

## Notifications CGST

### Seeks to make amendments to CGST Rules 2017 vide Fourth Amendment Rules, 2021

#### Amendment of CGST Refund Rules

#### Notification No. 15/2021 – Central Tax dated 18th May 2021

This notification seeks to amend the following:

**1. Rule 90 (3) [Insertion of new proviso]:** The time period, from the date of filing of the refund claim in Form GST RFD-01 till the date of communication of the deficiencies in Form GST RFD-03 by the proper officer, shall be excluded from the period of two years as specified under Section 54 (1), in respect of any such fresh refund claim filed by the applicant after rectification of the deficiencies.

**2. Rule 90 (6) [Insertion of new sub-rule]:** On submission of application for withdrawal of refund in Form GST RFD-01W, any amount debited by

the applicant from electronic credit ledger or electronic cash ledger, as the case may be, while filing application for refund in Form GST RFD-01, shall be credited back to the ledger from which such debit was made.

#### **3. Rule 96: [substitution of sub-rule 6 & 7]**

**i. Sub-Rule (6):** In case refund is withheld in accordance with the provisions of Sec 54 (10) and (11), the proper officer shall intimate the applicant and the Jurisdictional Commissioner (JC). Upon receipt of such intimation, the proper officer of Central Tax or State Tax or Union Territory Tax, as the case may be, shall pass an order in **Part A of Form GST RFD-07**.

**ii. Sub-Rule (7):** Where the applicant becomes entitled to refund of the amount which was withheld due to such person claiming refund as per provisions of Sec 54 (10) and (11), the concerned jurisdictional officer of Central Tax, State Tax or Union Territory Tax, as the case may be, shall proceed to refund the amount by passing an order in **Form GST RFD-06** after passing an order for release of withheld refund in Part in **Part B of Form GST RFD-07**.

**4.Rule 138E: [Insertion of outward movement of goods criteria]** As per the said rule no person shall be allowed to furnish the information in PART A of Form GST EWB-01 in respect of any outward movement of goods of a registered person, who, —

- i. Being a Composition Taxpayer under Section 10 has not furnished Form GST CMP-08 for two consecutive quarters.
- ii. Taxpayers other than above who has not furnished the returns for a consecutive of two tax periods.
- iii. Taxpayers other than (i) who has not furnished the statement of outward supplies for any two months or quarters.
- iv. Person whose registration has been suspended under Rule 21A (1) or (2) or (2A).

## Government departments and Local Authorities excluded from the requirement of issuance of e-invoice

### [Notification No. 23/2021 – Central Tax dated 1st June 2021](#)

This Notification makes further amendment to Notification 12/2020 – CT dated 21<sup>st</sup> March 2020, to exclude Government departments and Local Authorities from the requirement of issuance of e-invoice.

## Penalty waived for non-compliance of issuance of Dynamic QR code on B2C invoice

### [Notification No. 28/2021 - Central Tax dated 30th June 2021](#)

This Notification waives the amount of penalty payable by any registered person under Section 125 of the said Act for non-compliance

of issuance of dynamic QR code for B2C invoices having aggregate turnover of more than Rs. 500 crores, between the period from the 1st day of December 2020 to the 30th day of September 2021.

## Notifications CGST (Rate) and IGST (Rate)

### Seeks to provide GST Rates for various types of goods and services

### [Notification No. 05/2021 – Central Tax \(Rate\) dated 14<sup>th</sup> June 2021](#) Read along with [Notification No. 05/2021 – Integrated Tax \(Rate\) dated 14<sup>th</sup> June 2021](#)

This notification seeks to provide the concessional rate of GST on Covid-19 relief supplies like Remdesivir, Medical Grade Oxygen, Covid-19 test kits, etc. up to and inclusive of 30th September 2021.

### [Notification No. 01/2021 – Central Tax \(Rate\) dated 2nd June 2021](#), Read along with [Notification No. 01/2021 – Integrated Tax \(Rate\) dated 2nd June 2021](#), [Notification No. 02/2021 – Central Tax \(Rate\) dated 2nd June 2021](#) , Read along with [Notification No. 02/2021 – Integrated Tax \(Rate\) dated 2nd June 2021](#), [Notification No. 04/2021 – Central Tax \(Rate\) dated 14th June 2021](#), Read along with [Notification No. 04/2021 – Integrated Tax \(Rate\) dated 14th June 2021](#)

The above notifications provide for changes in rates of tax for various goods or services which are enlisted below:

Sr. No	Chapter, Heading, or Tariff Item	Goods or Services	Description	CGST Rate	SGST Rate	IGST Rate	Remarks
1	9503	Goods	Tricycles or similar wheeled toys, dolls and other toys	2.5%	2.5%	5%	NA
2	30049099	Goods	Diethylcarbazine	2.5%	2.5%	5%	Amended from 12% to 5%
3	9987	Services	Maintenance, repair or overhaul services in respect of ships and other vessels, their engines and other components or parts	2.5%	2.5%	5%	NA
4	9954	Services	Construction of a structure meant for funeral or burial	2.5%	2.5%	5%	Applicable for the period 14th June 2021 to 30th September 2021

## Circulars CGST

### SOP for revocation of cancellation of registration

#### [Circular No. 148/04/2021 – Central Tax dated 18th May 2021](#)

Vide Finance Act, 2020, Section 30 of the CGST Act, 2017 was amended to provide for extension of time limit for applying for revocation of cancellation of registration on sufficient cause being shown and recorded in writing by (a) Additional/ Joint Commissioner (AC/ JC) for a period not exceeding 30 days; (b) The Commissioner, for a further period not exceeding 30 days beyond (a).

In order, to ensure uniformity of the above provision and till the time an independent functionality for extension of time limit is

developed via Form GST REG-21 of the GSTN portal, the Board has prescribed the following procedure-

- i. The said person shall request through letters or e-mail for such extension along with the grounds for which such extension is sought.
- ii. The proper officer shall forward the said request to AC/ JC. The AC/ JC on examination of such requests and for reasons to be recorded in writing, may extend the said time limit.
- iii. If the request is accepted, the extension of time shall be communicated to the proper officer, otherwise personal hearing may be granted to the person before taking decision in the matter.
- iv. In case the application is rejected the same shall be communicated to the proper officer.

## Clarification on GST on supply of food in anganwadis and schools

### [Circular No. 149/05/2021 – Central Tax dated 17th June 2021](#)

There was an ambiguity amongst the taxpayers surrounding the issue whether GST is applicable on supply of food in schools under Mid-Day Meals Scheme if such supply was funded by government grants and/ or corporate donations.

Entry 66 clause (b)(ii) of Notification No. 12/2017 – CT(R) dated 28<sup>th</sup> June 2017, exempts *services provided to an educational institution, by way of catering, including mid-day meals scheme sponsored by the Government*. This applies to pre-school and schools.

Accordingly, any catering service provided to an educational institution is exempt from GST. Anganwadi provides pre-school non-formal education and is thus covered by the definition of educational institution (as pre-school).

Hence, it is now clarified that serving of food to anganwadi shall also be covered by such exemption, whether such supplies are sponsored by Government or via donations from the corporates.

## Clarification on GST on construction of road where consideration is received in the form of deferred payment

### [Circular No. 150/06/2021 – Central Tax dated 17<sup>th</sup> June 2021](#)

Taxpayers made certain representations seeking clarification regarding applicability of GST on annuities paid for construction of road where certain portion of consideration is received upfront while remaining payment is made through deferred payment (annuity) spread over years.

The exemption Notification No. 12/2017 – CT covers the heading 9967 *“supporting services in transport”* under which the service code 996742 covers *“operation services of National Highways, State Highways, Expressways, Roads & Streets; bridges and tunnel operation services”*. It further covers exemption to *“service by way of access to a road or a bridge on payment of toll”*.

However, services by way of construction of road fall under the heading 9954 which includes general construction services of highways, streets, roads, railways, airfield runways, bridges and tunnels.

Thus, the Circular clarifies that exemption notification does not cover the above entry under heading 9954 since it specifically covers entry only under the heading 9967 thereby taxing the said service of construction of road even if deferred payment is made by way of annuities.

## Clarification on GST on supply of services by Central and State Board (such as National Board of Examination)

### [Circular No. 151/07/2021 – Central Tax dated 17<sup>th</sup> June 2021](#)

Taxpayers were seeking clarification with regards to the taxability of various services supplied by Centre and State Boards such as National Board of Examination (NBE). These services include entrance examination (on charging a fee) for admission to educational institution, input services for conducting such entrance exam for students, accreditation of educational institutions or professional to authorise them to provide their respective services.

The explanation 3(iv) of the notification No. 12/2017 CT(R) provides that, "Central and State Educational Boards" are treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students. Therefore, NBE shall be treated as an 'Educational Institution' and the said services shall be treated as exempt under GST. GST will also be exempt on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination, admit card and questions papers etc., when provided to such Boards.

However, GST at the rate of 18% shall apply to other services provided by such Boards, such as accreditation to an institution or to a professional (accreditation fee or registration fee such as fee for FMGE screening test) so as to authorize them to provide their respective services.

### Clarification on rate of tax applicable on construction services provided to Government Entity

#### [Circular No. 152/08/2021 – Central Tax dated 17<sup>th</sup> June 2021](#)

CBIC received references asking for clarification on whether the services supplied to a Government Authority by way of construction of "ropeway" are eligible for concessional rate of GST at 12% instead of 18%.

As mentioned under entry no. 3(vi) of Notification No. 11/2017 – CT (R) dated 28th June 2017, the GST rate of 12% is applicable if works contract services provided to the Government by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of – (a) *a civil structure or any other original works meant predominantly for use*

*other than for commerce, industry, or any other business or profession.* Thus, said entry No 3 (vi) does not apply to any works contract that is meant for the purposes of commerce, industry, business or profession, even if such service is provided to the Government. Further, civil constructions, such as rope way for tourism development shall not be covered by said entry 3(vi) not being a structure that is meant predominantly for purposes other than business.

Therefore, it is now clarified that works contract service provided by way of construction such as of rope way shall fall under entry at sl. No. 3(xii) of notification 11/2017- CT(R) and attract GST at the rate of 18%.

### GST on service supplied by State Governments to PSUs or their undertaking

#### [Circular No. 154/10/2021 – Central Tax dated 17<sup>th</sup> June 2021](#)

Entry No. 34A of Notification no. 12/2017 - CT (R) dated 28th June 2017 exempts "Services supplied by Central Government (CG), State Government (SG) and Union Territory to their undertakings or Public Sector Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions." Accordingly, it is now clarified that guaranteeing of loans by CG or SG for their undertaking or PSU is specifically exempt under said entry No. 34A.

## Clarification on the applicability of QR code on B2C invoices

### [Circular No. 156/12/2021 – Central Tax dated 21st June 2021](#)

The Circular provides clarification on applicability of Dynamic QR Code on B2C invoices. Here are some of the issues clarified below in question-and-answer format.

**1. Whether Dynamic QR Code is to be provided on an invoice, issued to a person, who has obtained a Unique Identity Number as per the provisions of Sub-Section 9 of Section 25 of CGST Act 2017?**

Any person, who has obtained a Unique Identity Number (UIN) as per the provisions of Sub-Section 9 of Section 25 of CGST Act 2017, is not a “registered person” as per the definition of registered person provided in Section 2(94) of the CGST Act 2017. Therefore, any invoice, issued to such person having a UIN, shall be considered as invoice issued for a B2C supply and shall be required to comply with the requirement of Dynamic QR Code.

**2. Unified Payment Interface (UPI) ID is linked to the bank account of the payee/ person collecting money. Whether bank account and IFSC details also need to be provided separately in the Dynamic QR Code along with UPI ID?**

Given that UPI ID is linked to a specific bank account of the payee/ person collecting money, separate details of bank account and IFSC may not be provided in the Dynamic QR Code.

**3. In cases where the payment is collected by some person other than the supplier (ECO or any other person authorized by the supplier on his/ her behalf), whether in such cases, in place of UPI ID of the supplier, the UPI ID of such person, who is authorized to**

**collect the payment on behalf of the supplier, may be provided?**

Yes. In such cases where the payment is collected by some person, authorized by the supplier on his/ her behalf, the UPI ID of such person may be provided in the Dynamic QR Code, instead of UPI ID of the supplier.

**4. In cases, where receiver of services is located outside India, and payment is being received by the supplier of services in foreign exchange, through RBI approved modes of payment, but as per provisions of the IGST Act 2017, the place of supply of such services is in India, then such supply of services is not considered as export of services as per the IGST Act 2017; whether in such cases, the Dynamic QR Code is required on the invoice issued, for such supply of services, to such recipient located outside India?**

No. Wherever an invoice is issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of IGST Act 2017, and the payment is received by the supplier in foreign currency, through RBI approved mediums, such invoice may be issued without having a Dynamic QR Code, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier.

**5. In some instances of retail sales over the counter, the payment from the customer is received on the payment counter by displaying dynamic QR code on digital display, whereas the invoice, along with invoice number, is generated on the processing system being used by supplier/ merchant after receiving the payment. In such cases, it may not be possible for the merchant/ supplier to provide details of invoice number in the dynamic QR code displayed to the customer on payment**

counter. However, each transaction i.e., receipt of payment from a customer is having a unique Order ID/ sales reference number, which is linked with the invoice for the said transaction. Whether in such cases, the order ID/ reference number of such transaction can be provided in the dynamic QR code displayed digitally, instead of invoice number.

In such cases, where the invoice number is not available at the time of digital display of dynamic QR code in case of over the counter sales and the invoice number and invoices are generated after receipt of payment, the unique order ID/ unique sales reference number, which is uniquely linked to the invoice issued for the said transaction, may be provided in the Dynamic QR Code for digital display, as long as the details of such unique order ID/ sales reference number linkage with the invoice are available on the processing system of the merchant/ supplier and the cross reference of such payment along with unique order ID/ sales reference number are also provided on the invoice.

**6. When part-payment has already been received by the merchant/ supplier, either in advance or by adjustment (e.g., using a voucher, discount coupon etc.), before the dynamic QR Code is generated, what amount should be provided in the Dynamic QR Code for “invoice value”?**

The purpose of dynamic QR Code is to enable the recipient/ customer to scan and pay the amount to be paid to the merchant/ supplier in respect of the said supply. When the part-payment for any supply has already been received from the customer/ recipient, in form of either advance or adjustment through voucher/ discount coupon etc., then the dynamic QR code may provide only the remaining amount payable by the customer/

recipient against “invoice value”. The details of total invoice value, along with details/ cross reference of the part payment/ advance/ adjustment done, and the remaining amount to be paid, should be provided on the invoice.

# KEY TAKE AWAY

- A Notification is issued which made amendments to the CGST Rules 2017 w.r.t. GST Refunds. Further, two more Notifications are issued, one highlighting the exclusion of Govt Dept and Local Authority from the requirement of e-invoice and the other waives penalty for non-compliance of Dynamic QR code.
- Certain Notifications amending the GST rate are also issued giving relief to Covid-19 related supplies.
- Few circulars are issued which clarify the position of Law under various scenarios mentioned therein.



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