

The Central Board of Indirect Taxes and Customs (CBIC) has notified various changes in GST Law **effective from 1st January 2022**. These amendments were brought through the Finance Act, 2021 and GST Rules, 2017.

1. **Services provided by an Association of Persons (e.g., Society, Club, etc.) to its members or constituents have been specifically included in the definition of "Supply" and therefore, made liable to tax:**

Section 108 of the Finance Act, 2021 seeks to amend Section 7 of the CGST Act wherein by insertion of clause (aa) in sub-section (1) as *"(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or valuable consideration."*

This amendment is brought retrospectively from 1st July 2017 to nullify the principles laid down in the decision of the Apex Court in *Calcutta Club (2019) 29 GSTL 545*. Further, an explanation has been inserted to force the amendment to override all other laws and judicial rulings.

[\(Notification No. 39 dated 21-12-2021\)](#)

2. **GST provision related to communication of details of invoice or debit note to the recipient:**

Section 109 of the Finance Act, 2021 seeks to amend Section 16 of the CGST Act by insertion of clause (aa) in sub-section (2) as *"(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37."* This makes the reconciliation between GSTR-3B and GSTR-2A mandatory. Further, the provisional ITC of 5% allowed by Rule 36(4) of the CGST Rules, 2017, shall become redundant hereafter.

[\(Notification No. 39 dated 21-12-2021\)](#)

3. **New GST burden on E-Commerce Operators:**

The e-commerce operators will have to pay tax on following services provided through them:

- transport of passengers, by omnibus or any other type of motor vehicle; and
- restaurant services other than restaurant eating joints, etc. located at specified premises.

[\(Notification No. 17 dated 18-11-2021\)](#)

4. **Correction in Inverted Duty Structure in Footwear and Textiles Sector:**
To rectify the inverted duty structure, the GST Council has introduced rate changes in Footwear and Textile Sector. All footwear, irrespective of prices, and textile products, barring cotton and including readymade garments, will attract GST at the rate of 12%.

[\(Notification No. 14 dated 18-11-2021\)](#)

5. **Self-assessed tax shall include the tax payable in respect of details of outward supplies:**
Section 114 of the Finance Act, 2021 seeks to amend Section 75(12) of the CGST Act by stating that "self-assessed tax" shall include the tax payable as per GSTR-1 return but not included in GSTR-3B return.

[\(Notification No. 39 dated 21-12-2021](#) read with [Finance Act 2021](#))

7. **Commissioner empowered to attach provisionally, any property, including bank account:**
Section 115 of the Finance Act, 2021 seeks to amend Section 83(1) of the CGST Act to provide that the Commissioner for the purpose of protecting the interest of the Government may order to attach provisionally, any property, including bank account, belonging any person specified who gets the benefit of the transaction and at whose instance the transaction is conducted gets covered under section 122(1A) (i), (ii), (xii) & (ix) of the CGST Act, 2017.

[\(Notification No. 39 dated 21-12-2021](#) read with [Finance Act 2021](#))

8. **Requirement of tax payment for releasing detained goods under Section 129 has been removed and replaced with:**
 - **Where the owner comes forward to pay the penalty:**
 - Taxable goods: 200% of tax payable on such goods
 - Exempted goods: 2% of value of such goods or Rs. 25000/- whichever is less

 - **Where the owner does not comes forward to pay the penalty:**
 - Taxable goods: 50% of value of goods or 200% of tax payable on such goods, whichever is higher.
 - Exempted goods: 5% of value of such goods or Rs. 25000/-, whichever is less.

[\(Notification No. 39 dated 21-12-2021](#) read with [Finance Act 2021](#))

9. Rules related to mandatory Aadhaar Authentication for GST Refund and Revocation application:

For filing application of revocation of GST registration or refund application under Rule 89 or for seeking refund of IGST paid on goods that are exported, Aadhaar Authentication on GST portal shall become mandatory for:

- Proprietor, in case of proprietorship firm;
- Any partner, in case of a partnership firm;
- The Karta, in the case of a Hindu undivided family;
- The Managing Director or any whole time Director, in the case of a company;
- Any of the members of the Managing Committee of an Association of persons or body of individuals or a Society;
- Trustee in the Board of Trustees, in the case of a Trust, and
- Authorized signatory, if so appointed.

([Notification No. 38 dated 21-12-2021](#) read with [Notification No. 35 dated 24-09-2021](#))

10. Pure Services/ Works contract services provided to Governmental Authority and Government Entity would now become chargeable to GST/ taxable at a higher rate instead of the concessional rate.

([Notification No. 15 dated 18-11-2021](#) and [Notification No. 16 dated 18-11-2021](#))

CNK COMMENTS:

1. Services provided by Association of Persons to its members or constituents liable to tax retrospectively from 1st July 2017.
2. Availment of ITC shall be as per GSTR-2A/ 2B.
3. Increase in GST rates for footwear and textile sectors.
4. Provisional attachment of property to be initiated to protect the revenue for any other person other than the taxpayer incase of specified instances.
5. Recovery of tax to be initiated in case tax payable as per GSTR-1 not included in the GSTR-3B return.
6. Aadhar authentication mandatory for application of GST refunds and revocation of cancellation of GST registration.
7. Pure Services/ Works contract services provided to Governmental Authority and Government Entity would now become chargeable to tax/ taxed at higher rate and hence, all such contracts need to be revisited.

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