

## CA Intermediate Amendments

### FMV in case of Slump Sale

**Full value of consideration:** Fair market value (FMV) of capital assets would be the higher of –

- i) **FMV 1:** Fair market value of capital assets transferred by way of slump sale; and
- ii) **FMV 2:** Fair market value of the consideration (monetary and non-monetary) received for such slump sale

### Question:

Ram ltd. transferred the unit consisting of multiple assets by way of slump sale. It received land at valuation ₹ 120 crore in consideration, where as the FMV of assets transferred is ₹ 200 crores. Net worth of the unit is ₹ 125 crore. Compute capital gains liability assuming Unit is operational from 10 years. Would your answer be different if land is valued at ₹ 180 crores.

### Answer:

In this case, Fair market value (FMV) of capital assets would be the higher of –

- i) **FMV 1,** Fair market value of capital assets transferred by way of slump sale; and
- ii) **FMV 2,** Fair market value of the consideration (monetary and non-monetary) received for such slump sale

Accordingly,

**FMV 1:** ₹ 150 crores

**FMV 2:** ₹ 200 crores

FMV for the computing LTCG will be higher of FMV 1 or FMV 2 i.e., ₹ 200 crores.

Full value of consideration: ₹ 200 crores

Less: Net worth: ₹ 125 crores

LTCG: ₹ 75 crores

Answer will remain same in both the cases.

### Advance Tax, TDS and introduction of TCS

Section	Deductor/Payer	Deductee/ Payee	Rate of TDS	Remarks
194P: Deduction of tax by specified Bank in case of senior citizen	Banking company which is a schedule Bank	specified senior citizen an individual, being a resident in India, who ✓ age of ≥75 years during the previous year; ✓ is having pension income [Also, he should have no other income except interest income received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income]; and ✓ has furnished a declaration and verified in the prescribed manner.	As per slab rate	the total income of specified senior citizen for the relevant assessment year, computed after giving effect to ✓ deduction allowable under Chapter VI-A; and ✓ rebate allowable under section 87A A specified <b>senior citizen is exempted from filing his return of income</b> for the assessment year in which the tax has been deducted under section 194P.

Section 194Q	Any person	any resident-seller	0.1% of such sum exceeding ₹ 50 lakhs	for purchase of goods of the value or aggregate of such value <b>exceeding ₹ 50 lakhs in a previous year</b> <b>Meaning of buyer</b> a person whose total sales, gross receipts or turnover from the business carried on by him exceeds ₹10 crores during the financial year immediately preceding the financial year in which the purchase of goods is carried out. Buyer does not include a person as notified by the Central Government
--------------	------------	---------------------	---------------------------------------	--

**Guidelines for section 194Q (3):** Power of the CBDT to issue guidelines

**Guideline 1. Applicability on transactions carried through various Exchanges**

It is provided that the provisions of section 194Q shall not be applicable in relation to :-

- i) transactions in securities and commodities which are traded through recognized stock exchanges or clearing corporation, including located in International Financial Service Centre (IFSC)
- ii) transactions in electricity, renewable energy certificates and energy saving certificates traded through registered power exchanges.

**Guideline 2. Calculation of threshold for the F.Y. 2021-22**

**Case 1:** If 50 lakhs or more is paid between 1<sup>st</sup> April 2021 to 30<sup>th</sup> June 2021: TDS on all payments made from 1<sup>st</sup> July 21.

**Case 2:** If less than 50 lakhs are paid between 1<sup>st</sup> April 2021 to 30<sup>th</sup> June 2021: TDS on payments above ₹ 50 lakhs on aggregate basis i.e., payments made between 1<sup>st</sup> April 2021 to 30<sup>th</sup> June 2021 will be considered to compute the limit of ₹ 50 lakhs

**Numerical**

**Example:** Mr. Gupta, a resident Indian, is in retail business and his turnover for F.Y.2020-21 was ₹12 crores. He regularly purchases goods from another resident, Mr. Agarwal, a wholesaler, and the aggregate payments during the F.Y.2021-22 was ₹95 lakh (₹ 20 lakh on 1.6.2021, ₹25 lakh on 12.8.2021, ₹22 lakh on 23.11.2021 and ₹ 28 lakh on 25.3.2022). Assume that the said amounts were credited to Mr. Agarwal's account in the books of Mr. Gupta on the same date. Mr. Agarwal's turnover for F.Y.2020-21 was ₹15 crores.

- 1) Based on the above facts, examine the TDS/TCS implications, if any, under the Income-tax Act, 1961. **(Guideline 2)**
- 2) Would your answer be different if Mr. Gupta's turnover for F.Y.2020-21 was ₹8 crores, all other facts remaining the same? **(Guideline 8)**

**Answer:**

- 1) Since Mr. Gupta's turnover for F.Y.2020-21 exceeds 10 crores, and payments made by him to Mr. Agarwal, a resident seller exceed ₹ 50 lakhs in the P.Y.2021-22, he is liable to deduct tax under section 194Q @ 0.1% of ₹ 45 lakhs (being the sum exceeding ₹ 50 lakhs) in the following manner:
- ✓ No tax is to be deducted u/s 194Q on the payments made on 1.6.2021 and 12.8.2021, since the aggregate payments till that date i.e., 45 lakhs, has not exceeded the threshold of ₹ 50 lakhs.
  - ✓ Tax of ₹ 1,700 (i.e., 0.1% of ₹ 17 lakhs i.e., 67 lakhs – 50 lakhs) has to be deducted u/s 194Q from the payment/ credit of ₹ 22 lakh on 23.11.2021 [₹ 22 lakh – ₹ 5 lakhs, being the balance unexhausted threshold limit].
  - ✓ Tax of ₹ 2,800 (i.e., 0.1% of ₹ 28 lakhs) has to be deducted u/s 194Q from the payment/ credit of ₹ 28 lakhs on 25.3.2022.

**Note** – In this case, since both section 194Q and 206C(1H) applies, tax has to be deducted u/s 194Q. **(Question 9 cross application of 194Q and 206C(1H))**

- 2) If Mr. Gupta's turnover for the F.Y.2020-21 was only ₹ 8 crores, TDS provisions under section 194Q would not be attracted. However, TCS provisions under section 206C(1H) would be attracted in the hands of Mr. Agarwal, since his turnover exceeds ₹ 10 crores in the F.Y.2020-21 and his receipts from Mr. Gupta exceed ₹ 50 lakhs.

No tax is to be collected u/s 206C(1H) on 1.6.2021 and 12.8.2021, since the aggregate receipts till that date i.e., 45 lakhs, has not exceeded the threshold of ₹ 50 lakhs.

Tax of ₹ 1,700 (i.e., 0.1% of ₹ 17 lakhs) has to be collected u/s 206C(1H) on 23.11.2021 (₹ 22 lakh – ₹ 5 lakhs, being the balance unexhausted threshold limit). Tax on ₹ 2,800 (i.e., 0.1% of ₹ 28 lakhs) has to be collected u/s 206C(1H) on 25.3.2022.

**Guideline 3. Adjustment for GST, purchase returns:** Whether adjustment is required to be made for GST or purchase returns for the purpose of tax deduction u/s 194Q?

TDS to be deducted on receipt of amount of sale therefore, amount will be including of GST. Since, tax to be deducted at the time of payment or credit whichever is earlier, therefore it is not possible to adjust purchase return. However, if money is refunded instead of goods replacement, then TDS may be deducted on net amount if such buyer makes further purchases from same seller.

**Numerical**

**Example:** Mr. Gopal purchases the goods from Mr. Krishna worth ₹ 10,00,000. Rate of GST on that is 12%. On receipt of goods, it was found that goods worth ₹ 30,000 were not as per the specification and returned to the supplier. What will be the amount of TDS deducted by Mr. Gopal?

As Mr. Gopal return the certain goods Mr. Krishna want to adjust the TDS amount with respect to the goods returned.

**Answer:**

As per the clarification issued by the CBDT, TDS has to be deducted on receipt of amount of sale, therefore, amount will be including of GST. In this case Mr. Gopal shall deduct the TDS under section 194Q on ₹ 11,20,000 @ 0.1% i.e., ₹ 1,120.

Since, tax to be deducted at the time of payment or credit whichever is earlier, therefore it is not possible to adjust purchase return. If Mr. Krishna refund the ₹ 30,000 instead of replacement of goods, then TDS will be charged on ₹ 9,70,000 (i.e., 10,00,000 – 30,000) @ 0.1% provided that Mr. Gopal make the future purchases from Mr. Krishna.

**Guideline 4. Whether non-resident can be buyer under section 194Q?**

It is clarified that the provisions of section 194Q shall not apply to a non-resident whose purchase of goods from seller resident in India.

**Numerical**

Mr. Mohan, a citizen of USA, non-resident, is in retail business and his turnover for F.Y.2020-21 was ₹ 12 crores. He regularly purchases goods from, Mr. Ram, another wholesaler, and the aggregate payments during the F.Y.2021-22 was ₹ 85 lakh. Whether Mr. Mohan is liable to deduct the TDS under section 194Q on the payment made to Mr. Ram.

**Answer:**

According to the provisions of section 194Q, a non-resident buyer is not liable to deduct the TDS on the purchases made from the resident seller. Here Mr. Mohan is a non-resident and Mr. Ram is resident seller, therefore, Mr. Mohan does not cover under the purview of section 194Q and shall not deduct the TDS.

**Guideline 5. Whether tax is to be deducted when the seller is a person whose income is exempt?**

It is clarified that the provisions of section 194Q would not apply on purchase of goods from a seller who has who as a person is exempt from income tax under the Act (like person exempt under section 10) or under any other Act passed by the Parliament (Like RBI Act, ADB Act etc.). In other words, his income is completely exempt and not taxable in any act.

Similarly, the provision of section 206C(1H) is also not applicable to the sale of goods to a buyer whose income is also exempt in the above-mentioned acts.

It should be noted that all income of the concerned person shall be exempt (not partly) only then this section will not be applicable.

**Numerical**

**Example:** Mr. X, a resident aged 61 years, has purchased goods worth ₹ 55,00,000 from Mr. Y on 09<sup>th</sup> August 2021 and also provided the following particulars of his income for the P.Y. 2021-22.

- |   |              |
|---|--------------|
| i) Agricultural income from a land in Jaipur                            | - ₹ 4,80,000 |
| ii) Expenses incurred for earning agricultural income                   | - ₹ 1,70,000 |
| iii) Share from the income of the HUF                                   | - ₹ 51,000   |
| iv) Compensation on account of disaster received from a local authority | - ₹ 2,00,000 |

Mr. Y wants to deduct the TDS of ₹ 5,500 under section 194Q. Mr. X is of the opinion that since his is a person whose income is exempt under Income Tax Act, 1961 TDS will not be deducted on the purchase made from Mr. Y. Comment.

**Answer:**

According to section 194Q of the Income Tax Act 1961, provisions of section 194Q would not apply on purchase of goods from a seller who is a person whose income is exempt from income tax under the Act (like person exempt under section 10) or under any other Act passed by the Parliament (Like RBI Act, ADB Act etc.).

Here Mr. X has net agriculture income of ₹ 3,10,000 (4,80,000 – 1,70,000) and non-agriculture income of ₹ 2,51,000 and all these incomes are exempt under the Income tax act, therefore, section 194Q will not be applicable on Mr. X.

**Note:** Here the concept of partial integration will not be applicable as Mr. X is senior citizen and his income other than agriculture income is ₹ 2,51,000 which is less than ₹ 3,00,000.

**Guideline 6. Whether tax is to be deducted on advance payment?**

Yes, provisions of this section are applicable on payment or credit whichever is earlier.

### Numerical

Mr. Ravi is the businessman entered into an agreement on 7<sup>th</sup> July 2021 with Mr. Rohit, another businessman for supply of goods worth ₹ 52 lakhs on 15<sup>th</sup> July 2021 and made payment of ₹10,00,000 on the same day and balance payment will be made after 30 days. Mr. Ravi wants to know whether he will have to deduct the TDS on the payment made on 7<sup>th</sup> July 2021 under section 194-Q. Guide him as per the income tax 1961.

### Answer:

It is clarified that since the provisions apply on payment or credit whichever is earlier, the provisions of section 194Q shall apply to advance payment made by the buyer to the seller. Therefore, Mr. Ravi is required to deduct the TDS on the said advance.

### Guideline 7. Whether provisions of section 194Q shall apply to buyer in the year of incorporation?

No, as provision of 194Q are applicable if the turnover of buyer exceeds Rs.10 crore during the financial year immediately preceding the financial year in which the purchase of goods is carried out.

### ICAI material

As regards whether the provisions of section 194Q shall apply to a buyer in the year of its incorporation, it is clarified that u/s 194Q, a buyer is required to have total sales or gross receipts or turnover from the business carried on by him exceeding Rs.10 crore during the financial year immediately preceding the financial year in which the purchase of goods is carried out. Since this condition would not be satisfied in the year of incorporation, the provisions of section 194Q shall not apply in the year of incorporation.

### Guideline 8. Whether provisions of section 194Q shall apply to buyer if the turnover from business is ₹10 crore or less?

It is clarified that, for the purposes of section 194Q, a buyer is required to have total sales or gross receipts or turnover from the business carried on by him exceeding ₹ 10 crore during the financial year immediately preceding the financial year in which the purchase of goods is carried out. Hence, the sales or gross receipts or turnover from business carried on by him must exceed ₹10 crore. His turnover or receipts from non-business activity is not to be counted for this purpose.

### Guideline 9. Cross application of section 194-O, section 206C(1H) and section 194Q

**Guideline 9 (i):** If a transaction is both within the purview of section 194-O as well as section 194Q, tax is required to be deducted u/s 194-O and not u/s 194Q.

### Numerical

Mr. A is a register e-commerce seller on the Amazon India (E-commerce operator) and sells goods worth ₹ 60,00,000 on the occasion of Diwali to a Multinational Corporate for its employees. Here Mr. A want to collect the TCS under section 206C(1H) on the sales consideration and the Multinational corporate is of the opinion that TCS will not be applicable in this case. Mr. A comes to you as for advice regarding the correct treatment of TDS.

### Answer:

In this question both the sections i.e., 194-O and 206C(1H) is applicable. And as per the clarification issued by the CBDT it is clarified that if a transaction is both within the purview of section 194-O as well as section 206C(1H), tax is required to be deducted u/s 194-O. The transaction shall not be covered under section 206C(1H) after tax has been deducted by the e-commerce operator.

So, Here Amazon India shall deduct TDS under section 194-O while making the payment to Mr. A @ 1% on the ₹60,00,000 i.e., ₹60,000.

### Numerical

Mr. Mohan, resident & citizen of USA, is in retail business and his turnover for F.Y.2020-21 was ₹ 12 crores. He regularly purchases goods from, Mr. Ram, another wholesaler, and the aggregate payments during the F.Y.2021-22 was ₹ 85 lakh. Mr. Mohan deduct the TDS under section 194Q @ 0.1% on the payment of ₹ 85,00,000. On the other hand, Mr. Ram want to collect the TCS under section 206C(1H) on the payment of ₹85,00,000. They come with this matter in front of you. Being a tax consultant given your comment on that.

### Answer:

If a transaction is both within the purview of section 194Q as well as section 206C(1H), then, tax is required to be deducted u/s 194Q. The transaction shall not be covered under section 206C(1H) after tax has been deducted by the buyer on that transaction.

Therefore, TDS deducted by the Mr. Mohan while making the payment of ₹85,00,000 @0.1% i.e., ₹85,000 is correct treatment.

### Verification of Return in Case of Companies and LLP

The CBDT has, vide Notification No.93/2021 dated 18.8.2021, specified that “any other person” referred to in section 140(c) and 140(cd) shall be the person,

- ✓ appointed by the Adjudicating Authority (i.e., National Company Law Tribunal constituted under section 408 of the Companies Act, 2013) for discharging the duties and functions of an interim resolution professional,
- ✓ a resolution professional, or
- ✓ a liquidator, as the case may be, under the Insolvency and Bankruptcy Code, 2016 and the rules and regulations made thereunder.

Section 140 covers the list of persons who can verify the return of Income. Sub-section C belongs to company, whereas sub-section cd belongs to LLP.

The last date for intimating Aadhar number under the Income-tax Act, 1961 for the purposes of linking Aadhar with PAN has been extended from 30th June, 2021 to 31st March, 2022 [Section 139AA]

### Exemptions from GST

#### i) Amendment in the existing exemptions

Services provided to the Central Government, State Government, Union territory administration under any training programme for which 75% or more of the total expenditure is borne by the Central Government, State Government, Union territory administration

#### ii) New exemptions introduced

Services by way of granting National Permit to a goods carriage to operate through-out India/ contiguous States (SI. No. 61A)

#### iii) Withdrawal of existing exemption: Exemption from CGST available to following services has been withdrawn:

Services of leasing of assets (rolling stock assets including wagons, coaches, locos) by the Indian Railways Finance Corporation to Indian Railways

### Registration

#### Extension of time-limit for filing application for revocation of cancellation:

The time period of filing of application for revocation (i.e., 30 days) may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended: -

- a) by the Additional Commissioner or the Joint Commissioner for a period not exceeding 30 days
- b) by the Commissioner, for a further period not exceeding 30 days, beyond the period specified in clause(a)

## Chapter 8: Tax Invoice; Credit and Debit Notes; E-Way Bill

### 1) E-invoicing not applicable to a Government Department and a local authority

All registered businesses with an aggregate turnover in any preceding financial year from 2017-18 onwards greater than ₹ 50 crore are mandatorily required to issue e-invoices except:-

- ✓ Special Economic Zone units\*\*
- ✓ Insurer or banking company or financial institution including NBFC
- ✓ GTA supplying services in relation to transportation of goods by road in a goods carriage
- ✓ Supplier of passenger transportation service
- ✓ Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens

Said notification has been amended to exempt a Government Department and a local authority also from the mandatory requirement of e-invoicing.

### 2) E-way bill generation facility to be blocked only in respect of outward movement of goods, by the defaulting registered person [Rule 138E]

**Blocking of E-way bill:** If a person's GSTIN is not eligible or blocked to issue E-way bill as supplier but he can get the E-way bill as recipient or transporter. In other words, Suspended GSTIN (supplier) cannot generate e-way bill as supplier. However, the suspended GSTIN (supplier) can get the e-way bill generated as recipient or as transporter.

#### Numerical

A shopkeeper sells a pen for ₹ 100 to the buyer. After the sale, the pen belongs to the buyer and shopkeeper does not have any right on the pen. This is a transaction of sale. Mr. A, a registered person paying tax under regular scheme in Delhi, has not filed Form GSTR-1 for last 2 months. Mr. B, Haryana, (a regular return filer) wants to generate an e-way bill for goods to be supplied to Mr. A. As per earlier position of law, Mr. B would not have been able to generate e-way bill with Mr. A's GSTIN.

**In terms of the amended position of law, there will be no more restriction in generating e-way Bill as Mr. B who is making outward movement of goods is a regular return filer.**

Mr. A wants to generate an e-way bill in respect of an outward supply of goods to Mr. H. E-way bill generation is blocked in this case as it's an outward movement of goods of Mr. A who has not filed GSTR-1 for past 2 months.

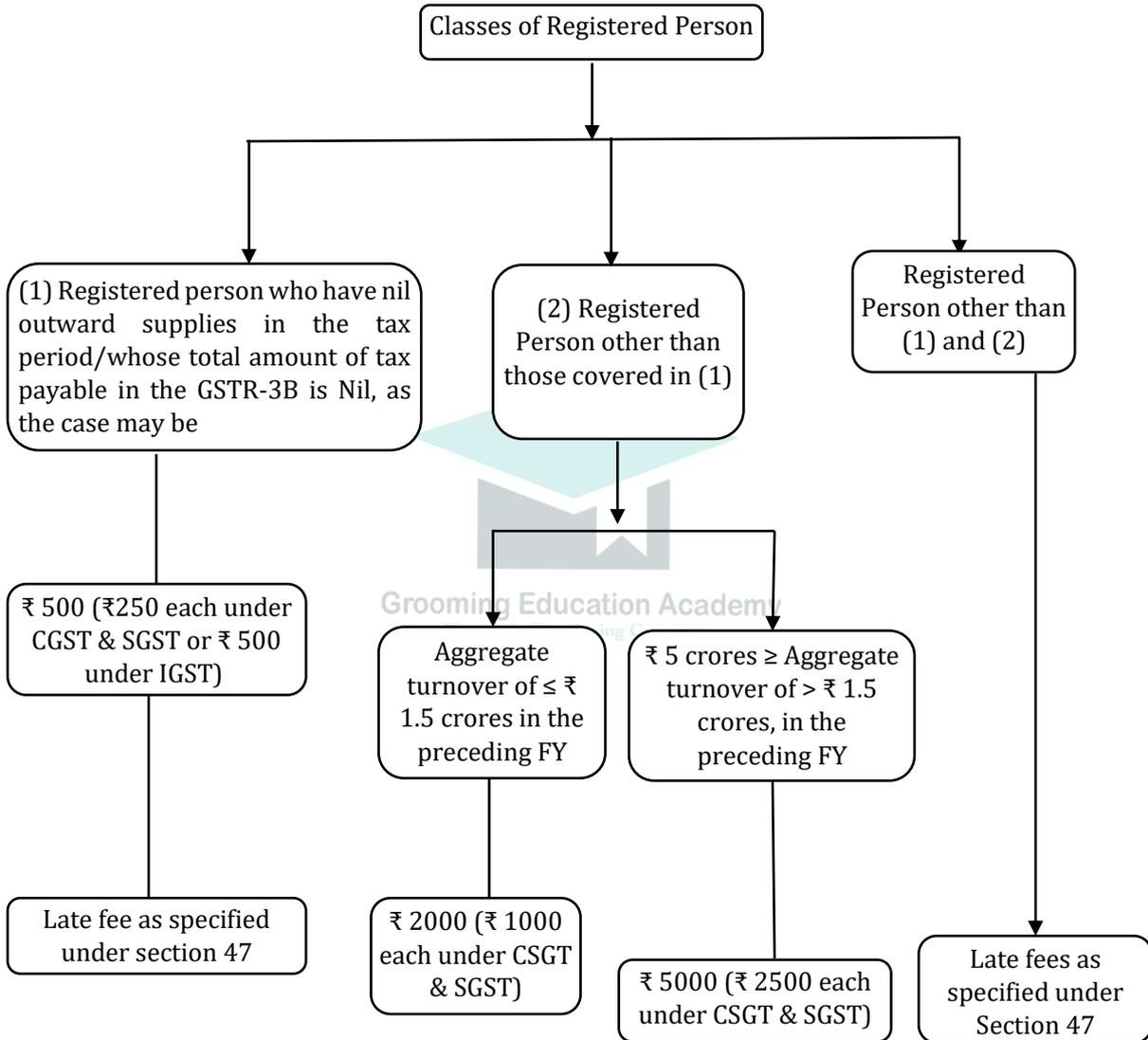
**Chapter 10: Returns**

- 1) Maximum late fees payable under section 47 for delayed filing of Forms GSTR-1, GSTR-3B, GSTR-4 and GSTR-7, rationalized

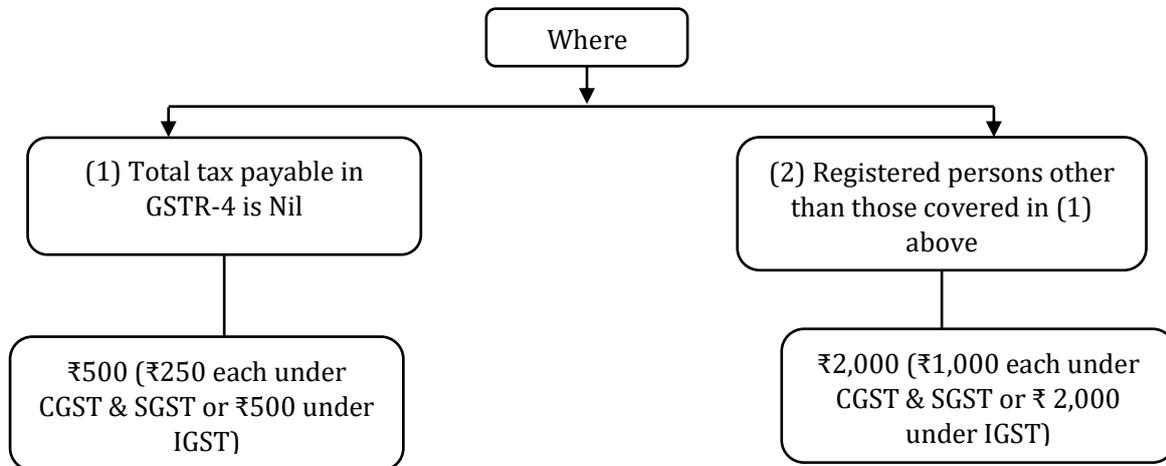
**For delayed filing of GSTR-1 and/or GSTR-3B: -**

Total amount of late fee payable under section 47 of the CGST Act from June, 2021 / quarter ending June, 2021 onwards, by the registered person who fail to furnish Form GSTR-1 and/or Form GSTR-3B by the due date, shall be as follows:

**Late fee for delay in filing of returns:**



**For delayed filing of GSTR-4:** - Total amount of late fee payable under section 47 of the CGST Act from F.Y. 2021-22 onwards, by the registered person (composition taxpayer) who fail to furnish Form GSTR-4 by the due date, shall be as follows:



- 2) **Mandatory requirement of submitting reconciliation statement:** Every registered person, other than
- ✓ an input service distributor,
  - ✓ a person paying tax under section 51 or section 52,
  - ✓ a casual taxable person and
  - ✓ a non-resident taxable person

shall furnish an annual return which may include a **self-certified reconciliation statement**, reconciling the **value of supplies declared in the return** furnished for the financial year, **with the audited annual financial statement** for every financial year electronically, within such time and in such form and in such manner as may be prescribed.

Grooming Education Academy  
Pioneer in Developing Concepts