamental question as to whether the income is rightly characterized as 'interest' to enjoy the exemption under GST and especially the income earned from credit card services.

2. Commission income

Under Service tax: [i.e. till 30.06.2017]

Generally, commission income is earned by banks from various contractual arrangements for distribution of products and solutions including those in co-ordination between banks. The same are recorded in "Other income" in the financial statements. The same was taxable under the category of Business Auxiliary Service/ Business Support Service / Banking & Other Financial Services depending upon the structuring of the transaction.

Under GST: [i.e. from 01.07.2017]

The instant income is classified as a supply of service transaction and accordingly would be classified in terms of chapter heading as specified in the relevant notifications issued under GST.

Commission earned (on accrual) is liable to Service tax/GST. For e.g.:

- (a) M/s. A Ltd. wants to invest in fixed securities / bonds which can be only routed through ICICI bank as they have exclusive rights for subscribing the same. ICICI bank gets 2% commission on the amounts so subscribed. For the period 2017-18, the bank earns 250 crores of commission from such subscription which is recorded as 'Other Income'. The auditor has to check whether service tax/GST is appropriately disbursed on the said amount. Whether payments are made by complying with the due date for payment of service tax/GST. Also, verify returns filed reveals the correct amount of liability. If the tax is not discharge, then appropriate disclosure would be required. Discrepancy in the returns filed (after any revision) and liability as determined may be disclosed. Interest being mandatory may be suitably included in the

Incomes Earned By Banks

disclosure. Suitable disclosure as to whether any contingency exists in respect of applicable penalty may also be provided.

Further, review of agreements where commission is earned must be carried out thoroughly and if any milestone incentives, performance bonus, time bonus etc is provided then appropriate tax treatment should be suggested.

- (b) ICICI bank gets 1% commission from private companies for providing them investment exposure in foreign markets. The same is liable for payment of service tax \ GST and appropriate tax treatment should be followed and suggested. Disclosures as discussed above may be considered, if any tax liability is found to be unpaid

Author's views: Where the investment activity is undertaken in another group company but the banking entity provides leads to such investment activity for which it receives some (smaller) percent as commission, such transactions should be thoroughly analysed and proper movement of funds tracked.

3. Brokerage income

Under Service tax: [i.e. till 30.06.2017]

Generally, such incomes are earned by the securities activities of the bank. If the same is a separate company then incomes are recorded separately and thereafter the same is consolidated. However, under either of the situations taxability has to be determined and appropriate tax should be disbursed as the same is liable for payment of GST/service tax. Review whether the role of the bank is as a sub-broker.

Under GST: [i.e. from 01.07.2017]

The instant income is classified as a supply of service transaction and accordingly would be classified in terms of chapter heading as specified in the relevant notifications issued under GST.

4. Agency charges

Under Service tax/GST

Generally, such income is earned by way of being appointed as an agency either by RBI, State Governments, Central Governments or by some corporates. Under such arrangements, banks act as a facilitator/collection centre and in lieu of provision of such services such banks collect certain fees as "Agency charges". Such charges are liable for payment of service

Compliances of Service Tax/ GST in Banking Sector

tax/GST. Very often, the underlying arrangement will be of agency, but it may be described in a contemporary terminology like 'enablement charge' or 'facilitation fee' or simple 'management fee' which may appear misleading.

The auditor needs to analyse the relevant agreements entered and has to study the flow of consideration and thereafter decide taxability and the amount on which service tax/GST is applicable. The same has to be communicated to the management if no service tax/GST is being paid till date.

5. Portfolio management service:

Under Service tax: [i.e. till 30.06.2017]

Generally, the said services are being provided by different entities within the banking sector. Due to stiff competition and one-stop window for priority customer's (i.e. customers who are depositing amount beyond a certain limits) only one person provides all such services and thereafter relevant commissions are split between entities or costs are shared. Under such situations, such commission splitting has to be analysed in great details and appropriate tax treatment adopted be reviewed for compliance with applicable provisions.

Under GST: [i.e. from 01.07.2017]

The same is taxable under GST. In fact, inter-branch sharing of portfolio management services in lieu of the skill set available in selected branches between different states is taxable and a fair value has to assigned to such transaction and applicable GST is payable on such transaction. Further, appropriate classification has to be made for such supply of services under relevant chapter heading as per the notifications issued under GST.

6. Account maintenance charges:

Under Service tax: [i.e. till 30.06.2017]

It is a common practice that in most of the banks certain charges are recovered towards maintenance. The said charges are nominal but the same is liable for payment of service tax. Accordingly, the concerned concurrent /internal /statutory auditor would do well to check on this aspect of taxability and ensure compliance.

Further, even locker charges are being recovered from the customers on an annual basis which is liable for payment of service tax. There can be different

Incomes Earned By Banks

modes of arrangement for availing such income, but such income is liable for payment of service tax.

Under GST: [i.e. till 01.07.2017]

The same is taxable under GST. The provisions relating to place of supply will become imperative while determining the correct nature of the transaction and thereafter taxability has to be decided. Further, appropriate classification has to be made for such supply of services under relevant chapter heading as per the notifications issued under GST.

For e.g.: Mr A wants to open a locker at IVY bank wherein the bank has provided. Mr. A (the Customer) following options for opening a locker:

- A. Make an FD of Rs. 25,000/- and pay an annual charge of Rs. 5000/-.
- B. Make an FD of Rs. 50,000/- and pay an annual charge of Rs. 2500/-.
- C. Make an FD of Rs. 1,50,000/- and do not pay any annual charge

In case A, Service tax/GST will be on annual charges = Rs. 5,000 -

However, in other cases, depending upon the documents the auditor has to analyse the tax position and thereafter decide taxability on the same i.e. under all the options whether service tax/GST is payable on annual charge or there is some different mechanism of determining taxability for the said transactions. If the documents substantiates or established clear barter against the waiver of annual fees then Service tax/GST is payable at a value either Rs. 5,000/- or the interest portion. If the issue is complicated, then the payment should be backed by an expert opinion and should be appropriately documented.

7. Credit/Debit card charges:

Under Service tax: [i.e. till 30.06.2017] / Under GST: [i.e. from 01.07.2017]

Income earned by way of issuing and maintaining such transactions were liable for payment of service tax. Therefore auditor should carefully examine such transactions and appropriate disclosures be made in case of non-compliance with relevant tax provisions.

The taxability under GST law and service tax are similar.

8. Digital payment facilities

Under Service tax: [i.e. till 30.06.2017]

Banks charges some convenience fees from the person who accepts payment through debit card, credit card or through other some other card service. The charges earned by the bank are chargeable under Service GST. However by virtue of Entry No.64 added in Notification No. 25/2012 –Service Tax dated 30.06.2012 vide Notification No. 52/2016-Service Tax, Dated: December 8, 2016, no service will be payable in respect to services provided by bank, to any person in relation to settlement of an amount up to Rs. 2000 in a single transaction transacted through credit card, debit card or charge card or other payment card service. The extract of the entry 64 referred above is as under:

"64. Services by an acquiring bank, to any person in relation to settlement of an amount upto two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service.

Explanation. - For the purposes of this entry, "acquiring bank" means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card."

Under GST: [i.e. from 01.07.2017]

Similar position exist in GST i.e., Such Banks charges earned by the bank are chargeable to GST and no GST will be payable in respect to services provided by bank, to any person in relation to settlement of an amount up to Rs. 2000 in a single transaction transacted through credit card, debit card or charge card or other payment card service.

Sale and purchase of foreign currency:

Under Service tax: [i.e. till 30.06.2017]

Banking companies receiving consideration for providing services by way of securities and foreign exchange broking and purchase or sale of foreign currency, including money changing is chargeable to service tax to be valued in terms section 67 of the Finance Act read with Rule 2 B of the Service Tax (Determination of Value) Rules, 2006.

Under GST: [i.e. from 01.07.2017]

Banking companies receiving consideration for providing services by

way of securities and foreign exchange broking and purchase or sale of foreign currency, including money changing is chargeable to GST on special value calculated as per option availed in terms of Rule 32 of CGST Rules, 2017.

However, pursuant to entry no. 27(b) of Notification No. 12/2017-Central tax (Rate) [relevant extract below] and entry no.28(b) of Notification no 9/2017-Integrated Tax (Rate) both dated 28.06.2018 , inter-bank transactions of sale or purchase of foreign currency or transactions with authorized dealers of money changing are exemption under GST regime.

9. Other income

- Income earned by way of penalties, retention charges etc are liable for payment of service tax. The reason being that such transactions qualify to be termed as service [Section 65B (44) of the erstwhile Finance Act, 1994 or Section 2(101) of the CGST Act, 2017] and cannot be termed as transaction in money or excluded from the scope of service. Further, it is neither excluded from negative list nor exempted under mega exemption notification and similar position exist under GST. **Therefore, such income earned by banks is liable for payment of service tax/GST.**

For e.g.:

- (a) IVY Bank charges Rs. 2500/- to all those customers who maintains an average quarterly balance below Rs. 25000/-. Accordingly, the total collection of income from such source is Rs. 5,00,00,000/- and thereafter IVY bank has to discharge service tax on the same at appropriate rate.
 - (b) IVY Bank penalises Rs. 500/- to all such customers whose cheques are bounced and the income collection for the period 15-16 is Rs. 50,00,000/-. IVY bank has to discharge service tax on the same at appropriate rate.
 - (c) IVY Bank charges Rs. 50/- for issuing DD. Such income is liable for payment of service tax and the auditor has to carefully scrutinise whether appropriate tax rate has been disbursed.
- Realisation of payment (NPA) by way of disposal of NPA to an asset reconstruction company [ARC] or to any other buyer is a debatable issue. However, as per the author's opinion the taxability depends upon the structuring of the transaction. As per authors view this transaction

Compliances of Service Tax/ GST in Banking Sector

may be considered as actionable claim and being that both service tax / VAT were not applicable. Keeping that ideology of actionable claim under consideration, GST will also not apply as definition of supply [Clause 6 Schedule III read with Section 7] under CGST Act exclude actionable claim. When there is outright sale the service tax/ GST applicability will depend on the nature of underlying asset sold and is to be paid by borrower. e.g. IVY Bank sells one of its NPA as a going concern to Company ABC then the instant transaction is taxable under GST but the same is classified as a supply of service and accordingly the rate of tax payable is NIL in terms of Entry 2 classified under Chapter 99 as specified under Exemption Notification 12/2017 dated 28.06.2017.

For e.g.:

IVY Bank charges Rs. 2500/- to all those customers who maintains an average quarterly balance below Rs. 25000/-. Accordingly, the total collection of income from such source is Rs. 5,00,00,000/- and thereafter IVY bank has to discharge GST/service tax on the same at appropriate rate.

IVY Bank penalises Rs. 500/- to all such customers whose cheques are bounced and the income collection for the period 15-16 is Rs. 50,00,000/-. IVY bank has to discharge GST/service tax on the same at appropriate rate.

IVY Bank charges Rs. 50/- for issuing DD. Such income is liable for payment of GST/service tax and the auditor has to carefully scrutinise whether appropriate tax rate has been disbursed.

To summarise all the income sources of the banks have to be thoroughly scrutinised specifically interest income from credit cards and thereafter the auditor has to comment on its taxability, compliance with tax payment along with interest, applicable penalty and transparency in disclosure in the returns filed.

Chapter-3

Expenses Incurred By Banks

Generally, obligation to discharge service tax/ GST lies on the service receiver/ recipient of supply. But there exist certain cases on which Reverse charge is applicable. Even various expenses incurred by the banks are exigible to tax under on Reverse Charge Mechanism (“RCM”).

Under RCM, the duty to discharge tax is casted on recipient of service. RCM is applicable in Service tax, *vide* Section 68(2) of the Finance Act, 1994 read with Rule 2(1)(d) of the Service Tax Rules 1994 read with Notification no. 30/2012 dated 20.06.2012

Further, the said concept of RCM is absorbed under the GST regime. But in case of service tax both full and partial reverse charge exists while in GST only full charge subsists.

Moreover, RCM under GST depends on the nature of supply and/or nature of supplier. Section 9(3) of CGST/ Section 5(3) of the IGST Act specify categories of supply of goods or services or both as notified by Government on recommendations of the Council on which RCM is applicable. In this regard, Govt. *vide* Notification No. 13/2017- Central Tax- Rate dated 28.06.2017 specify the category of services on which RCM is applicable.

Further, RCM as per section 9(4) of the CGST Act, would include supply of taxable goods or services or both by an unregistered supplier to a registered person is covered under RCM

To avoid leakage of tax and to encourage the business community to pay GST, reverse charge mechanism under section 9(4) was been introduced on any expenditure incurred by the registered person over Rs. 5000/- per day [Notification No.8/2017-Central Tax (Rate) dated 28.06.2017.], under the situation where the supplier does not pay tax. However, due to the difficulty in implementing GST, the instant mechanism was deferred till 30.06.2018. [Notification No.38/2017-Central Tax (Rate) dated 13.10.2017 read with Notification No. 11/2018-Integrated Tax (Rate), dt. 23-03-2018]

Under Service tax: [till 30.06.2017]

Under Reverse Charge Mechanism, the service receiver has to deposit on its own when the services are provided by such service provider. The list of

Compliances of Service Tax/ GST in Banking Sector

such services where reverse charge mechanism is applicable is as under:

Sr. No	Description of a service-In respect of services provided or agreed to be provided by	Percentage of service tax payable by the person providing service i.e., Service provider	Percentage of service tax payable by any person liable for paying service tax other than the service provider i.e., Service receiver
1	an insurance agent to any person carrying on insurance business	Nil	100%
1A	recovery agent to banking company or a financial institution or a non-banking financial company	Nil	100%
1C	by a selling or a marketing agent or distributor or a lottery distributor or selling agent under the provisions of Lottery(regulations) Act,1998	Nil	100%
2	a goods transport agency in respect of transportation of goods by road	Nil	100%
3	way of sponsorship	Nil	100%
4	an arbitral tribunal	Nil	100%
5	an individual advocate or firm of advocates by way of legal services, directly or indirectly	Nil	100%

Expenses Incurred By Banks

Sr. No	Description of a service-In respect of services provided or agreed to be provided by	Percentage of service tax payable by the person providing service i.e., Service provider	Percentage of service tax payable by any person liable for paying service tax other than the service provider i.e., Service receiver
5A	a director of a company or a body corporate to the said company or the body corporate	Nil	100%
6	Service by Government or local authority excluding,- (1) renting of immovable property, and (2) services specified section 66D (a) (i), (ii) and (iii) of the Finance Act,1994	Nil	100%
7	(a) way of renting or hiring any motor vehicle designed to carry passenger on abated value to any person who is not engaged in the similar line of business.	Nil	100%
	(b) way of renting or hiring any motor vehicle designed to carry passenger on non-abated value to any person who is not engaged in the similar line of business.	50%	50%

Compliances of Service Tax/ GST in Banking Sector

Sr. No	Description of a service-In respect of services provided or agreed to be provided by	Percentage of service tax payable by the person providing service i.e., Service provider	Percentage of service tax payable by any person liable for paying service tax other than the service provider i.e., Service receiver
8	way of supply of manpower for any purpose or security services	Nil	100%
9	in service portion in execution of works contract	50%	50%
10	any person who is located in a non-taxable territory and received by any person located in the taxable territory 34[other than non-assesse online recipient	Nil	100%
11	Services provided by an aggregator	Nil	100%
12	by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India	Nil	100%

Further Notification No. 30/2012 Service Tax dated 30.06.2012 *inter alia* provides that Explanation-

- (i) person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification

Expenses Incurred By Banks

- (ii) In works contract services, where both service provider and service recipient is the persons liable to pay tax, the service recipient has the option of choosing the valuation method as per choice, independent of valuation method adopted by the provider of service. purpose of this notification.

Under GST: [Post 01.07.2017]

Under Reverse Charge Mechanism, the recipient has to deposit on its own when the services are provided by such supplier. The list of such services where reverse charge mechanism under Notification 13/2017- Central Tax (Rate) dated 28.06.2018 ("**Notification 13/2017**") is applicable is as under:

S. No.	Category of Services	Supplier	Recipient
1	Supply of Services by a goods transport agency (GTA), ¹ who has not paid central tax at the rate of 6%, in respect of transportation of goods by road.	Goods Transport Agency (GTA)	(a) Any factory registered under or governed by the Factories Act, 1948(63 of 1948); or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the

¹ Inserted vide Notification 22/2017 -Central Tax (Rate) ,dt. 22-08-2017

Compliances of Service Tax/ GST in Banking Sector

S. No.	Category of Services	Supplier	Recipient
			Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person; located in the taxable territory
2	Services supplied by way of legal services including representational services before any court, tribunal or authority	An individual advocate including a senior advocate or firm of advocates	Any business entity located in the taxable territory.
3	Services supplied by an arbitral tribunal	An arbitral tribunal	Any business entity located in the taxable territory
4	Services provided by	Any person	Any body corporate or partnership firm

Expenses Incurred By Banks

S. No.	Category of Services	Supplier	Recipient
	way of sponsorship		located in the taxable territory
5	Services supplied, excluding, - (1) renting of immovable property, and (2) services specified below- (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers.	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory.
5A	Services supplied by way of renting of immovable property to a person registered under the Central Goods and	Central Government, State Government, Union territory or local authority	Any person registered under the Central Goods and Service Tax Act, 2017

Compliances of Service Tax/ GST in Banking Sector

S. No.	Category of Services	Supplier	Recipient
	Service Tax Act, 2017(12 of 2017)		
6	Services supplied by way of directorship	A director of a company or a body corporate	The company or a body corporate located in the taxable territory
7	Services supplied by way of insurance agency	An insurance agent	Any person carrying on insurance business, located in the taxable territory.
8	Services supplied by way of recovery agency	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory
9	Supply of services by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1) (a) of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.	Author or music composer, photographer, artist, or the like	Publisher, music company, producer or the like, located in the taxable territory
10	Supply of services by members of	Members of Overseeing	Reserve Bank of India

Expenses Incurred By Banks

S. No.	Category of Services	Supplier	Recipient
	Overseeing Committee	Committee constituted by Reserve Bank of India	

Added 10 Notification No. 33/2017-C.T. (Rate), dated 13-10-2017]

In addition to the above list given under Central Tax- Rate, following additional category of supply of services is listed under Notification No. 10/2017- Integrated Tax (Rate) on which GST shall be paid by the recipient on reverse charge basis in case of inter -state supplies: -

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
1	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient	Any person located in the Non-taxable territory	any person who is located in taxable territory other than non-taxable online recipient
2	Services supplied by a person in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India	A person located in non-taxable territory	Importer, as defined in clause located in (26) of section 2 of the Customs Act, 1962 (52 of 1962), located in the territory taxable territory

Some of the services which are relevant with respect to the Banking sector are explained in detailed below:

Compliances of Service Tax/ GST in Banking Sector

Services provided by recovery agent

Under Service tax: [till 30.06.2017]

Generally, loans are the areas wherein the banks earn major portion of their income. It is the most organized form of extending credit to customers and interest is earned as an income in respect of such credits extended. Majority of banks spend great time and effort in recovering credits so granted.

Further, many banks sell their loans to third parties or hire third party agents to initiate recovery on their behalf.

Loans sold to factoring agents are not liable for payment of service tax. The principal applicable here is that there should be a transfer of title of the borrower.

However, under another type of transaction third parties are hired to initiate recovery on behalf of the banks which is purely a service transaction and liable to payment of service. Further, RCM is applicable on such transactions and therefore the banks who hire such third-party agents are liable for payment of service tax on the fees so paid to these recovery agents/third party agents. Banks also provide infrastructure, phone facilities and such other benefits to these third-party agents in order to perform their services. Even such value is required to be taken into consideration while determining the value of service for the purpose of payment of service tax.

Under GST: [After 01.07.2017]

Under the GST regime, the same is taxable and unlike service tax even the same is subject to reverse charge mechanism.

As an auditor, one should check the agreements between the bank and the recovery agent. Under GST regime, the bank should raise a self-invoice and thereafter appropriate GST @ 18% should be paid on the same. The income so earned should be disclosed in the relevant chapter heading as classified under the GST regime.

Services provided by insurance agent

Under Service tax: [till 30.06.2017]

If the banks are also engaged in business of insurance, then the services provided by such insurance agent who sell insurance products of the banks is liable for payment of service tax. Further, the amount on which tax is payable is commission so paid to the insurance agent. Such commission also includes reimbursement by any mode.

Expenses Incurred By Banks

The insurance division of the banks so receiving the services from those insurance agents are liable for payment of service tax under reverse charge mechanism.

Under GST: [On or After 01.07.2017]

Under the GST regime, the same is taxable and unlike service tax even the same is subject to reverse charge mechanism.

As an auditor, one should check the agreements between the bank and the insurance agent. Under GST regime, the bank should raise a self-invoice and thereafter appropriate GST @ 18% should be paid on the same. The income so earned should be disclosed in the relevant chapter heading as classified under the GST regime.

Services provided by goods transport agency service:

Under Service Tax

In terms of Explanation I to Notification 30/2012 dated 20.06.2012, person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.

If any services are provided by any goods transport agency wherein the bank pays any freight then service tax is payable bank.

Valuation

By virtue of notification 26/2012 dated 20.06.2012, if the CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken by the service provider under the provisions of the CENVAT Credit Rules, 2004, then 70% abatement is granted on the total value of the GTA service availed. Accordingly, tax is payable on only 30% of the total value.

Further, if aforesaid credit is availed by service provider, then 100% of such tax is payable by the banks.

Therefore, auditor has to check compliance in this regard.

Under GST: [On or After 01.07.2017]

W.e.f. July 1, 2017 vide notification 13/2017 Central Tax (Rate) date 28.06.2017, if any services in respect of transportation of goods by road are provided by goods transport agency (GTA) to the following, the same was exigible to tax @ 12% under RCM (Recipient of Supply will pay tax) and GTA can avail the CENVAT Credit.

Compliances of Service Tax/ GST in Banking Sector

- (a) Any factory registered under or governed by the Factories Act, 1948(63 of 1948); or
- (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or
- (c) any co-operative society established by or under any law; or
- (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or
- (e) any body corporate established, by or under any law; or
- (f) any partnership firm whether registered or not under any law including association of persons; or
- (g) any casual taxable person;
- (h) located in the taxable territory

However, w.e.f from August 22,2017 vide Notification No. 22/2017 dated August 22, 2017 which amended Notification 13/2017, the GTA was given an option to pay to GST @ 5 (2`5 CGST+2.5 SGST/ 5% IGST) if no input tax credit is availed. Further, if GTA has availed ITC, GST is to be paid by Recipient of Supply @12%

Therefore, auditor has to check that correct ITC is taken and appropriate person has discharge tax

Services provided by advocates:

Under Service tax: [till 30.06.2017]

If any service of advocates are availed by banks, then service tax is payable on the same. Further, such transaction is liable for payment of service tax under reverse charge. Therefore, banks have to disburse tax on the same.

Further, from 01.04.2016, services provided by senior advocates are outside from the purview of reverse charge mechanism. Senior advocates means those advocates who are designated as "Senior Counsels" by the State Bar Council. Its meaning is as per section 16 of the Advocates Act, 1961

Furthermore, w.e.f June 6, 2016 Service Tax is be paid at full rate under Reverse Charge Mechanism (RCM) on the representational services provided by senior advocate.

Expenses Incurred By Banks

Under GST: [On or After 01.07.2017]

W.e.f July 1 ,2017 In terms of vide Notification 13/2017, RCM was applicable on Services supplied by an individual advocate including a senior advocate by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a business entity

Thereafter a Corrigendum to Notification No. 13/2017 was issued [M.F. (D.R.) Corrigendum F. No. 336/20/2017-TRU, dated 25-9-2017], thereafter RCM is applicable on Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly.

Where - “legal service” means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority

GST Service provided by rent-a-cab

Under Service tax: [till 30.06.2017]

If any service is provided by way of renting or hiring any motor vehicle designed to carry passenger by any person then the said transaction is liable for payment of service tax.

As per Rule 2(1) (d) of the Service Tax Rules, a service recipient is liable to pay Service Tax under reverse charge mechanism in proportion as mentioned under Notification No.30/2012-ST which is illustrated as follows:

Eg. Invoices from the service provider of rent a cab can be of three types:

Particulars	Amount (Rs.)	Amount (Rs.)	Amount (Rs.)	Remark
Hiring Charges	100	100	100*	
Abatement:	60	-	-	Abatement is taken by the service provider as per Notification

Compliances of Service Tax/ GST in Banking Sector

				No. 26/2012-ST
Service Tax	5.8	14.5	-	
Total Value	105.8	114.5	100	
Liability of service Recipient	5.8	7.25	7.25	In case vendor has not opted for benefit of abatement, service recipient is liable to pay 50% amount of Service Tax
Liability of Service provider	-	7.25	-	

* In this case, service provider is not a registered assessee

Under GST: [On or After 01.07.2017]

The reverse charge mechanism on the same has been discontinued w.e.f. 01.07.2017 and accordingly only forward charge mechanism is applicable on the services so provided on or after 01.07.2017.

Services provided by way of Manpower Supply

Under Service tax: [till 30.06.2017]

Generally, manpower is required in huge numbers for day-to-day operations of the banks and since the accretion rate/labour turnover rate is high in the said industry many banks hire various manpower agencies/recruitment agencies for supply of manpower. The said transaction strictly qualifies to be a service. Contracts with agencies must be examined to determine who the contractual employer of such manpower is and if the bank is found not to be the contractual employer but another entity, it indicates to be a contract for supply of manpower. Accordingly, service tax is payable on the same under reverse charge mechanism on full value of the amount so to paid these persons.

Expenses Incurred By Banks

However, where manpower recruitment agency refer eligible candidates and they are recruited by the bank directly and the agency will get their referral commission Such contract/ arrangement is not covered in the ambit of Manpower Supply under Service Tax

Further, the person who is supplying manpower should be a person other than body corporate and only then RCM is applicable or else forward charge is applicable.

Under GST: [On or After 01.07.2017]

The reverse charge mechanism on the same has been discontinued w.e.f. 01.07.2017 and accordingly only forward charge mechanism is applicable on the services so provided after 01.07.2017.

Services provided by way of Security services.

Under Service tax: [till 30.06.2017]

Services of security provided in banks are liable for payment of service tax under reverse charge mechanism. For e.g.: if the cost of salary is separately billed from the value of agency charges then service tax under RCM is applicable on total value of both the bills.

Further, the person who is providing security services should be a person other than body corporate and only then RCM is applicable or else forward charge is applicable.

Under GST: [On or After 01.07.2017]

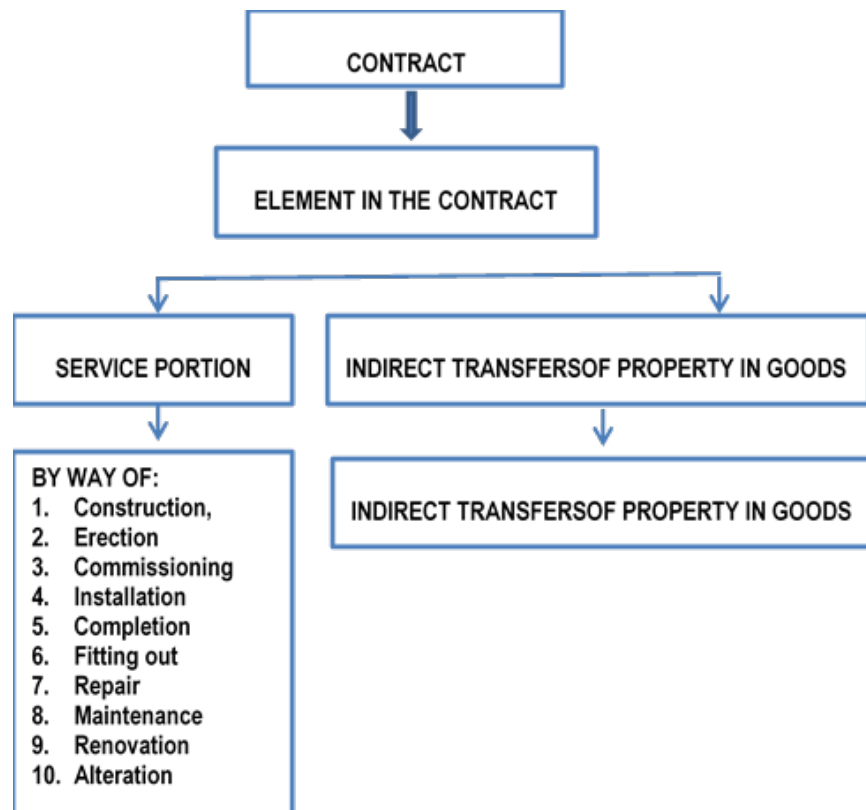
The reverse charge mechanism on the same has been discontinued w.e.f. 01.07.2017 and accordingly only forward charge mechanism is applicable on the services so provided after 01.07.2017.

Services provided by way of works contract service:

Under Service tax: [till 30.06.2017]

Banks may hire works contract services for undertaking construction of infrastructure. Works contract service is a service which is very dynamic and has expanded its scope and applicability after introduction of the negative list. For simple understanding the same is depicted as under:

Compliances of Service Tax/ GST in Banking Sector



Thus, services have to be classified depending upon the above mentioned analysis and thereafter taxability has to be decided. Further the same is subject to RCM as per the table mentioned above.

Further, the person who is providing works contract services should be a person other than body corporate and only then RCM is applicable or else forward charge is applicable.

Under GST: [On or After 01.07.2017]

The reverse charge mechanism on work contract has been discontinued w.e.f. 01.07.2017 and accordingly only forward charge mechanism is applicable on the services so provided after 01.07.2017.

Service provided by way of import of services

Many banks do spend a lot of funds on procuring services from abroad. Where the services are taxable in nature, service tax/GST is payable by the recipient bank. Some important areas are summarised as under:

1. Bond floating expenditure:

Generally, bond floating expenditure is an expenditure which though appropriately recorded in the books of accounts, skips the attention and the applicable taxes are not discharged often in respect of the same. Therefore, the concerned auditor should thoroughly inspect the books of accounts and identify all payments in foreign currency for compliance with these provisions.

For eg: IVY Bank wants to issue bonds in NYSE and for the said purpose has appointed WYE bank a leading bank of America for floating the said bonds and acting as a lead merchant banker. The fee for the same is generally some fixed % of the ticket size which is recorded appropriately in the books of accounts.

However, the said transaction is liable for payment of service tax because the same qualifies to be as a service in terms of Rule 3 of the Place of Provision Rules, 2012 and are liable for payment of service tax under reverse charge mechanism. Such expense should be thoroughly scrutinised, relevant contracts & invoices, payment details, customs rate of exchange etc should be referred and appropriate tax should be disbursed on such transactions.

Under the example mentioned supra, the instant transaction is taxable in terms of Section 13 (2) of the IGST Act, 2017.

Under the GST regime, the same requires through analysis of the transaction, these are generally taxable as per Section 13 of the IGST Act, 2017. However, the actual answer may vary depending upon the structuring of the transaction.

2. Underwriting charges:

If underwriting charges are paid in foreign currency to an underwriter who is located outside India then service tax is imminent on such transactions. Appropriate ledgers, contracts etc should be scrutinised in great detail and thereafter relevant disclosures should be made regarding taxability on the same.

Under the GST regime, the same is taxable and appropriate GST @ 18% is payable on the instant transaction.

3. I.T infrastructure cost:

Generally, I.T infrastructure is a common cost which the banks bears on all-India basis and executes one common contract for the same. If the vendor is based outside India or the technicians are outside India and payment is

Compliances of Service Tax/ GST in Banking Sector

being disbursed in foreign currency then such transactions attract service tax. The auditor has to scrutinise the same in detail and determine tax compliance.

Under the GST regime, such cost require careful apportionment in terms of appropriate provisions including rules and depending upon the nature of the transaction appropriate GST (generally @ 18%) is payable on such transaction. Further, credit for the GST so paid is available.

Chapter 4

CENVAT Credit/Input Tax Credit

The Cenvat credit of inputs, input services and capital goods can be availed by the banks. Further, under the erstwhile provisions the same was subjected to 50% reversal of the credit so taken. However, w.e.f 1.4.2016 the Rule 6(3B) of the CENVAT Credit Rules, 2004 has been amended by virtue of which banks and other financial institutions can reverse credit in respect of exempted services on actual basis in addition to the option of 50% reversal.

Under the GST regime, the above mentioned restriction has been reinstated and accordingly, a banking company or a financial institution including a non-banking financial company engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either 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 or avail 50% of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse. However, condition of 50% restriction would not be applicable in case of supplies made to its own branches i.e. inter branch i.e., by one registered person to another registered person having different GSTIN.

Clarification on reversal of credits for banks and financial institutions including NBFCs:

Relevant provisions have been amended to exclude banks and financial institutions including NBFCs engaged in providing services by way of extending deposits, loans or advances from its ambit. It has been provided in the said explanation that value for reversal of common input tax credit taken on inputs and input services used in providing taxable and exempted services, shall not include the value of service by way of extending deposits, loans or advances against consideration in the form of interest or discount.

Moreover, it is important to note that, option once exercised cannot be withdrawn.

Rule 42 of the CGST Rules, 2017: Manner of determination of ITC in respect of inputs or input services and reversal thereof via illustration:

Compliances of Service Tax/ GST in Banking Sector

Sl. No	Particulars	Reference	CGST	SGST/UTGST	IGST
1	Total input tax on inputs and input services for the tax period May 2018	T	1,00,000	1,00,000	50,000
	Out of the total input tax (T):				
2	Input tax used exclusively for non-business purposes (Note 1)	T1	10,000	10,000	5,000
3	Input tax used exclusively for effecting exempt supplies (Note 1)	T2	10,000	10,000	5,000
4	Input tax ineligible under Section 17(5) (Note 1)	T3	5,000	5,000	2,500
	Total		25,000	25,000	12,500
	ITC credited to Electronic Credit Ledger (Note 1)	$C1 = T - (T1 + T2 + T3)$	75,000	75,000	37,500
	Input tax credit used exclusively for taxable supplies (including zero-rated supplies)	T4	50,000	50,000	25,000

CENVAT Credit/Input Tax Credit

	Common credit	C2 = C1 - T4	25,000	25,000	12,500
	Aggregate value of exempt supplies for the tax period May 2018 (Note 2 & 3)	E	25,00,000	25,00,000	25,00,000
	Total Turnover of the registered person for the tax period May 2018 (Note 2)	F	1,00,00,000	1,00,00,000	1,00,00,000
	Credit attributable to exempt supplies	$D1 = (E/F) * C2$	6,250	6,250	3,125
	Credit attributable to non-business purposes	$D2 = C2 * 5\%$	1,250	1,250	625
	Net eligible common credit	$C3 = C2 - (D1 + D2)$	17,500	17,500	8,750
	Total credit eligible (Exclusive + Common)	G = T4 + C3	67,500	67,500	33,750

Note 1: T1, T2, T3 and T4 shall be DETERMINED AS ABOVE and declared in Form GSTR-2

Note 2: If the registered person does not have any turnover for May 2018, then the value of E and F shall be considered for the last tax period for which such details are available

Note 3: Aggregate value excludes taxes

Note 4: The registered person is expected to make such computation for

Compliances of Service Tax/ GST in Banking Sector

each tax period and for the whole year as well. In case the resultant computation results in short credit availed, then such credit can be claimed in the electronic credit ledger. Further, if on computation for the whole year, the registered person has claimed excess credit on a month on month basis, then such excess credit claimed for the year shall be added back to the output liability and will be liable for payment with interest.

Therefore, an auditor can check whether, concerned branch is reversing the Input Tax Credit in compliance to the above Rule. If Input Tax Credit is not reversed in compliance to the above Rules, it shall be treated as Input Tax Credit wrongly taken and the same will be recovered along with the interest under Section 50 of the CGST Act, 2017.

Please Note that CENVAT Credit by a Registered Taxable Person can only be availed subject to the fulfilment of following conditions:

Basis - **tax invoice / debit note issued by a registered supplier**, or other prescribed taxpaying document

Goods and/or services have been received*

Tax actually paid by the supplier to the credit of the appropriate Government, either in cash or by utilization of ITC

Monthly return in Form GSTR-3 u/s 39 is furnished

Credit only upon receipt of the last lot/ instalment in case of goods received in lots / instalments.

Goods deemed to be received by a taxable person when the supplier delivers the goods to the recipient/ any other person, on the direction provided by the taxable person to the supplier.

Exception in case of goods being directly sent to job worker

If the recipient of services fails to pay (value + tax) within 180 days from date of invoice, (ITC availed + interest @ 18%) shall be added to his output tax liability. ITC available when amount discharged later

CENVAT Credit/Input Tax Credit

Documents required for availing credit (Sec 36 of the CGST Act)

Invoice issued by a supplier of goods or services or both as per S-31	Invoice issued as per S-31(2)(f) by recipient along with proof of payment of tax	A debit note issued by supplier u/s 34
Bill of entry or similar document prescribed under Customs Act, 1962	Revised invoice	Document issued by Input Service Distributor.

No ITC allowed to be availed
<ul style="list-style-type: none">▪ Beyond September of the following FY to which invoice pertains or date of filing of annual return, whichever is earlier▪ If all applicable particulars as specified in the provisions of Chapter VI are contained in the said document, and the relevant information, as contained in the said document, is furnished in FORM GSTR-2▪ In respect of any tax paid, where any demand has been confirmed on accounts of any fraud, wilful misstatement or suppression of facts

No ITC can be availed in terms of S- 17(5) of CGST Act, 2017 – No ITC shall be available in respect of the following namely:

- (a) motor vehicles and other conveyances except when they are used-
 - (i) for making the following taxable supplies, namely: -
 - (A) further supply of such vehicles or conveyances; or
 - (B) transportation of passengers; or
 - (C) imparting training on driving, flying, navigating such vehicles or conveyances;
 - (ii) for transportation of goods.
- (b) supply of goods or services or both provided in relation to, -
 - (i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;
 - (ii) membership of a club, health and fitness centre,

Compliances of Service Tax/ GST in Banking Sector

- (iii) rent-a-cab, life insurance, health insurance except where
 - (A) the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or
 - (B) such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply; and
- (iv) travel benefits extended to employees on vacation such as leave or home travel concession.
- (c) works contract services when supplied for construction of immovable property, (other than plant and machinery), except where it is an input service for further supply of works contract service;
- (d) goods or services or both received by a taxable person for construction of an immovable property (other than plant and machinery) on his own account, including when such goods or services or both are used in the course or furtherance of business;

Explanation - For the purpose of clause (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property.
- (e) goods or services or both on which tax has been paid u/s 10 (Composition levy);
- (f) goods or services or both received by a non-resident taxable person except on goods imported by him;
- (g) goods or services or both used for personal consumption;
- (h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and
- (i) any tax paid in accordance with the provisions of sections 74, 129 and 130.

Explanation - For the purposes of this Chapter and Chapter VI, the expression 'plant and machinery' means apparatus, equipment and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes:

CENVAT Credit/Input Tax Credit

- (i) land, building or any other civil structures,
- (ii) telecommunication towers; and
- (iii) pipelines laid outside the factory premises

Credit utilization [Sec 49(5)]

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

*The numbers represent the order of utilization of credit

Expectation: Accumulation of unutilized GST credits would be avoided except in cases of exports

Note : Credit of Krishi Kalyan Cess KKC is not allowed to be brought forward into GST regime resulting into, lapse of KKC credit

Chapter 5

Routine Procedural Checks under Service tax/GST regime

Payment dates

Service tax should be disbursed by following the due dates mentioned below:

- By 6th of next month (compulsory e-payments)
- For the month of March – By 31st March

GST should be disbursed by following the due dates mentioned below:

---20th of the next month

FORM GST PMT-6 Challan for deposit of GST — valid for 15 days from the date of generation of challan

Further, interest under Section 50, to be paid in case of failure to pay tax or part thereof to the Government within period prescribed is 18% from the due date of payment to the actual date of payment of tax

And 24 % in case Excess claim of Input Tax Credit or excess reduction in output tax liability

Time limitation for issuance of invoice

Service tax- within 45 days in case of banking services

GST

Invoice shall be issued before or after the provision of service, but within 45 days from the date of supply of services.

In case, taxable services are provided to the distinct persons as specified in section 25, then banks may issue the invoice before or at the time such supplier bank records the same in its books of accounts or before the expiry of the quarter during which the supply was made.

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

Routine Procedural Checks under Service tax/GST regime

Provided that the Government may, on the recommendations of the Council, by notification and subject to such conditions as may be mentioned therein, specify the categories of services in respect of which –

- (a) any other document issued in relation to the supply shall be deemed to be a tax invoice; or
 - (b) tax invoice may not be issued
- A.** In terms of Rule 46 of CGST Rules, 2017, a tax invoice referred to in this section shall be issued by the registered person containing the following:-
- (a) name, address and GSTIN of the supplier;
 - (b) a consecutive serial number, not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters hyphen or dash and slash symbolised as “-” and “/” respectively, and any combination thereof, unique for a financial year;
 - (c) date of its issue;
 - (d) name, address and GSTIN or UIN, if registered, of the recipient;
 - (e) name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered and where the value of taxable supply is fifty thousand rupees or more;
 - (f) name and address of the recipient and the address of delivery, along with the name of the State and its code, if such recipient is un-registered and where the value of the taxable supply is less than fifty thousand rupees and the recipient requests that such details be recorded in the tax invoice;
 - (g) Harmonised System of Nomenclature code for goods or services;
 - (h) description of goods or services;
 - (i) quantity in case of goods and unit or Unique Quantity Code thereof;
 - (j) total value of supply of goods or services or both;
 - (k) taxable value of supply of goods or services or both considering discount or abatement, if any;
 - (l) rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);

Compliances of Service Tax in Banking Sector

- (m) amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- (n) place of supply along with the name of State, in case of a supply in the course of inter-State trade or commerce;
- (o) address of delivery where the same is different from the place of supply;
- (p) whether the tax is payable on reverse charge basis; and
- (q) signature or digital signature of the supplier or his authorized representative:

In respect of the particulars relating to HSN code cited in point (f) supra on the recommendations of the Council the Commissioner may, by notification for a specified period and class of registered persons who will be required to specify the number of digits of HSN code for goods or the Accounting Codes for services; The Commissioner is also empowered to specify by way of notification (on the recommendations of the Council the class of registered persons that would not be required to mention the HSN code for goods or the Accounting Codes for services, for such period as may be specified in the said notification:

B. Tax Invoices in cases of special services

Sl. No.	Class of supplier of taxable services	Nature of document	Optional	Mandatory
1	Insurer, Banking Company, Financial Institution and NBFC	Consolidated Tax Invoice or any other similar document	a. Serial no. b. Address of the recipient of services	All other particulars cited in clause C supra
2	Goods transport agency transporting goods by road	Tax Invoice or any other similar document	None	a. All other particulars cited in clause C supra b. Gross weight of consignment c. Consignor and

Routine Procedural Checks under Service tax/GST regime

				Consignee name d. Regn. No. of Vehicle e. Details of goods transported f. Origin and destination details g. GSTIN of person liable to pay tax whether as consignor / consignee or as GTA
3	Passenger transport agency	Tax invoice or ticket	a. Serial no. b. Address of the recipient of services	All other particulars cited in clause C supra

C. In case of export of goods or services, the invoice shall carry an endorsement

Supply meant for export/supply to SEZ unit or SEZ developer for authorised operations on payment of integrated tax” or “supply meant for export/supply to SEZ unit or SEZ developer for authorised operations under bond or letter of undertaking without payment of integrated tax”, as the case may be, and shall, in lieu of the details specified in clause (c) cited supra, contain the following details:

- (i) name and address of the recipient;
- (ii) address of delivery;
- (iii) name of the country of destination; and

Compliances of Service Tax in Banking Sector

D. Supplies not exceeding Rs.200/-

A registered person is not required to issue a tax invoice in accordance section 31(3)(b) of the CGST Act, 2017 i.e. in respect of supply of goods or services or both where the value therein does not exceed a sum of Rs.200/- subject to the following conditions, namely: -

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

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

Therefore, **Banking companies**

- ✓ may issue tax invoice or any other document, whether serially numbered or not and issue an invoice even without containing the address of the recipient of service but contains the other information as provided by Rule 46 of the CGST, Rules.
- ✓ have the option to issue 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.

NOTE

- A registered person supplying exempted goods or service or both or paying tax u/s 10 shall issue Bill of supply. However, registered person may not issue Bill of supply if such supply is less than Rs.200/-
- A registered person shall on receipt of advance payment with respect to any supply shall issue Receipt voucher.
- Further, where at the time of receipt of advance,
 - the rate of tax is not determinable, the tax shall be paid at the rate of 18%
 - the nature of supply is not determinable, the same shall be treated as inter-State supply.
- where, on receipt of advance payment with respect to any supply of goods or services or both the registered person issues a receipt voucher, but subsequently no supply is made and no tax invoice is issued in pursuance thereof, the said registered person may issue to the person who had made the payment, a refund voucher against such payment;

Routine Procedural Checks under Service tax/GST regime

- a registered person who is liable to pay tax u/s 9(3) or (4) shall issue a payment voucher at the time of making payment to the supplier

Returns

Service tax return should be regularly filed in FORM ST-3 by the following due dates:

Sr.No	Period	Due Date
1	April – September	Within 25 days from the end of the half year i.e. 25th October
2	October – March	Within 25 days from the end of the half year i.e. 25th April.

GST Return -It is pertinent to mention here that for smooth implementation of GST and remove/elimination of difficulties in above, that Govt. has extended due date of filling return has been extended by Government by issuing Various Notifications

Every registered banking and/or financial institution including non-banking financial company is liable to file following return

Form	Particulars	Due date	Applicable for	Extended dates
GSTR1	Outward Supplies	10 th of the next month	Normal / Regular Taxpayer	July-Oct '17- 31.12.17 Nov'17- 10.1.18 Dec'17- 10.2.18 Jan'18 - 10.3.18 Feb'18 - 10.4.18 Mar'18 – 10.5.18
GSTR2	Inward Supplies	15 th of the next month	Normal / Regular Taxpayer	
GSTR3	Monthly return [periodic]	20 th of the next month	Normal / Regular Taxpayer	

Compliances of Service Tax in Banking Sector

GSTR 3 B	Summary Returns	Monthly by 20 th of the next month	Normal / Regular Taxpayer	Not Yet Notified (July and August)
GSTR6	Return by input service distributors	13 th of the next month	Input Service Distributor	Not yet notified
GSTR-9	Annual return	31 st December next FY	Normal tax payer (other than casual tax payer)	

(A) Obligation to furnish information return

- Any person, being a banking company within the meaning of clause (a) of section 45A of the Reserve Bank of India Act, 1934, 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.[Section 150 (1)(e) of the CGST Act]

Registration

Service Tax

Generally, banks operate from more than one premise. In that situation since the services provided by all these premises is almost the same except for certain specific departments, therefore it may be preferable that centralised registration be taken by these banks in terms of Rule 4(2) of the service Tax Rules, 1994.

Although Service Tax is required to be paid only when the aggregate value of services provided exceeds 10 lakhs in a financial year, the service tax provider is required to apply for registration for Service Tax within 30 days of his turnover exceeding Rs.9 lakhs.

In service tax, assessee had option to have single registration or Centralised

Routine Procedural Checks under Service tax/GST regime

registration. Procedure & documents required in respect of Single/Centralised Registration are under Rule 4 of Service Tax Rules, 1994

GST

In GST there is no concept Centralized registration as available under erstwhile Service tax. So, a person having multiple business verticals [as defined in Section 2(18)] in one State may obtain separate registrations for each of the business vertical, subject to prescribed conditions.

In terms of section 22 of the CGST Act, every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds Rs. 20 lakh and in case of special category state wherein the registration limit is Rs. 10 lakhs.

Where aggregate turnover means the aggregate value of all taxable supplies, exempt supplies, export of goods or services or both and inter-State supplies of persons having the same PAN, to be computed on all India basis and excludes CGST/SGST, IGST, UTGST and cess.

Aggregate turnover does not include value of inward supplies on which tax is payable on reverse charge basis.

Section 24 of the CGST Act provides the categories of persons who shall be required to be registered under this Act irrespective of the threshold. One such Category of Compulsory registration, the persons who are required to pay tax under reverse charge and input service distributor relevant to Banking sector .

- (a) persons making any inter-State taxable supply;
- (b) casual taxable persons making taxable supply;
- (c) persons who are required to pay tax under reverse charge;
- (d) non-resident taxable persons making taxable supply;
- (e) an electronic commerce operator for whom the provision of section 9(5) of GST Act apply an electronic commerce operator for whom the provision of section 9(5) of GST Act apply.
- (f) persons who are required to deduct tax under section 51;
- (g) Every electronic commerce operator;
- (h) persons who supply goods or services or both on behalf of other taxable persons whether as an agent or otherwise;

Compliances of Service Tax in Banking Sector

- (i) input service distributor;
- (j) persons who supply goods or services or both, other than supplies specified under sub-section (5) of section 9, through such electronic commerce operator who is required to collect tax at source under section 52;

Effective date of Registration

Where the application for registration has been submitted within thirty days from the date on which the person becomes liable to registration, the effective date of registration shall be date on which he become liable for registration.

Where an application for registration has been submitted by the applicant after thirty days from the date of his becoming liable to registration, the effective date of registration shall be the date of grant of registration.

In case of suo-moto registration, i.e. registration pursuant to any survey, enquiry, inspection, search or any other proceedings, the effective date of registration shall be the date of order of registration.

Section 25 read with Rule 8 to 26 of the CGST Rules, 2017 related to registration provides a detailed road map on the procedural aspects of the registration. The time limit for application is within 30 days (for persons other than casual taxable person or a non-resident taxable person) and casual taxable person or a non-resident taxable person shall have to obtain the registration at least 5 days prior to the commencement

Chapter 6

Questionnaire for Service Tax/GST Audit of Banks

Name of the Branch:

Service Tax Code/ GSTIN:

Particulars/information for the year.....

	SERVICE TAX	GST
	PART A: Basic Details of Assessee	PART A: Basic Details of Assessee
1.	Name of the Service Provider/Service Receiver	Name of the Supplier/Recipient of Supply
2.	Full Address of : (Refer Appendix)	Full address of: (Refer Appendix)
	(a) Head Office/Central Office (in case of Centralised Registration)	of the Branch under audit and address of the branches in the State:
	(b) Branches (Registered or Unregistered with Service Tax Department) & Enclosed list in case of large number of branches	
3.	Service Tax Registration Number, Date of registration and Service categories specified in the registration certificate. If assessee is paying service tax under reverse charge, whether it is registered under such category or not. (Refer Appendix)	List of GST registration numbers in the State with date of registration and nature of registration as Supplier/Recipient of Supply. (Refer Appendix)
4.	Validity Period of Registration (in case of casual person)	Validity Period of Registration (in case of casual person and NRI)
5.	PAN of Assessee	PAN of Assessee
6.	List principal activities (Refer Appendix)	List principal activities (Refer Appendix)

Compliances of Service Tax in Banking Sector

7.	Is there any change in the activities stated above during the year as compared to immediately preceding year? Whether the same is included in registration. (Refer Appendix)	Is there any change in the activities stated above during the year as compared to immediately preceding year? Whether the same is included in registration (Refer Appendix)
8.	Principal books of account/ records shall furnish to the Superintendent of Central Excise at the time of filing of return for the first time.	No such requirement in GST.
9.	<div>(a) Whether list of records maintained filed with the Department in terms of Rule 5(2) of the Service Tax Rules 1994? (Refer Appendix)</div> <div>(b) Whether any intimation has been filed under Rule 6(3) of CENVAT Credit Rules, 2004?</div>	Whether taxpayer has maintained accounts and records in terms of Section 35 -36 of the CGST Act, 2017 read with Rule 56 to 58 of the CGST Rules, 2017.
	PART B : EXEMPTION AVAILED/ NEGATIVE LIST AS PER FINANCE ACT 1994	PART B : EXEMPTION AVAILABLE UNDER CGST/SGST/IGST
10.	Broad description of nature of Income	Broad description of nature of Income
11.	<div>(a) Are services provided in the State of Jammu & Kashmir? If Yes, please specify nature of Service and amount involved</div> <div>(b) Are services provided outside India? If Yes, Please specify nature of Service and amount involved (Refer Appendix)</div>	<div>Not Applicable as erstwhile service tax law was not applicable in case of J&K. GST Law is applicable from 8th July, 2017.</div> <div>(b) Are services provided outside India? If Yes, Please specify nature of Service and amount involved (Refer Appendix)</div>
12.	Broad description of exempted services	Broad description of

Questionnaire for Service Tax/GST Audit of Banks

	provided, if any, along with Notification No. and amount Involved (Refer Appendix)	exempted services provided, if any, along with Notification No. and amount Involved (Refer Appendix)
13.	Broad description of services, which are covered under Negative List and Amount Involved	Not applicable
14.	<p>(a) Whether any activity in the nature of "Transaction in Money" has been claimed as outside the definition of "Service" as per section 65B(44) (Refer Appendix)</p> <p>(b) If yes, whether any separate consideration is charged and service tax being paid on the same.</p>	Whether GST is leviable on Transaction in Money under GST? (Refer Appendix)
15.	<p>(a) Whether the company is engaged in providing services related to securities/ derivatives which are covered up in the exclusion clause of definition of services as per Section 65B (44) as Sale of Goods. (Refer Appendix)</p> <p>(b) If yes, whether any service charges collected, during the relevant period and service tax is being paid on the same. Please provide the details thereof.</p>	Whether Securities/ derivatives are exigible for GST?
16.	In case, any service charges or administrative charges or entry charges are recovered in addition to interest on a loan, advance or a deposit such as locker rent, folio charges, loan processing fee, late payment fee, lease management fee, rent, management fee etc. Whether service tax is being paid on the same.	Whether any service charges or administrative charges or entry charges are recovered in addition to interest on a loan, advance or a deposit such as locker rent, folio charges, loan processing fee, late payment fee, lease management fee,

Compliances of Service Tax in Banking Sector

		rent, management fee etc. are exigible to GST?
17.	(a) Whether the Bank is trading in Commercial paper /Certificates of deposits?	Whether the Bank is trading in Commercial paper /Certificates of deposits?
	(b) If yes, whether any separate charges are collected and service tax being paid on the same and provide details thereon.	If yes, whether any separate charges are collected and GST being paid on the same and provide details thereon.
18.	(a) Whether service tax is levied on late fee charges collected from credit card holders?	Whether GST is levied on late fee charges collected from credit card holders?
	(b) If yes, then whether service tax is being paid on the same and give details thereof. (Refer Appendix)	If yes, then whether GST is being paid on the same and give details thereof. (Refer Appendix)
	PART C: COMPLIANCES OF SERVICE TAX RULES, 1994	PART C: COMPLIANCES UNDER GST ACT AND RULES, 2017
19.	(a) Broad description of Taxable Services received for which tax has to be paid under reverse charge. (Refer Appendix)	Requirement of reverse charge has now been changed and Section 9(3) and 9(4) of the CGST apply? Whether payment requirement of GST payment under reverse charge on supplies received from unregistered supplier upto October 12, 2017 made? Note- Section 9 (4) and applicability deferred till

Questionnaire for Service Tax/GST Audit of Banks

		30.06.2017. (Refer Appendix and Chapter 3)
	<p>Works Contract Service-</p> <p>Such as construction & repair of building, white wash, make up of furniture, AMC with parts, Cartridge refilling, repair or any other work which include material and labour.</p>	<p>Definition has changed.- Works Contract" in terms of Section 2(119)of CGST Act means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.</p> <p>Further, Schedule II of Section 7 of the CGST Act, 2017 inter alia provides that Works contract is a composite supply to be treated as a supply of services` Therefore, it is important to note that under GST, work contract as service under GST law applies in relation to immovable property only.</p> <p>Rest Discussed in Ch-3</p>
	Cab Hiring Charges	

Compliances of Service Tax in Banking Sector

	Manpower Supply- Such as temporary hiring of office staff or housekeeping staff.	
	Security Services	
	Sponsorship	
	Legal services advocates- such as law charges	
	Services Received from Govt.	
	Services provided by arbitrator	
	Services provided by Director	
	Recovery Agent	
	Goods Transportation Charges	
	(b) Is Rule 2(1) (d) of Service Tax Rules, 1994 followed? (Refer Appendix)	Is Section 9(3) of the CGST Act read with Notification No.13/2017 Central Tax (Rate) date 28.06.2017 as amended followed?
	(c) if the answer (b) is No, Specify the head of expenditure and corresponding details?	SAME
		<ul style="list-style-type: none"> • Whether GST have been paid on reverse charge basis on the services procured from supplier in terms of Section 9(3) of the CGST Act? • Whether GST have been paid on reverse charge basis on the goods/services procured from the unregistered supplier in

Questionnaire for Service Tax/GST Audit of Banks

		<p>terms of Section 9(4) of the CGST/SGST Act, for the period July 1, 2017 till October 12, 2017, if aggregate value of supplies of goods or services or both received by a registered person from any or all the suppliers, who is or are not registered, exceeds Rs. 5000/- in a day?</p> <ul style="list-style-type: none"> • Similarly, whether GST has been paid, in respect of each GST-registered location, on reverse charge basis on inter-State inward supplies from unregistered suppliers for the period July 1, 2017 till October 12, 2017? • Whether GST have been paid on advances paid by the banks to the specified registered persons under section 9(3) of the CGST Act such as sponsorship services, GTA services, etc.? • Whether GST have been paid on advances paid by the banks to the unregistered persons under section 9(4) of the CGST Act
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Compliances of Service Tax in Banking Sector

		<p>till 12th October, 2017?</p> <ul style="list-style-type: none"> • Whether all inward supplies (whether creditable or not) flow into the books of the bank through the GSTR-1 of any registered supplier? If not, have such supplies been reported in GSTR-2 under section 9(3) of CGST Act / 5(4) of IGST Act, even if no tax is payable from 13th October, 2017? • Whether in respect of each inward supply where no tax has been paid, is there is a clear disclosure made to the auditors as to the reasons for the tax position taken in each case? Auditor may examine, if the tax position taken requires to be reported in the audit report or other communication? • Whether the credit taken in respect of services covered under reverse charge mechanism is taken only after making payment of GST?
20.	(a) Challan-wise details of service tax remitted during the year. (Annexure B)	(a) Whether payment and ledger entries are made in terms CGST Act

Questionnaire for Service Tax/GST Audit of Banks

	(Not applicable if Centralised Registration)	and payment rules given in CGST Rules, 2017?
	(b) Whether Tax has been paid in time while following Point of Taxation Rules 2011?	(b) If Tax is paid belatedly, specify interest paid on delayed payment under Section 50 of the CGST Act, 2017
	(c) If Tax is paid belatedly, specify interest paid on delayed payment.	
21.	(a) Whether the assessee has the option of discharging its liability under Rule 6(7B) of the Service Tax Rules, 1994. (Refer Appendix) For branches dealing in purchase or sale of foreign currency and money changing.	Banking sector provides services of purchase and sale of foreign currency to its customers, the value of which can be ascertained in terms of Rule 32(2) of the CGST Rules, hence liable to GST. However, (i) inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers is exempt vide NN12/2017
	(b) If yes, whether service tax liability has been discharged in manner prescribed under the provisions.	
	PART D: COMPLIANCE OF CENVAT CREDIT RULES 2004	PART D: COMPLIANCE OF ITC PROVISIONS GIVEN UNDER GST ACT AND CGST RULES, 2017
22.	(a) Whether CENVAT taken/ utilized is matching with Books of accounts and service tax returns (Annexure A)	(a) Whether ITC taken/ utilized is matching with Books of accounts and GST returns (Annexure A)
	(b) if the answer of (a) above is negative, Report differences thereof. (Annexure C) .	(b) if the answer of (a) above is negative, Report differences thereof. (Annexure C) .

Compliances of Service Tax in Banking Sector

23.	Whether CENVAT credit taken, utilized and reversed on input services / inputs and Capital goods is as per CENVAT Credit Rules, 2004?	Whether ITC credit taken, utilized and reversed on input services / inputs and Capital goods is CGST Act read with CGST Rules?
24.	<ul style="list-style-type: none"> • Whether the head office has not availed depreciation u/s 32 of the Income Tax Act, 1961 on the amount of duty on the capital goods on which CENVAT Credit has been availed? • Whether the CENVAT Credit on input services have been taken on the basis of proper documents containing all particulars as prescribed by rule 4A of Service Tax Rules, 1994 read with Rule 9 of the CENVAT Credit Rules, 2004, i.e., serially numbered invoice/bill, etc. containing the requisite information like, Name and address of the service provider, Service Tax Registration Number, Description of the services, Amount of the service tax, Name, address of the recipient bank, etc • whether the bank has taken the CENVAT Credit in respect of input and capital goods on the basis of proper duty paying documents, containing all particulars as prescribed by Central Excise Rules, 2002 read with Rule 9 of the CENVAT Credit Rules, 2004, i.e., serially numbered invoice / bill etc. containing the requisite information like, Name, address and 	<ul style="list-style-type: none"> • 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? • Whether the bank has taken the Input Tax Credit in respect of input and capital goods 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

Questionnaire for Service Tax/GST Audit of Banks

	<p>registration no. of manufacturer, description of the goods, amount of the excise duty, name and address bank, etc.?</p> <ul style="list-style-type: none"> • Whether the credit is taken in respect of input services at the time of receipt of invoice. Further, in case payment is not made within 3 months from the date of invoice, credit has to be reversed and bank will be eligible to re-avail credit after making payment to vendor. • Whether the credit taken in respect of services covered under full as well as partial reverse charge mechanism is taken only after making payment of Service Tax. • Whether the bank have not availed the credit in respect of reverse charge more than the payment made for service tax? • Whether the Bank has made repayment of CENVAT Credit availed in respect of capital goods removed after being used? Bank is required to pay an amount equal to the CENVAT Credit taken on the said capital goods reduced by 2.5 per cent for each quarter (for computers 10%, 8%, 5% and 1% respectively for each quarter in the first year, second year, third year, fourth & fifth year) of a year or part thereof from the date of taking the CENVAT Credit. In case, duty calculated on transaction value is more than amount calculated by way of % specified supra, Bank has to pay amount equal to excise duty 	<p>Code of goods, etc.?</p> <ul style="list-style-type: none"> • Whether the bank has taken the Input Tax Credit in respect of services 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 16 characters, containing the requisite information like, Name, address and GST Number of Bank, date of issue, amount of the credit distributed, etc.?
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Compliances of Service Tax in Banking Sector

	<p>on transaction value.</p> <ul style="list-style-type: none"> • In case, capital goods are cleared as waste and scrap, Bank has to pay an amount equal to duty leviable on transaction value. • In case, value of inputs or capital goods before being put to use is written off/provision to write off fully or partially has been made in books, bank has to reverse amount equivalent to CENVAT Credit taken. 	
25.	<p>Month-wise amount of distribution of CENVAT credit if the assessee is registered as an Input Service Distributor together with address of the unit to which it is distributed. (Applicable for Zonal / Head Office) (Not Applicable if Bank has Centralised Registration) (Refer Appendix)</p>	<p>Month-wise amount of distribution of CENVAT credit if the assessee is registered as an Input Service Distributor together with address of the unit to which it is distributed. (Applicable for Zonal / Head Office)</p>
26.	<p>List of major Input services /inputs on which the company takes CENVAT Credit: whether it comply with Rule 2(I) of CENVAT Credit Rules, 2004(Refer Appendix)</p>	<p>List of major Input services /inputs on which the company takes ITC : whether it comply with CGST Act read with CGST Rules</p>
27.	<p>Whether reversal under Rule 6(3B) of CENVAT Credit Rules, 2004 of 50% of CENVAT taken in each month is compiled or whether reversal is being done in accordance with Rule 6(3) as substantially amended from April 1, 2016. (Refer Appendix)</p>	<p>Whether credit has been reversed for every month an amount equal to 50% of the Input Tax Credit availed on inputs, input services and capital goods or input tax credit has been reversed in respect of exempted supplies on actual basis?</p>

Questionnaire for Service Tax/GST Audit of Banks

		<p>Check rest 50% credit is lapsed?</p> <p>Note- such reversal is not required in case of cross charge made to other branches (refer Rule 42 in chapter-2)</p>
28.	<p>If credit is reversed in accordance with Rule 6 (3) and not in terms of 6(3B) then, what value is considered? Whether interest or discounts in loans, advances or deposits are excluded? (see specific definition of exempted services which includes activities not included within the definition of service u/s 65B(44))</p>	Not Applicable
29.	<p>Whether the company is availing CENVAT Credit on service tax paid under reverse charge mechanism before or after the date of payment to Govt. (Refer Appendix)</p>	<p>Not applicable as credit of taxes paid under RCM is now available in the same month</p> <p>(Refer Appendix)</p>
30.	<p>If the answer of 27 is No, then details of CENVAT Availd and utilized. (Refer Appendix)</p>	SAME
31.	<p>Whether CENVAT Credit distributed is in compliance to Rule 7 of CENVAT Credit Rules, 2004. (Applicable for Zonal/Head Office)</p> <p>If answer to above is negative, provide the discrepancy in the distribution and reasons thereof.</p> <p>(Refer Appendix)</p>	<p>Whether ITC distributed is in compliance to Section 20 of the CGST Act 2017,</p> <p>If answer to above is negative, provide the discrepancy in the distribution and reasons thereof.</p> <p>(Refer Appendix)</p>
32.	<p>Amount of CENVAT credits received from Input Service Distributor, if any together with address of the unit from which it is received.</p>	SAME

Compliances of Service Tax in Banking Sector

33.	Whether any Credit on Invoices first time claimed after one year from date of invoice (applicable on invoices issued on or after 1 st March, 2015)	Whether any Credit on has been claimed input tax credit on invoice/debit notes after the latter of due date of furnishing of the return under section 39 for the month of September of the subsequent financial year or furnishing of the relevant annual return?
	PART E: COMPLAINTS OF PLACE OF PROVISION RULES, 2012	PART E: COMPLAINTS OF GST ACTS AND CGST RULES, 2017
34.	<p>(a) Value of service provided to persons other than account holders where tax not charged on the ground that the place of provision is outside the taxable territory.</p> <p>(b) Value of services exported if any, on which no service tax has been charged.</p> <p>(c) Whether any amount of (a) above should be taxed for not following Place of Provision of Services Rules, 2012?</p> <p>(d) Under which Rule of Place of Provision of Services Rules, 2012, the exported Service(s) fall? (Refer Appendix)</p>	<p>(i) Value of service provided to persons other than account holders where tax not charged on the ground that the place of supply is outside the taxable territory. (s-12(12) of IGST Act, 2017 (Refer Appendix)</p> <p>(ii) Value of services exported</p> <ul style="list-style-type: none"> • With payment of IGST and claimed refund • Without payment of IGST under the cover LUT or Bond and claimed refund
35.	Is the payment for services exported received by the service provider in convertible foreign currency? If not, list	Whether conditions for export of supply of service satisfied to avail

Questionnaire for Service Tax/GST Audit of Banks

	those transactions where amounts are not received in foreign currency. (Refer Appendix)	benefit of export supply without payment of tax, such benefit is subject to furnishing of LUT/Bond? (Refer Appendix)
36.	Is the payment for services exported received by the service provider in convertible foreign currency within the time limit prescribed by RBI? If not, give details.	SAME
37.		PART F: TRANSITIONAL PROVISION
		<ul style="list-style-type: none"> • Whether the banks have filed TRANS-1 and the said form has absorbed all the accumulated credits and credits appearing as closing balance in the service tax returns? • In case of Centralised registration, whether the credit distributed in TRANS-1 has been received at GSTIN of Branch? • Whether sale or lease of vehicles procured prior to 1st July, 2017 and on which any Input Tax Credit has not been availed of Central Excise duty, VAT or any other taxes paid on such motor vehicles be subject to 65% of applicable GST rate?

Compliances of Service Tax in Banking Sector

38.	PART G- OTHERS	PART G- OTHERS
	<p>Service Tax return</p> <ul style="list-style-type: none"> • Whether the head office have filed the return of service tax on half yearly basis, i.e., for the half-year ending on 30th September and on 31st March within 25 days from the end of each half-year? (Form ST-3 (format) was updated through Notification no. 43/2016-ST, dated 28th September, 2016). • Whether return for the period April 1 to June 30, 2017 has been filed before August 31, 2017 and revised return, if any, is filed till October 15, 2017 pursuant to Circular No. 207/5/2017-Service Tax, Dated September 28, 2017? • It is pertinent to mention that in case of reverse charge, since the ITC is available only after payment of service tax. Therefore- <ul style="list-style-type: none"> ○ Check whether, the details of payment are indicated in Part I of Form ST-3 in entries, 13.1.2.6, 13.2.2.6 and 13.3.2.6 and linked entries are made in Part H of Form ST-3 where service was received before 1-7-2017 and payment for the value of such services are made after 30.06.2017 but by 5 or 6.07.2017 (vide above circular) ○ Check whether revise return is filed till October 15, 2017 where service was received before 1-7-2017 and payment for the 	<ul style="list-style-type: none"> • 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 IGST has been paid on 'import of services'? • 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? • Whether Tax wrongfully collected and paid to Central or State Government (interstate supply considered as intra state supply or

Questionnaire for Service Tax/GST Audit of Banks

	<p>value of such services was made after 30.06.2017 but by 5or 6.07.2017, indicating such payment in Part I of revised Form ST-3 in entries, 13.1.2.6, 13 2.2.6 and 13 3.2.6 and linked entries in Part H of revised Form ST-3?</p> <p>Payment</p> <ul style="list-style-type: none"> • Whether the head office have filed the return of service tax for quarter ended on 30.06.2017 and the return has been filed upto 31.08.2017 • Whether the head office has made the payment of service tax so collected monthly, by 6th day of the following month. For the month of March, the payment should be made by 31st day of March. Online payment of Service Tax is mandatory since 1st October, 2014. • Whether bank has discharged the interest liability under section 75 of the Finance Act, 1994 on late payment of service tax made by bank? 	<p>vice versa)?</p> <ul style="list-style-type: none"> • If Yes, state the details of transaction (quantum) [Annexure D]
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Compliances of Service Tax in Banking Sector

NAME OF THE ASSESSEE

ANNEXURE A - (In Service Tax -from 01.04.2017-30.06.2017)

RECONCILIATION OF TURNOVER FOR THE YEAR.....

S. No	Particulars	
A	Total Taxable Turnover	
	Service 1 Service 2	
B	Total Non-Taxable Turnover	
C	Grand Total	
D	Advance as on 30.06.2017	
E	Less: abatement if any	
F	The amount of service tax on abated value (A+D-E)	
G	(i) Amount of Service Tax at the rate specified under section 66 (@ 14%) on F Or (ii) At Specified Rate in terms of Service Tax Rules	
H	In case (i) -- Swachh Bharat Cess @0.5% on F Or In case (ii) -- Swachh Bharat Cess = $F \times 14.5 / 0.5$	
I	In case (i) -- Krishi Kalyan Cess @0.5% on F Or In case (ii) -- Krishi Kalyan Cess = $F \times 14.5 / 0.5$	
	Total Service Tax liability payable (G+H+I)	
	Mode of Payment	
J	Paid Through CENVAT Paid In cash (Details in Annexure B)	
K	Difference (F-J)	

Clarification-Annexure A

This annexure intends to reconcile and highlight any discrepancy in payment of service tax during the period under audit. Serial number wise clarification has been provided below:

A. Total Taxable Turnover: This will include all taxable components of turnover on which service tax is paid by the concerned branch during the period under Audit.

B. Total Non-Taxable Turnover: This will include turnover of all the Non-Operating, Exempted and Non-Taxable (Negative list) activities.

C. Grand Total: It should match with the income appearing in the profit and loss account of the concerned branch/head office.

D. Advance Payment received during tax period: As per Point of Taxation Rules, 2011, Service Tax is payable at earlier of advances received or date of invoice. Since GST is implemented from July1, 2017, the amount of advance received needs to be considered for the period 01.04.2017-30.06.2017

G. Service Tax is calculated at the rate prescribed on different taxable components. For e.g. there are two different components (i) bank charges (ii) conversion of foreign currency -. In this line item, we need to calculate total tax by applying respective rate or valuation method i.e. on bank charges @ 12% and foreign currency conversion in manner prescribed under Rule 6(7B).

H. Swachh Bharat Cess has been levied from 15th November 2015 vide Notification No 21/2015-Service Tax, dated November 6, 2015 @0.5% on value of all taxable services.

J. With effect from June 1, 2016, Krishi Kalyan Cess has been levied for the purpose of financing and promoting initiative to improve agriculture @0.5% on value of all taxable services

Compliances of Service Tax in Banking Sector

NAME OF THE ASSESSEE

ANNEXURE A- (In GST)

RECONCILIATION OF TURNOER FOR THE YEAR.....

GSTR 1 : RECON WITH BOOKS		
	Total Credits in statement of profit and loss	XXX
Less:	Not Goods / Not Services - e.g. Dividend Income	(XXX)
Less:	Sch III Items which is not a Supply e.g. : Land & Building etc	(XXX)
Less:	April - June Supplies	(XXX)
Less:	Receipts Not in the Course of Business	(XXX)
Add:	Sch I Supplies like Branch Transfer not in books, but supply as per GST Law	XXX
Add:	Receipts capitalised but taxable to GST	XXX
Less :	Profit on Sale of Capital Goods	(XXX)
Add :	Taxable Value of Supply of Capital Goods	XXX
Add:	Advance received during the Current Period	XXX
Less:	Advance of earilier period adjusted during the Current period	(XXX)
Less:	Closing unbilled revenue recognised - But Time of Supply did not arise	(XXX)
Add:	Opening unbilled revenue(Billed during the period/Time of supply falls in the month)	XXX

Annexure A

	Total Value in GSTR 1	XXX
Less:	Exempted Supply	(XXX)
Less:	Non Taxable Supplies : Supplies Like HSD, Motor Spirit Etc including Liquor	(XXX)
Less:	NIL Rated Supply	(XXX)
Taxable Value in GSTR 1		XXX

Compliances of Service Tax in Banking Sector

NAME OF THE ASSESSEE

ANNEXURE B- under Service Tax

DETAILS OF CHALLAN FOR THE YEAR

S. No	Nature of Service	For the Month	BSR No.	Date	Challan No.	Tax Amount	Service Tax	Education Cess	H. Cess	Interest
1.										
2.										

NAME OF THE ASSESSEE

ANNEXURE B -under GST

Details of Discharge of Liabilities

A

Month	CGST				SGST				IGST				Cess			
	Liability	Cre dit uti li sed	Cas h uti li sed	Rati o	Liability	Cre dit uti li sed	Cas h uti li sed	Rati o	Liability	Cre dit uti li sed	Cas h uti li sed	Rati o	Liability	Cre dit uti li sed	Cas h uti li sed	Rati o
Apr																
May																
Jun																
Jul																
Aug																
Sep																
Oct																
Nov																
Dec																
Jan																
Feb																
Mar																
Total																
		CGST					SGST					IGST				

Compliances of Service Tax in Banking Sector

Liability for the month	Liability	Delay	Date of settling liability in returns	Interest	Liability	Delay	Date of settling liability in returns	Interest	Liability	Delay	Date of settling liability in returns	Interest
Apr												
May												
Jun												
Jul												
Aug												
Sep												
Oct												
Nov												
Dec												
Jan												
Feb												
Mar												
Total												

B

**NAME OF THE ASSESSEE
ANNEXURE C**

DETAILS OF CENVAT TAKEN, UTILIZED AND REVERSED DURING THE YEAR.....

	Cenvat taken as per books of accounts			Cenvat credit taken as per return			Difference in cenvat taken			Cenvat credit utilized as per books			Cenvat credit utilized as per return			Difference in cenvat utilization			Cenvat credit reversed as per books			Cenvat credit reversed as per return			Difference in cenvat reversal
	In puts	Input service s	Total credit taken	In puts	Input service s	Total credit taken	In puts	Input service s	Total credit taken	In puts	Input service s	Total credit utilized	In puts	Input service s	Total credit utilized	In puts	Input service s	Total credit utilized	In puts	Input service s	Total credit reversed	In puts	Input service s	Total credit reversed	
Apr																									
May																									
Jun																									
Jul																									
Aug																									
Sep																									
Oct																									
Nov																									
Dec																									
Jan																									
Feb																									
Mar																									

Compliances of Service Tax in Banking Sector

NAME OF THE ASSESSEE
ANNEXURE C under GST
Details of Input Tax Credit

A	Month	Goods / services on which ITC is eligible (A)				Goods / services on which ITC is ineligible (B)				Total inward supplies	Out of (B), Value of capital goods on which credit is not availed on account of Section 16(3) of the CGST Act, 2017 (Depreciation claimed on Capital Goods on GST component under the IT Act, 1961)
		Value of Inputs	Value of Input services	Value of Capital goods	Total ineligible	Value of Inputs	Value of Input services	Value of Capital goods	Total eligible		
										To match with Annex 4	
	Apr										
	May										
	Jun										

[illegible]

B	Out of total of (A), eligible credits on supplies received from related persons and distinct persons

[illegible]

Compliances of Service Tax in Banking Sector

ITC reversal

A Details of amount of tax credit paid as output tax liability u/s 16 r/w Rule 37, which was reclaimed during the year

Month in which the credit was paid as output liability	Amount of ITC paid as output tax liability u/s 16(2) r/w Rule 37	Amount of credit reclaimed upon payment of consideration											
		Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
PY -3													
PY -2													
PY -1													
Apr		-											
May		-	-										
Jun		-	-	-									
Jul		-	-	-	-								
Aug		-	-	-	-	-							
Sep		-	-	-	-	-	-						
Oct		-	-	-	-	-	-	-					

[illegible]

B Details of amount of tax credit paid as output tax liability u/s 16 r/w Rule 37, which was reclaimed during the year

[illegible]

Compliances of Service Tax in Banking Sector

[illegible]

NAME OF THE ASSESSEE
ANNEXURE D under GST
 Section 77 of the CGST Act

Details of transactions where incorrect tax paid

Month	Incorrect tax paid			Appropriate tax applicable			Appropriate tax paid			Refund claimed		
	CGST	SGST	IGST	CGST	SGST	IGST	CGST	SGST	IGST	CGST	SGST	IGST
Apr												
May												
Jun												
Jul												
Aug												
Sep												
Oct												
Nov												
Dec												
Jan												
Feb												
Mar												
Total												

Appendix

Clarification regarding Questionnaire for Service Tax/GST Audit of Banks

Point No. 2: In Service tax, as per Section 68 of the Finance Act, 1994 read with Rule 4 of the Service Tax Rules, 1994, an assessee having multiple offices may take a centralized registration. With reference to the checklist, an auditor should check, whether the concerned branch was registered with the department and the centralized registration certificate had been obtained or not?

In GST, there is no Concept of Centralised Registration. State wise registration prevails and each unit in the respective states should be added in the registration certificate classifying as a principal place of business in the State and others as additional place of business.

However, it is pertinent to mention that a person having multiple business verticals in a State/ Union Territory is permitted to obtain separate registrations for each such business vertical. Therefore, the person will have an option to avail a single registration (covering all business verticals in a State or Union Territory) or separate registration for each business vertical in a State or Union Territory.

Point No. 3 : In Service tax, a service receiver was liable to make payment as a recipient by virtue of Section 68(2) of the Finance Act, 1994. Being an auditor, we should check whether concerned branch was also registered as a service recipient or not and whether related services were registered with the department.

Similar position exists in case of GST by virtue of section 9(3) of the CGST Act read with Notification 13/2017- Central Tax (Rate) dated 28.06.2018 and Section 9(4) of the CGST Act. (Refer chapter-3).

Point No.6: Under Service Tax, in order to understand the taxability of various services provided by the concerned branch/head office, it is important to identify the various services provided by such branch or head office. For this purpose the auditors may analyse the various income heads (Operating and Non-Operating).

Similarly, in GST various List principal supplies need to be provided by the unit registered assessee i.e., branch

Clarification regarding Questionnaire for Service Tax/GST Audit of Banks

Point No.7: It is important to check whether any new service is provided by the concerned branch or head office. If yes, being an auditor we can check whether the same is updated in the Service Tax registration certificate / GST Registration Certificate or not? However GST portal allows addition of Top 5 services only. It becomes important because taxability of any activity depends upon its nature and any exemption or relief will be available accordingly.

Point No.9: Rule 5 of the Service Tax Rules, 1994 provide for the documents to be maintained by the assessee. Rule 5(2) provides that every assessee shall furnish to the Superintendent of Central Excise at the time of filing of return for the first time a list in duplicate, of-

- (i) all the records prepared or maintained by the assessee for accounting of transactions in regard to:
 - (a) providing of any service
 - (b) receipt or procurement of input services and payment for such input services;
 - (c) receipt, purchase, manufacture, storage, sale, or delivery, as the case may be, in regard of inputs and capital goods;
 - (d) other activities, such as manufacture and sale of goods, if any.
- (ii) all other financial records maintained by him in the normal course of business.

Further, Rule 5(3) of Service Tax Rules, 1994 provides that all records shall be preserved for a period of five years immediately after the financial year to which such records pertain.

Being an auditor, we can check whether concerned branch is maintaining proper records and whether the same are furnished with return to the department within the time prescribed under such rules? (*Refer Rule 5 of Service Tax Rules 1994*)

Section 35-36 of the CGST Act and Rule 56 to 58 of CGST Rules deals with provisions pertaining to accounts and records. Rule 56 of the CGST Rules provide for the documents with maintenance of accounts by registered persons. Rule 56(7) stipulates that every registered person shall keep the books of account at the principal place of business and books of account relating to additional place of business mentioned in his certificate of registration and such books of account shall include any electronic form of data stored on any electronic device.

Compliances of Service Tax /GST in Banking Sector

Section 36 *interalia* prescribes that, every assessee shall retain the books of accounts and other records until the expiry of 72 months (6 years) from the due date for filing of Annual Return for the year pertaining to such accounts and records. If the annual returns for the FY 2017-18 are filed on say 31.12.2018, even then, the books of account and other records are to be maintained till 31.12.2024. Even if the annual return is filed earlier, the start date for considering 72 months runs from the end of due date to file the annual return.

In case an appeal or revision or any other proceeding is pending before any Appellate Authority or Revisional Authority or Appellate Tribunal or Court, or in case the assessee is under investigation for an offence under Chapter XIX, the assessee shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceeding or investigation for a period of one year after final disposal of such appeal or revision or proceeding, or for the period specified records u/s 35(1), whichever is later

Point No.11: The applicability of Finance Act, 1994 is to whole of India except Jammu and Kashmir? It is important to check whether taxability of services provided to a customer is determined by applying Place of Provision Rules, 2012 or not? **For example:** A customer is located in Jammu and Kashmir and having its bank account in Baddi Branch, Himanchal, in such case we can check whether service tax is charged on transaction between concerned branch and customer. This transaction will be taxable by virtue of Rule 9 of the Place of Provision Rules, 2012.

Similarly, it is important to check taxability of services provided to client located outside India.

GST is applicable in India including sea water upto 12 nautical miles including Jammu & Kashmir (w.e.f 1.08.2017). Therefore, being a destination-based tax GST will apply by application of the provisions of place of supply as classified under the IGST Act., 2017. In case, services are provided outside India the same needs to be ascertained in terms of section 13 of the IGST Act which provide place of supply rules. (Place of supply discussed in chapter 1)

Point No.12: Finance Act, 1994 has provided various exemptions vide Mega Exemption Notification 25/ 2012-ST as well other notification such as services to SEZ developer and units, diplomats etc. If the concerned branch has claimed benefit of any such exemption then being an auditor we can ask for the relevant documents/certificate as prescribed under relevant notification.

Clarification regarding Questionnaire for Service Tax/GST Audit of Banks

Relevant Exemption Notification:

1. **25/2012-ST-Mega Exemption Notification- Services provided to WHO, International Organization etc.;**
2. **27/2012-ST-Services provided to Diplomat;**
3. **40/2012-ST and 45/2012-ST and 12/2013-ST- Services provided to SEZ units and SEZ Developers**
4. **Under GST** Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 provides exemption to supply of 81 services under CGST Act. Parallel to this notification under CGST, Exemption to supply 84 services is given under IGST vide Notification No. 9/2017- IGST (Rate) dated 28.06.2017. More or less, all the exemptions were available earlier also in service tax law like services provided to SEZ units and SEZ Developers, services by a foreign diplomatic mission located in India.

Point No.14: Transaction in money has been excluded from the definition of service as defined under Section 65B (44) of the Finance Act, 1994.

Transaction in money is excluded from the definition of goods and services given under section 2 (52) and 2(102) respectively. Since GST is payable on supply of goods and services [charging section] the instant transaction is not exigible to GST. The relevant extract is hereunder:

(52) “goods” means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;

(102) “services” means anything **other than** goods, **money** and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged

However, it is also provided that if any separate consideration is charged by the service provider/supplier, then the same will be taxable and service tax shall be payable on such separate consideration.

For e.g. A is carrying 40\$ and wants to convert it in to INR. An approaches to a bank and get an amount of Rs. $40 \times 60 = \text{Rs. } 2400$. In this case, no separate consideration is charged by the bank and the transaction is merely a transaction in money. However, if the bank recovers an additional amount say Rs. 100 for the same, it will be liable to service tax/GST payment.

Compliances of Service Tax /GST in Banking Sector

Point No.15: Securities /Derivatives has been included under the definition of goods as defined under Section 65B (25) of the Finance Act, 1994. Transaction in instruments are not taxable however, any sort of service charge collected by the service provider for such transaction shall be liable for the payment of service tax.

Under GST regime, Securities/ derivatives are excluded from the definition of goods and services given under section 2 (52) and 2(102) respectively and hence not exigible to GST

However, any sort of service charge collected by the supplier of service for such transaction shall be liable for the payment of GST

Being an auditor, we can check whether service tax is paid by the concerned branch on amount recovered as an additional consideration.

Point No.16: Any services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discounts is mentioned in the negative list of services. However, if any additional amount is charged over and above interest or discounts the same would represent taxable consideration

Similar position has been retained under GST by incorporating the same under exemption list vide Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017

Services covered under this exemption category are-

- Fixed deposits or saving deposits or any other such deposits in a bank or a financial institution for which return is received by way of interest.
- Providing a loan or overdraft facility or a credit limit facility in consideration for payment of interest.
- Mortgages or loans with a collateral security to the extent that the consideration for advancing such loans or advances are represented by way of interest.
- Corporate deposits to the extent that the consideration for advancing such loans and advances are represented by way of interest or discount.

Being an auditor, we can check whether any additional amount is recovered by the concerned branch/head office and the same is accounted for separately instead of treating it as a component of interest/ advance.

Clarification regarding Questionnaire for Service Tax/GST Audit of Banks

Point No.18: Late fee charged is taxable under the erstwhile service tax and the same is also taxable under GST in lieu of the clause Section 66E(e) of the Finance act, 1994 and Schedule II clause 5(e) of the CGST Act, 2017. However, charges received in case of credit card are in the nature of consideration for the services rendered for using the convenience of services by way of a credit card and hence taxable.

Similar position exist in case of GST

Being an auditor, we can check whether such late payment charges recovered by the concerned branch are not shown as interest. These charges are taxable and service tax/GST shall be levied on the same.

Point No. 19 (a): A service receiver is liable to pay Service Tax under reverse charge mechanism under Section 68(2) of the Finance Act, 1994 read with Rule 2(1) (d) of the Service Tax Rules, 1994. Similarly the supplies under reverse charge are provided under section 9(3) read with NN13/2017 Central tax dated 28.06.2017 and Section 9(4) of the CGST Act. [Detail Discussion made in chapter 2]. It is pertinent to mention Section 9(4) applicability is deferred till 30.06.2017

In order to identify the portion of service tax payable by the service recipient, it is important to clearly define the nature of services received. This point requires auditors to check the nature and description of services received by the concerned branch/head office.

Point 19(b): Under Service Tax the point of taxation Rules, 2011 provides the point of time when the service shall be deemed to be provided. This rule helps us in determining the rate of tax to be applied and date of payment of Service Tax. (Refer Chapter 1 for Point of Taxation Rules, 2011). Further liability to pay tax is earlier of payment to service provider or date immediately following the three months from the date of invoice.

Further, in case of transaction between associated enterprises where person providing the service is located outside India, the point of taxation is the date of debit in the books of accounts or date of making payment whichever is earlier.

Being an auditor, we can check whether the rate of tax and date of payment of service tax is determined on the basis of point of taxation in compliance to the Point of Taxation rules, 2011.

Under GST point of taxation is determined in terms of time of supply, the relevant provisions of which are discussed in Chapter 1. Auditor has to ensure the adherence of the same.

Compliances of Service Tax /GST in Banking Sector

Point 21: A service provider dealing in the sale or purchase of foreign currency has the option to pay service tax in a manner as mentioned under Rule 6(7B) of the Service Tax Rules, 1994 instead of discharging its service tax liability at the rate prescribed under Section 66B namely

Amount of currency exchanged	Service Tax Applicable
Upto Rs.100,000	0.14% of the gross amount of currency exchanged subject to the minimum amount of Rs. 35/-
Exceeding Rs. 100,000 and upto Rs. 10,00,000; and	Rs.140 +0.07% of the gross amount of currency exchanged
Exceeding Rs. 10,00,000	Rs.770 +0.014% of the gross amount of currency exceeding Rs. 1,00,000/- subject to the minimum amount of Rs. 7,000/-

Service provider shall exercise such option for a financial year and such option shall not be withdrawn during the remaining part of that financial year

In GST regime, the value of supply of services in relation to the purchase or sale of foreign currency, including money changing is determined in terms of Rule 32(2) [discussed in chapter 1].

Point 25: Under Service tax, Rule 7 of the CENVAT Credit Rules, 2004 provides for the distribution of CENVAT credit by the input service distributor to its branches. There arises the issue related to the distribution of the credit as what should be the turnover for the distribution, relevant period etc. Being an auditor, we can check the following issue:

- Whether CENVAT Credit distributed against the documents as mentioned under Rule 9 of the CENVAT Credit Rules, 2004?
- Whether credit in respect of unit which is exclusively providing only exempted services is taken or not?
- Whether credit attributable to a specific unit is distributed to that unit only?
- Whether turnover for the distribution has been determined in accordance with the Rules?

Apart from this from the prospect of Point No 28, we can check whether CENVAT Credit taken by the concerned branch received by an input service distributor is in compliance to the CENVAT Credit Rules, 2004.

Clarification regarding Questionnaire for Service Tax/GST Audit of Banks

GST

The concept of input service distributor has been borrowed into GST, entitling a person who is registered as an Input Service Distributor (ISD) to distribute the credit in respect of input services (and not inputs) received in its name.

Generally, the head office of the person, or the corporate office, by whatever name called, would be the location to which the services would be billed. However, there is no implication by law that an ISD must be the head office. **In order to ensure that the office registered as ISD does not itself undertake any activity in the nature of outward supply, not receive inward supplies of its own or not attract RCM liability.** Therefore, a single company may choose to have multiple regional offices based on its business requirements. Being an auditor, some of the points to be check are:

- (a) Ensure every person being an Input Service Distributor shall make a separate application for registration as such Input Service Distributor?
- (b) Whether an ISD invoice is issued to each recipient of credit on every distribution in terms of CGST Act read with CGST Rules?

Note -Under CGST banking company or a financial institution, including a non-banking financial company, a tax invoice shall include any document in lieu thereof, by whatever name called, whether or not serially numbered but containing the information as prescribed Rule 46.

- (c) Ensure, Credit distributed does not exceed the credit available for distribution?
- (d) Whether ISD is distributed to those taxable persons whose PAN no is same as that of ISD (Under GST)?
- (e) Whether credit attributable to a specific unit is distributed to that unit only?
- (f) Whether, Section 20 of the CGST Act is adhered in reference to the manner of distribution of credit by ISD?
- (g) Whether, Procedure for distribution of input tax credit by Input Service Distributor is adhered
- (h) Whether Tax paid on input services used by a particular location (registered as supplier), is to be distributed only to that location?
- (i) Whether, Credit of tax paid on input service used by more than one location who are operational is to be distributed to all of them based on the pro rata basis of turnover of each location in a State to aggregate turnover of all such locations who have used such services.

Compliances of Service Tax /GST in Banking Sector

- (j) Ensure that, each type of tax must be distributed through a separate ISD invoice?

Note- However, there is no requirement to issue ISD invoices at an invoice-level (received from the supplier of the service).

- (k) Whether the credit of integrated tax is be distributed as integrated tax irrespective of the location of the ISD?
- (l) Whether the aggregate of Central tax, State tax and Union territory tax, as integrated tax, where the ISD is located in a State other than that of the recipient of credit ?
- (m) Whether the Central tax and State tax (or Union territory tax) is distributed as the Central tax and State tax (or Union territory tax), respectively, where the ISD is located in the same State as that of the recipient?
- (n) Whether turnover for the distribution has been determined in accordance with the CENVAT Credit Rules\ CGST Rules?
- (o) Ensure every ISD shall, for every calendar month or part thereof, furnish a return in FORM GSTR-6 electronically within 13 days after the end of such month?

Points 26: CENVAT credit of various services is not allowed to a service provider which is not input services by virtue of exclusion clauses in the definition of input services under Section 2(l).

Being auditors we can ask for the list of major input services on which CENVAT Credit is availed by the concerned branch/head office? Following are illustrative services which are not allowed:

- (i) Employee Insurance
- (ii) Outdoor Catering
- (iii) Rent a cab
- (iv) Construction services

Under GST regime, Section 17(5) of the CGST Act,2017 read with CGST Rules provides that input tax credit shall cannot be availed in respect of certain supplies.(Details list given in Chapter 5 -Section17(5))

Being an auditor, we can check ITC is not availed on where disallowed in GST law.

Clarification regarding Questionnaire for Service Tax/GST Audit of Banks

Point 27,29 and 30: If a person is engaged in manufacturing dutiable & exempted goods or rendering taxable & exempted services together then he has to determine and avail CENVAT Credit only on those inputs or input services which are used for providing taxable services or manufacturing dutiable goods. In such cases there can be two following situations:

- 1 Inputs or Input Services exclusively used for exempted goods or services then no CENVAT Credit shall be allowed on such items.
- 2 Common input or input services have been used for both taxable and exempted output then eligible Cenvat credit can be computed using three options:

Option I- **Rule 6(2) of CCR, 2004**-The manufacturer or provider of output service for availing CENVAT Credit shall maintain separate accounts for the receipt, consumption and inventory of inputs & use of input services used in or in relation to manufacture of dutiable & exempted goods or rendering taxable & exempted services .And take credit only on inputs & input services n case of goods/services other than exempt

OPTION II-Rule 6(3) (i) of CCR, 2004-pay an amount equal to 6 % of value of the exempted goods and 7% of value of the exempted services subject to a maximum of the sum total of opening balance of the credit of input and input services available at the beginning of the period to which the payment relates and the credit of input and input services taken during that period

OPTION 3-Rule 6(3A) of CCR, 2004-In case of banking sector
Exception to Rule 6(3A) shall apply which stipulates that - *In case of a banking company and a financial institution including a non-banking financial company, engaged in providing services by way of extending deposits, loans or advances, the amount of CENVAT credit required to be reversed or paid shall be equivalent to 50 % of the CENVAT Credit availed on inputs and input services in a particular month*

Therefore under service tax, as per Rule 6(3B) of CENVAT Credit Rules, 2004, an assessee in banking sector has to reverse 50% of the CENVAT Credit taken on monthly basis or follow the procedure for reversal as per Rule 6(3).

Similar under GST, as per section 17 (2) read with CGST Rules an assessee in banking sector has to reverse 50% of the CENVAT Credit taken on monthly basis or avail 50% of the eligible input tax credit on

Compliances of Service Tax /GST in Banking Sector

inputs, capital goods and input services in that month and the rest shall lapse (discussed in Chapter -4)

Being an auditor, we can check whether, concerned branch is reversing the CENVAT Credit/ITC in compliance to the CENVAT Credit Rules \ GST Acts read with CGST Rules.

Further, we also have to check in cases where procedure for reversal is being executed in terms of Rule 6(3), that the value for reversal of input tax credit taken on inputs and input services used in providing taxable and exempted services, shall not include the value of service by way of extending deposits, loans or advances against consideration in the form of interest or discount. If CENVAT Credit is not reversed in compliance to the said Rule, it shall be treated as CENVAT wrongly taken and the same will be recovered under Rule 14 of the CENVAT Credit Rules, 2004 along with the interest under Section 75 of the Finance Act, 1994.

Even we can check whether the rest 50% of the credit in case of GST is lapsed.

Point No.29: Under Service Tax, as per First proviso to Rule 4(7) of the CENVAT Credit Rule, 2004, an assessee can take the CENVAT of service tax paid on reverse charge on or after the day on which service tax is paid to the government.

Being an auditor, we can check whether CENVAT Credit is taken in compliance to the proviso to Rule 4(7). Briefly invoices on which credit sought to be claimed should bear name and address of Service Recipient Branch, Date of invoice, Value of Service Tax charged separately, Name and Registration number of service provider. In case the concerned branch/head office has taken the CENVAT Credit prior to the payment of service tax, in that case it shall be treated as wrong availment of CENVAT Credit and shall be recovered under Rule 14 along with the interest under Section 75 of the Finance Act, 1994.

In GST Regime, such situation is not applicable as credit of tax paid under Reverse charge is now available in the same month

Section 16(2) of the CGST Act, 2017 *inter alia* provides that no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless - subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said supply.

Clarification regarding Questionnaire for Service Tax/GST Audit of Banks

Moreover, the recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

Point No.34: In Service Tax, the Place of Provision of Service Rules, 2012 specifies the manner to determine the tax jurisdiction for a service. As per Rule 66B, a service is taxable only when it is provided or deemed to be provided in the taxable territory. Thus the taxability shall be determined based on the place of provision. These rules help us in determining the place of provision of a service specifically in case of cross border transactions.

Rule 9 of the Place of Provision of Service Rules, 2012 provides that a service provided by the bank to its account holder shall be deemed to be provided at the place where such bank is located. For e.g. An account in the concerned branch is located in UK, in that case any service provided by the bank to such account holder shall be taxable at the location of service provider i.e. concerned branch which may be located in the taxable territory.

Being an auditor, we can check whether service tax is charged and paid by the concerned branch on services provided to an account holder located in the non-taxable territory.

The same analogy prevails in GST and in terms of section 13(8) of the IGST Act, 2017 service provided by the bank to its account holder shall be deemed to be provided at the place where such bank is located (Details discussed Chapter-1-Place of supply)

However, in terms of section 13 of the IGST Act, 2017, where Location of Supplier or Location of Recipient is outside India, place of supply will be the location of the recipient of the services. But, where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services. Therefore, service provided by the bank to person other than account holder located outside India, is location of the supplier of services

Point No.35: Under Service Tax Rule 6A of the Service Tax Rules, 1994 stipulate the following conditions for a transaction to qualify as export of services, namely;

- (a) the provider of service is located in the taxable territory,
- (b) the recipient of service is located outside India,
- (c) the service is not a service specified in the section 66D of the Act,
- (d) the place of provision of the service is outside India,

Compliances of Service Tax /GST in Banking Sector

- (e) the payment for such service has been received by the provider of service in convertible foreign exchange, and
- (f) the provider of service and recipient of service are not merely establishments of a distinct person in accordance with item (b) of Explanation 3 of clause (44) of section 65B of the Act

Under GST, in terms of section 2 (6) of the IGST Act, export of services” means the supply of any service when, —

- (i) the supplier of service is located in India;
- (ii) the recipient of service is located outside India;
- (iii) the place of supply of service is outside India;
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange; and
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8.

Now the Auditor should check whether a transaction is export of service, then only claim the benefit of refund claim on export where export is made with/without payment of tax but after furnishing bond of LUT in the latter case