

## Notifications- CGST

### **Extension of tenure of NAPA & Amending of Form GST DRC-03**

[Notification No. 37/2021-Central Tax dated 1<sup>st</sup> December 2021](#)

Through this notification following changes are introduced –

1. Tenure of National Anti-profiteering Authority (NAPA) is increased to 5 (Five) years from 4 (Four) years.
2. In Format of FORM GST DRC-03 changes are introduced at following –
  - Heading
  - Cause of Payment.

Moreover, relevant changes are also made in the form to include column of 'Fees' under serial no. 7 of Form DRC-03. Thus, now taxpayers can pay Fee using FORM GST DRC-03.

### **Mandatory Aadhaar authentication for GST Refund & Revocation application**

[Notification No. 38/2021-Central Tax dated 21<sup>st</sup> December 2021](#)

CBIC notified Rules related to Aadhaar

authentication for GST refund application and revocation of cancellation of application of GST registration. Through this notification CBIC made these rules mandatorily applicable w.e.f. 1<sup>st</sup> January 2022.

### **Amendments introduced by Finance Act, 2021 made effective w.e.f. 1<sup>st</sup> January 2022**

[Notification No. 39/2021-Central Tax, Dated 21<sup>st</sup> December 2021.](#)

Following amendments introduced by the Finance Act, 2021 have been notified to take effect from 1<sup>st</sup> January 2021.

1. **Scope of supply will include** - the activities or transactions, by Association of Persons to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.
2. **ITC related with inward supplies** can be taken only if the supplier has reported such supplies by filing relevant statement as prescribed under CGST Act.

3. "Self-assessed tax" shall include the tax payable in respect of details of outward supplies furnished in GSTR-1 return.
4. **Attachment of Property, Bank Account** - If the Commissioner during Assessment, Inspection, Search-Seizure, Demands and Recovery proceedings is of the opinion that for the purpose of protecting the interest of the Government revenue it is necessary so to do, he may, by order in writing, attach provisionally, any property, including bank account, belonging to the taxable person or any person specified.
5. **No appeal** shall be filed against an order on seizure of goods unless a sum equal to 25% of the penalty has been paid by the appellant."
- iii. proper officer shall proceed for sale or disposal of the goods or conveyance so detained or seized by preparing an inventory and estimating the market value of such goods and conveyance.  
**Provided** that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with the passage of time, the said period of 15 days may be reduced by the proper officer.  
 The said goods or conveyance shall be sold through a process of auction, including e-auction.
- ii. Where an appeal has been filed by the person in such matter, the proceedings for recovery of penalty by sale of goods or conveyance detained or seized in transit under this Rule shall be deemed to be stayed:  
 Provided that this sub-rule shall not be applicable in respect of goods of perishable or hazardous nature.

## Key changes in GST Rules, 2017 w.e.f. 1<sup>st</sup> January 2022

[Notification No. 40/2021-Central Tax, Dated 29<sup>th</sup> December 2021.](#)

The Key changes to come into effect from 1<sup>st</sup> January 2022 are as follows:

1. **Rule 36(4) has been substituted to provide that no Input Tax Credit (ITC) shall be available to registered person unless-**
  - a) the details of such invoices or debit notes have been furnished by the supplier in the statement of outward supplies in FORM GSTR-1 or using the invoice furnishing facility; and
  - b) the details of such invoices or debit notes have been communicated to the registered person in FORM GSTR-2B under Rule 60 (7).
2. **Rule 142 related with Demand & Recovery has been amended** providing for 7 days time for issuance of notice and further 7 days for issuance of order.
3. **A new Rule 144A Recovery of penalty by sale of goods or conveyance detained or seized in transit. has been inserted –**
  - i. Where the person transporting any goods, or
  - ii. the owner of such goods fails to pay the amount of penalty within 15 days from the date of receipt of the copy of the order passed the
4. **Rule 154 – Disposal of proceeds of the sale of goods or conveyance and movable or immovable property has been completely substituted with new provisions –**
  - i. The amounts so realized shall-
    - first, be appropriated against the administrative cost of the recovery process;
    - next, be appropriated against the amount to be recovered or to the payment of the penalty payable under section 129(3);
    - next, be appropriated against any other amount due from the defaulter under the Act or the IGST Act, 2017 or the UTGST Act, 2017 or any of the SGST Act, 2017 and the Rules made thereunder; and
    - the balance, if any, shall be credited to the electronic cash ledger in case the person is registered under the Act, otherwise the said amount shall be credited to the bank account of the person concerned;
  - ii. where it is not possible to pay the balance of sale proceeds, as per clause (d) of sub-rule (1), to the person concerned within a period of 6 months from the date of sale of such goods or

January 2022

conveyance or such further period as the proper officer may allow, such balance of sale proceeds shall be deposited with the Fund;

5. The due date for GSTR-9 & GSTR-9C for the F.Y. 2020-21 has been extended from 31<sup>st</sup> December 2021 to 28<sup>th</sup> February 2022.

### GSTN- Implementation of Rule-59(6), as amended, on GST Portal

#### [Notification No. 35/2021 – Central Tax Dated 24<sup>th</sup> September 2021](#)

As per Notification No. 35/2021 – Central Tax dated 24<sup>th</sup> September 2021, clause (a) of the sub-rule (6) of Rule 59 of CGST Rules, 2017 was amended "for preceding 2 months", the words "for the preceding month" were substituted. This meant that from 1<sup>st</sup> January 2022 onwards, if a monthly filer has not filed the GSTR-3B for the preceding month, then such taxpayer will not be allowed to file the GSTR-1 for the subsequent month, till the GSTR-3B for the preceding month is filed.

### [Notifications CGST \(Rate\) and IGST \(Rate\)](#)

#### Changes in GST Rates in case of Textile items and Footwear

[Notification No. 14/2021-Central Tax \(Rate\) dated 18<sup>th</sup> November,2021](#); [Notification No. 21/2021-Central Tax \(Rate\) dated 31<sup>st</sup> December 2021](#)  
Read along with [Notification No. 14/2021-Integrated Tax \(Rate\) dated 18<sup>th</sup> November,2021](#) & [Notification No. 21/2021-Integrated Tax \(Rate\) dated 31<sup>st</sup> December 2021](#).

Major change in GST rate of Textile Items is proposed. The same is hiked to 12% (CGST+SGST) as against present 5% (CGST+SGST) and 18% (CGST+SGST) to rationalise the tax rate structure of textile items.

It is also proposed to increase GST rate on footwear items having sale value not exceeding Rs. 1,000 per pair to 12% (CGST+SGST) from present 5% (CGST+SGST). (GST council has

deferred the decision on change in GST rate of Textile items )

### Change in taxability of Transportation by Omnibus and Restaurant Services

[Notification No. 17/2021-Central Tax \(Rate\), dated 18<sup>th</sup> November 2021](#). Read along with [Notification No. 17/2021- Integrated Tax \(Rate\), dated 18<sup>th</sup> November 2021](#).

Tax shall be paid by E-commerce operator under section 9(5) of CGST Act for supply of –

1. Service by way of transportation of passenger by omnibus or any other motor vehicle (the scope of Passenger Transport Service expanded to include service provided through Omnibus and any other motor vehicle.)
2. Supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises i.e., premises providing hotel accommodation service having declared tariff of any unit of accommodation above Rs 7,500 per unit per day or equivalent.

Online food delivery apps now liable to pay GST. Above amendments are applicable w.e.f. 1<sup>st</sup> January 2022.

### [Circulars- CGST](#)

#### Clarification on GST Rates & classification (goods)

[Circular No. 163/19/2021-GST, dated 6<sup>th</sup> October 2021](#)

Through this circular clarifications are given on GST Rates & Classification (goods):

1. **Fresh and dried fruits and nuts -**
  - Fresh fruits and nuts - Exempted
  - Supply of dried fruits and nuts, falling under heading 0801 and 0802 attract GST at the rate of 5%/12% as specified in the respective rate Schedules.

January 2022

2. **Tamarind seeds** w.e.f. 1<sup>st</sup> October 2021, tamarind and other seeds, if not supplied as seed for sowing, would attract GST at the rate of 5%.
3. **Copra**, classified under heading 1203, attracts GST rate of 5%.
4. **GST on pure henna powder and leaves.** Pure henna powder and henna leaves, having no additives, shall attract GST rate of 5% and GST rate on mehndi paste in cones shall be 5%.
5. **Brewers' spent grain (BSG), Dried distillers' grains with soluble [DDGS] and other such residues** are attracting GST at the rate of 5%.
6. **All pharmaceutical goods falling under heading 3006** attract GST rate of 12%.
7. For **all laboratory reagents** and other goods GST rate of 12% is applicable.
8. The original/ import Essentiality certificate, issued by the Directorate General of Hydrocarbons (DGH) is sufficient and there is no need for taking a certificate every time on inter-state movement of goods within the same company / stock transfer so long as the goods are the same as those imported by the company at concessional rate.
9. **External batteries sold along with UPS Systems/ Inverter.**
  - UPS/Inverter would attract GST rate of 18%.
  - External batteries would attract the GST rate of 28%, being separately identifiable products.
10. **Solar PV Power Projects.** GST on such specified Renewable Energy Projects can be paid in terms of the 70:30 ratio for goods and services, respectively, for the period of 1<sup>st</sup> July 2017 to 31<sup>st</sup> December 2018, in the same manner as has been prescribed for the period on or after 1<sup>st</sup> January 2019. However, it is specified that, no refunds will be granted if GST already paid is more than the amount determined using this mechanism.
11. **Fiber Drums, whether corrugated or non-corrugated.** A uniform GST rate of 18%. The rates on such Fiber Drums even if made at 12%

GST (during the period from 1<sup>st</sup> July 2017 to 30<sup>th</sup> September 2021), would be treated as fully GST-paid.

### Clarification on GST Rates & exemption on certain services

[Circular No. 164/20/2021-GST, dated 6<sup>th</sup> October 2021.](#)

The circular provides clarification on GST Rates & Exemption on Certain Services:

1. **Services by cloud / central kitchens** are covered under 'restaurant service' and attract 5% GST [without ITC].
2. **Supply of ice cream by ice cream parlors.** where ice cream parlors sell already manufactured ice-cream and do not cook/prepare ice-cream for consumption like a restaurant, it is supply of ice cream as goods and hence would attract GST at the rate of 18%.
3. **Coaching services supplied by coaching institutions and NGOs under the central sector scheme of "Scholarships for students with Disabilities"** are exempt from GST.
4. **Satellite launch services** provided by NSIL. If the POS is outside India and other conditions u/s 2(6) are satisfied, such would be considered as export of services as zero rated supply.
5. **Overloading charges at toll plaza** would get the same treatment as given to toll charges.
6. **Renting of vehicles to State Transport Undertakings and Local Authorities** are eligible for the exemption irrespective of whether such vehicles are run on routes, timings as decided by the State Transport Undertakings or Local Authorities.
7. **Services by way of grant of mineral exploration and mining rights.** The said services are taxable @ 18%.
8. **Admission to indoor amusement parks having rides etc.** Is covered by Entry 34 (iii), having a rate of 18%.

9. Services supplied by contract manufacturers to brand owners for manufacture of alcoholic liquor for human consumption.

### Clarification on applicability of QR Code on the B2C Invoices

[Circular No. 165/21/2021-GST, dated 17<sup>th</sup> November 2021.](#)

The Circular provides clarification on applicability of Dynamic QR code on B2C invoices as under -

In case where the recipient of service is located outside India and place of supply of service is in India and the payment is received by the service provider located in India not in foreign exchange, but through other modes approved by RBI, then the supplier is not required to have dynamic QR code on the invoice.

### Clarifications on Refund related Issues

[Circular No. 166/22/2021-GST, dated 17<sup>th</sup> November 2021](#)

The CBIC has issued clarification with respect to several issues related to refund as under:

1. In case of refund of excess balance in electronic cash ledger, the time limit within which an application for refund can be filed, specified under section 54(1) (i.e., 2 years from the relevant date) would not be applicable.
2. Certificate/ declaration under Rule 89(2)(l) or 89(2)(m) of the CGST Rules, 2017 is not required to be furnished in case of refund of excess balance in electronic cash ledger, on account of not passing the incidence of tax to any other person.
3. The TDS/ TCS deposited to the electronic cash ledger of the registered person is equivalent to cash deposited in the cash ledger. It is not mandatory for the registered person to utilise such balance only to discharge his output tax liability. The registered person has full liberty to discharge his tax liability on supplies made by him

during a tax period, either through debit in electronic credit ledger or through electronic cash ledger, as per his choice and availability of balance in the said ledgers. Any unutilised amount can be refunded to the registered person as excess balance in electronic cash ledger in accordance with the provisions of the Act.

4. In respect of refund of amount of tax paid on deemed exports, clause (b) of explanation (2) u/s 54 of CGST Act would be applicable for determining relevant date irrespective of the fact whether the refund claim is filed by the supplier or by the recipient.

Further, it is also clarified that as the tax on deemed export would be paid by the supplier in his return, therefore, the relevant date for purpose of filing of refund claim would be the date of filing of return, related to such supplies, by the supplier.

### Clarifications on GST Service supplied by Restaurants through E-Commerce(ECO)

[Circular No. 167/23/2021-GST, dated 17<sup>th</sup> December 2021.](#)

The circular provide clarification on supplies made by restaurant through ECO, the tax on such supplies shall be paid by the ECO as follows-

1. ECOs will no longer be required to collect TCS and file GSTR 8 regarding restaurant services.
2. ECOs are not mandatorily required to take separate registration for payment of taxes on restaurant services u/s 9(5).
3. ECOs will be liable to pay GST on any restaurant service supplied through them including services provided by unregistered persons.
4. The aggregate turnover of persons supplying restaurant service shall include the aggregate value of supplies made by the restaurant through ECOs to calculate threshold limit.



5. The supplies of restaurant services made through ECOs would not be reported as Inward supplies (liable to reverse charge).
6. On account of ECOs being made liable to pay tax on restaurant service, it would be eligible to ITC as before and hence it is not required to reverse ITC on account of restaurant services on which it pays GST.
7. ECOs to raise separate invoices if a single order is received for restaurant service and any other goods and services.
8. ECO will be required to issue the invoice in respect of such restaurant services supplied through them u/s 9(5).
9. The e-commerce operator shall report such supplies in Table 7A (1) or Table 4A of GSTR-1 as well as GSTR-3B. Whereas, registered persons supplying restaurant service through ECOs under section 9(5) shall report these supplies in Table 8 of GSTR-1 and Table 3.1 (c) of GSTR-3B

### Clarifications on refund claim by the taxpayers of erstwhile U.T. of Daman & Diu prior to merger with Dadra & Nagar Haveli

[Circular No. 168/24/2021 - GST, CBIC-20021/04/2021-GST, Dated 30<sup>th</sup> December 2021](#)

1. New GSTINs with UT Code 26 were created for the taxpayers of erstwhile UT of Daman and Diu on merger of the UT of Dadra & Nagar Haveli and UT of Daman & Diu. During the transition, the taxpayers had transferred their ITC balance from their electronic credit ledger of the old GSTIN to the new GSTIN.
2. Due to such transfer of ITC, the taxpayers were unable to apply for refund on account of zero-rated supplies and inverted rated structure for the period prior to merger in respect of old GSTIN as they had no ITC available in the electronic credit ledger of the old GSTIN. Such taxpayers were also unable to apply for such refund claim from

the new GSTIN because all the invoices bear the old GSTIN and the system has certain validations which do not allow the refund application to be filed from the new GSTIN.

3. In such cases, the following procedure was prescribed:
  - i. The application for refund shall be filed under 'Any other' category using new GSTIN. In the 'Remarks' column of the application, the applicant needs to enter the category in which the refund application otherwise would have been filed. At this stage, the applicant is not required to make any debit from the electronic credit ledger.
  - ii. On receipt of the claim, the proper officer shall calculate the admissible refund amount as per law. If the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the applicant, in writing, if required, to debit the said amount from the electronic credit ledger through Form GST DRC-03. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in Form GST RFD-06 and the payment order in Form GST RFD-05.
  - iii. For the categories of refund where debit of ITC is not required, the applicant may apply for refund under the category "Any other" mentioning the reasons in the 'Remarks' column. Such application shall also be accompanied by all the supporting documents which are otherwise required to be submitted along with the refund claim.
4. No refund claim, requiring debit from the electronic credit ledger or where the refund would result in re-credit of the amount sanctioned in the electronic credit ledger, shall be filed using old GSTIN.

# KEY TAKE AWAY

- The tenure of National Anti-Profiteering Authority is extended to 5 Years from 4 Years.
- Mandatory Aadhaar authentication for GST Refund & Revocation application w.e.f. 1<sup>st</sup> January 2022.
- No ITC claim in GSTR-3B unless reflected in GSTR-2B.
- Extension of Due Date of GSTR-9 & GSTR-9C for the year 2020-21 to 28<sup>th</sup> February 2022.



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