



THE INSTITUTE OF  
Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

# **SUPPLEMENT EXECUTIVE PROGRAMME (NEW SYLLABUS)**

*for*

*June, 2022 Examination*

## **TAX LAWS (PART II – INDIRECT TAXES)**

### **MODULE 1**

### **PAPER 4**

*Disclaimer: This document has been prepared purely for academic purposes only and it does not necessarily reflect the views of ICSI. Any person wishing to act on the basis of this document should do so only after cross checking with the original source.*

## TABLE OF CONTENT

<b>SUPPLEMENT FOR TAX LAWS</b>		
<b>(PART II- INDIRECT TAXES)</b>		
<b>(MAJOR NOTIFICATIONS AND CIRCULARS- JUNE 2021 TO NOVEMBER 2021)</b>		
<b>Chapter No.</b>	<b>Chapter Name</b>	<b>Page No.</b>
12	Basics of Goods and Services Tax ‘GST’	3-5
13	Concept of Time, Value & Place of Taxable Supply	6-7
14	Input Tax Credit & Computation of GST Liability – Overview	8-11
15	Procedural Compliance under GST	12-17
16	Basic overview on IGST, UTGST, and GST Compensation to States	18

**Note:** Students are also required to update themselves on all the relevant Rules, Notifications, Circulars, Clarifications, etc. issued by the CBIC on or before 30th November, 2021 pertaining to GST and Customs Act, 1962.

## **Lesson 12-Basics of Goods and Services Tax ‘GST’**

### **1. Clarification regarding applicability of GST on supply of food in Anganwadis and Schools**

**Circular No. 149/05/2021 – GST, dated June 17, 2021**

Clarification on applicability of GST on the issues as to whether serving of food in schools under Mid-Day Meals Scheme would be exempt if such supplies are funded by government grants and/or corporate donations. The issue was examined by GST Council in its 43rd meeting held on 28th May, 2021.

Entry 66 clause (b)(ii) of notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017, exempts Services provided to an educational institution, by way of catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory. This entry applies to pre-school and schools.

Accordingly, as per said entry 66, any catering service provided to an educational institution is exempt from GST. The entry further mentions that such exempt service includes mid- day meal service as specified in the entry. The scope of this entry is thus wide enough to cover any serving of any food to a school, including pre-school. Further, an Anganwadi interalia provides pre-school non-formal education. Hence, anganwadi is covered by the definition of educational institution (as pre-school)

As per recommendation of the GST Council, it is clarified that services provided to an educational institution by way of serving of food ( catering including mid- day meals) is exempt from levy of GST irrespective of its funding from government grants or corporate donations [under said entry 66 (b)(ii)]. Educational institutions as defined in the notification include anganwadi. Hence, serving of food to anganwadi shall also be covered by said exemption, whether sponsored by government or through donation from corporates.

#### **Brief Analysis**

Services provided to an educational institution by way of serving of food (catering including mid-day meals) is exempt from levy of GST irrespective of its funding from government grants or corporate donations.

**For further details please visit: [https://www.cbic.gov.in/resources/htdocs-cbec/gst/Circular\\_Refund\\_149.pdf](https://www.cbic.gov.in/resources/htdocs-cbec/gst/Circular_Refund_149.pdf)**

### **2. Clarification on doubts related to scope of “Intermediary”**

**Circular No. 159/15/2021 – GST, dated September 20, 2021**

‘Intermediary’ has been defined in the sub-section (13) of section 2 of the Integrated Goods and Services Tax Act, 2017 as under–

*“Intermediary means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.”*

### **Primary Requirements for intermediary services**

The concept of intermediary services, as defined above, requires some basic prerequisites, which are discussed below:

**Minimum of Three Parties:** By definition, an intermediary is someone who arranges or facilitates the supplies of goods or services or securities between two or more persons. It is thus a natural corollary that the arrangement requires a minimum of three parties, two of them transacting in the supply of goods or services or securities (the main supply) and one arranging or facilitating (the ancillary supply) the said main supply. An activity between only two parties can, therefore, NOT be considered as an intermediary service. An intermediary essentially “arranges or facilitates” another supply (the “main supply”) between two or more other persons and, does not himself provide the main supply.

**Two distinct supplies:** As discussed above, there are two distinct supplies in case of provision of intermediary services;

- (1) Main supply, between the two principals, which can be a supply of goods or services or securities;
- (2) Ancillary supply, which is the service of facilitating or arranging the main supply between the two principals. This ancillary supply is supply of intermediary service and is clearly identifiable and distinguished from the main supply.

### **Brief Analysis**

The definition of intermediary services specifically mentions that intermediary “does not include a person who supplies such goods or services or both or securities on his own account”. Use of word “such” in the definition with reference to supply of goods or services refers to the main supply of goods or services or both, or securities, between two or more persons, which are arranged or facilitated by the intermediary.

It implies that in cases wherein the person supplies the main supply, either fully or partly, on principal to principal basis, the said supply cannot be covered under the scope of “intermediary”.

**For further details please visit:**

[https://www.cbic.gov.in/resources/htdocs-cbec/gst/Circular%20No.%20159\\_14\\_2021\\_GST.pdf](https://www.cbic.gov.in/resources/htdocs-cbec/gst/Circular%20No.%20159_14_2021_GST.pdf)

### **3. Clarification regarding applicable GST rates & exemptions on certain services**

**Circular No. 164/20/2021 – GST, dated October 06, 2021**

Clarification in respect of applicable GST rates on the following activities are given below:

- **Services by cloud kitchens/central kitchens:**

Clarification regarding the classification and rate of GST on services rendered by Cloud kitchen or Central Kitchen.

The word ‘restaurant service’ is defined in Notification No. 11/2017 – CTR as below: -  
‘Restaurant service’ means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied.

The explanatory notes to the classification of service state that ‘restaurant service’ includes services provided by Restaurants, Cafes and similar eating facilities including takeaway services, room services and door delivery of food. It is clarified that service provided by way of cooking and supply of food, by cloud kitchens/central kitchens are covered under ‘restaurant service’, as defined in notification No. 11/2017- Central Tax (Rate) and attract 5% GST [without ITC].

- **Coaching services supplied by coaching institutions and NGOs under the central sector scheme of ‘Scholarships for students with Disabilities’:**

It is clarified that services provided by institutions/ NGOs under the central scheme of ‘Scholarships for students with Disabilities’ where total expenditure is borne by the Government is covered under entry 72 of notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017 and hence exempt from GST.

**For further details please visit: [https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular%20No.%20164 2021 GST.pdf](https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular%20No.%20164%2021%20GST.pdf)**

\*\*\*\*\*

## **Lesson 13-Concept of Time, Value and Place of Taxable Supply**

### **Clarification regarding determination of place of supply in certain cases**

1. Services provided by Ports –

It is hereby clarified that such services are ancillary to or related to cargo handling services and are not related to immovable property. Accordingly, the place of supply of such services will be determined as per the provisions contained in sub-section (2) of Section 12 or sub-section (2) of Section 13 of the IGST Act, as the case may be, depending upon the terms of the contract between the supplier and recipient of such services.

2. Services rendered on goods temporarily imported in India:

Place of supply in case of performance based services is to be determined as per the provisions contained in clause (a) of sub-section (3) of Section 13 of the IGST Act and generally the place of services is where the services are actually performed. But an exception has been carved out in case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process. In case of cutting and polishing activity on unpolished diamonds which are temporarily imported into India are not put to any use in India, the place of supply would be determined as per the provisions contained in sub-section (2) of Section 13 of the IGST Act.

3. Place of supply in case of software/design services related to Electronics Semi-conductor and Design Manufacturing (ESDM) industry

A number of companies that are part of the growing Electronics Semiconductor and Design Manufacturing (ESDM) industry in India are engaged in the process of developing software and designing integrated circuits electronically for customers located overseas. The client/customer electronically provides Indian development and design companies with design requirements and Intellectual Property blocks (“IP blocks”, reusable units of software logic and design layouts that can be combined to form newer designs). Based on these, the Indian company digitally integrates the various IP blocks to develop the software and the silicon or hardware design. These designs are communicated abroad (in industry standard electronic formats) either to the customer or (on behest of the customer) a manufacturing facility for the manufacture of hardware based on such designs.

In addition, the software developed is also integrated upon or customized to this hardware. On some occasions, samples of such prototype hardware are then provided back to the Indian development and design companies to test and validate the software and design that has been developed to ensure that it is error free.

The trade has requested clarification on whether provision of hardware prototypes and samples and testing thereon lends these services the character of performance-based

services in respect of “goods required to be made physically available by the recipient to the provider”.

The provisions relating to determination of place of supply as contained in the Integrated Goods & Services Tax Act, 2017 have been examined. In order to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by sub-section (1) of section 168 of the Central Goods & Services Tax Act, 2017 clarifies the same as below.

In contracts where service provider is involved in a composite supply of software development and design for integrated circuits electronically, testing of software on sample prototype hardware is often an ancillary supply, whereas, chip design/software development is the principal supply of the service provider. The service provider is not involved in software testing alone as a separate service. The testing of software/design is aimed at improving the quality of software/design and is an ancillary activity. The entire activity needs to be viewed as one supply and accordingly treated for the purposes of taxation. Artificial vivisection of the contract of a composite supply is not provided in law. These cases are fact based and each case should be examined for the nature of supply contracted.

Therefore, it is clarified that the place of supply of software/design by supplier located in taxable territory to service recipient located in **non-taxable territory** by using sample prototype hardware / test kits in a composite supply, where such testing is an ancillary supply, is the location of the service recipient as per Section 13(2) of the IGST Act. Provisions of Section 13(3)(a) of IGST Act do not apply separately for determining the place of supply for ancillary supply in such cases.

\*\*\*\*\*

## Lesson 14-Input Tax Credit and Computation of GST Liability-Overview

### 1. Clarification in respect of certain GST related issues

**Circular No. 160/16/2021 – GST, dated September 20, 2021**

In order to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168(1) of the Central Goods and Services Tax Act, 2017 , hereby clarifies each of these issues as under:

S. No.	Issue	Clarification
1.	<p>Section 16 (4), as amended with effect from 01.01.2021, provides that a registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September <b>following the end of financial year to which such invoice or debit note pertains</b> or furnishing of the relevant annual return, whichever is earlier.</p> <p>Doubts have been raised seeking following clarification:</p> <p>1. Which of the following dates are relevant to determine the ‘financial year’ for the purpose of section 16(4):</p> <p>(a) date of issuance of debit note, or</p> <p>(b) date of issuance of underlying invoice.</p> <p>2. Whether any availment of input tax credit, on or after 01.01.2021, in respect of debit notes issued either prior to or after 01.01.2021, will be governed by the provisions of the amended section 16(4), or</p>	<p>1. With effect from 01.01.2021, section 16(4) of the CGST Act, 2017 was amended <i>vide</i> the Finance Act, 2020, so as to delink the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing input tax credit.</p> <p>The amendment made is shown as below:</p> <p><i>“A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or <del>invoice relating to such</del> debit note pertains or furnishing of the relevant annual return, whichever is earlier.”</i></p> <p>As can be seen, the words “invoice relating to such” were omitted w.e.f. 01.01.2021.</p> <p>2. The intent of law as specified in the Memorandum explaining the Finance Bill, 2020 states that <i>“Clause 118 of the Bill seeks to amend sub-section (4) of section 16 of the Central Goods and Services Tax Act so as to <b>delink the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing input tax credit.</b></i></p> <p>3. Accordingly, it is clarified that:</p> <p>a) w.e.f. 01.01.2021, in case of debit notes, the date of issuance of debit note (not the date of underlying invoice) shall determine the relevant financial year for</p>



	<p>the amended provision will be applicable only in respect of the debit notes issued after 01.01.2021?</p>	<p>the purpose of section 16(4) of the CGST Act.</p> <p>b) The availment of ITC on debit notes in respect of amended provision shall be applicable from 01.01.2021. Accordingly, for availment of ITC on or after 01.01.2021, in respect of debit notes issued either prior to or after 01.01.2021, the eligibility for availment of ITC will be governed by the amended provision of section 16(4), whereas any ITC availed prior to 01.01.2021, in respect of debit notes, shall be governed under the provisions of section 16(4), as it existed before the said amendment on 01.01.2021.</p> <p><b>Illustration 1.</b> A debit note dated 07.07.2021 is issued in respect of the original invoice dated 16.03.2021. As the invoice pertains to F.Y. 2020-21, the relevant financial year for availment of ITC in respect of the said invoice in terms of section 16(4) of the CGST shall be 2020-21. However, as the debit note has been issued in FY 2021-22, the relevant financial year for availment of ITC in respect of the said debit note shall be 2021-22 in terms of amended provision of section 16(4) of the CGST Act.</p> <p><b>Illustration 2.</b> A debit note has been issued on 10.11.2020 in respect an invoice dated 15.07.2019. As per amended provision of section 16(4), the relevant financial year for availment of input tax credit on the said debit note, on or after 01.01.2021, will be FY 2020-21 and accordingly, the registered person can avail ITC on the same till due date of furnishing of FORM GSTR-3B for the month of September, 2021 or furnishing of the annual return for FY 2020-21, whichever is earlier.</p>
2.	<p>Whether carrying physical copy of invoice is compulsory during movement of goods in cases where suppliers have issued invoices in the manner</p>	<p>1. Rule 138A (1) of the CGST Rules, 2017 <i>inter-alia</i>, provides that the person in charge of a conveyance shall carry— (a) the <b>invoice or bill of supply or delivery challan</b>, as the case may be; and (b) a copy</p>

	<p>prescribed under rule 48 (4) of the CGST Rules, 2017 (i.e. in cases of e-invoice).</p>	<p>of the e-way bill or the e-way bill number, either physically or mapped to a <b>Radio Frequency Identification Device</b> embedded on to the conveyance in such manner as may be notified by the Commissioner.</p> <p>2. Further, rule 138A (2) of CGST Rules, after being amended <i>vide</i> notification No. 72/2020- Central Tax dated 30.09.2020, states that “<i>In case, invoice is issued in the manner prescribed under sub-rule (4) of rule 48, the Quick Reference (QR) code having an embedded <b>Invoice Reference Number (IRN)</b> in it, may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice</i>”.</p> <p>3. A conjoint reading of rules 138A (1) and 138A (2) of CGST Rules, 2017 clearly indicates that there is no requirement to carry the physical copy of tax invoice in cases where e-invoice has been generated by the supplier. After amendment, the revised rule 138A (2) states in unambiguous words that whenever einvoice has been generated, the Quick Reference (QR) code, having an embedded <b>Invoice Reference Number (IRN)</b> in it, may be produced electronically for verification by the proper officer <b>in lieu of the physical copy of such tax invoice</b>.</p> <p>4. Accordingly, it is clarified that there is no need to carry the physical copy of tax invoice in cases where invoice has been generated by the supplier in the manner prescribed under rule 48(4) of the CGST Rules and production of the Quick Response (QR) code having an embedded <b>Invoice Reference Number (IRN)</b> electronically, for verification by the proper officer, would suffice</p>
3.	Whether the first proviso to section 54(3) of CGST / SGST Act, prohibiting refund of	<p>1. The term ‘<b>subjected to export duty</b>’ used in first proviso to section 54(3) of the CGST Act, 2017 means where the goods are</p>

	<p>unutilized ITC is applicable in case of exports of goods which are having NIL rate of export duty.</p>	<p>actually leviable to export duty and suffering export duty at the time of export. Therefore, goods in respect of which either NIL rate is specified in Second Schedule to the Customs Tariff Act, 1975 or which are fully exempted from payment of export duty by virtue of any customs notification or which are not covered under Second Schedule to the Customs Tariff Act, 1975, cannot be considered to be subjected to any export duty under Customs Tariff Act, 1975.</p> <p>2. <b>Accordingly, it is clarified that only those goods which are actually subjected to export duty i.e., on which some export duty has to be paid at the time of export, will be covered under the restriction imposed under section 54(3) from availment of refund of accumulated ITC.</b></p> <p>3. <b>Goods, which are not subject to any export duty and</b> in respect of which either NIL rate is specified in Second Schedule to the Customs Tariff Act, 1975 or which are fully exempted from payment of export duty by virtue of any customs notification or which are not covered under Second Schedule to the Customs Tariff Act, 1975, <b>would not be covered by the restriction imposed under the first proviso to section 54(3) of the CGST Act for the purpose of availment of refund of accumulated ITC.</b></p>
--	---	--

For further details please visit: [https://www.cbic.gov.in/resources/htdocs-cbec/gst/Circular%20No.%20160 14 2021 GST.pdf](https://www.cbic.gov.in/resources/htdocs-cbec/gst/Circular%20No.%20160%2014%202016%2014%202021%20GST.pdf)

\*\*\*\*\*

## Lesson 15-Procedural Compliance under GST

### 1. Exclusion of government departments and local authorities from the requirement of issuance of e-invoice

**Notification No. 23/2021 – Central Tax, dated June 01, 2021**

The Government makes the following further amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No.13/2020 – Central Tax, dated the 21st March, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 196(E), dated the 21st March, 2020, namely: —

In the said notification, in the first paragraph, after the words “notifies registered person, other than”, the words “a government department, a local authority,” shall be inserted.

#### **Brief Analysis**

This notification seeks to amend earlier Notification to exclude government departments and local authorities from the requirement of issuance of e-invoice.

**For further details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-23-central-tax-english-2021.pdf>**

### 2. Fifth Amendment, 2021 to the CGST Rules, 2017

**Notification No. 27/2021 – Central Tax, dated June 01, 2021**

The Government, on the recommendations of the Council, hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely: —

**1. Short title and commencement.** - (1) These rules may be called the Central Goods and Services Tax (Fifth Amendment) Rules, 2021.

(2) Save as otherwise provided in these rules, they shall come into force on the date of their publication in the Official Gazette.

#### **2. In the Central Goods and Services Tax Rules, 2017, —**

(i) in sub-rule (1) of rule 26, in the fourth proviso, with effect from the 31<sup>st</sup> day of May, 2021, for the figures, letters and words “31<sup>st</sup> day of May, 2021”, the figures, letters and words “31<sup>st</sup> day of August, 2021” shall be substituted;

(ii) in sub-rule (4) of rule 36, for the second proviso, the following proviso shall be substituted, namely: —

“Provided further that such condition shall apply cumulatively for the period April, May and June, 2021 and the return in **FORM GSTR-3B** for the tax period June, 2021 or quarter ending June, 2021, as the case may be, shall be furnished with the cumulative adjustment of input tax credit for

the said months in accordance with the condition above.”;

(iii) in sub-rule (2) of rule 59, after the first proviso, the following proviso shall be inserted, namely: —

“Provided further that a registered person may furnish such details, for the month of May, 2021, using IFF from the 1<sup>st</sup> day of June, 2021 till the 28<sup>th</sup> day of June, 2021.”.

### **Brief Analysis**

This notification seeks to make amendments (Fifth Amendment, 2021) to the CGST Rules, 2017. Rule 36(4) shall apply cumulatively for the period April, May & June 2021 and the return in FORM GSTR-3B for the tax period June, 2021 or quarter ending June, 2021 shall be furnished with the cumulative adjustment of input tax credit for the said months. The details using IFF for the month of May 2021 can be furnished from June 1, 2021 till June 28, 2021.

**For further details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-27-central-tax-english-2021.pdf>**

### **3. Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices**

**Circular No. 156/12/2021 – GST, dated June 21, 2021**

Notification No. 14/2020-Central Tax, dated 21st March 2020 had been issued which requires Dynamic QR Code on B2C invoice issued by taxpayers having aggregate turnover more than 500 crore rupees, w.e.f. 01.12.2020. Further, penalty has been waived for non-compliance for the period from 01st December, 2020 to 30th June, 2021, subject to the condition that the said person complies with the provisions of the said notification from 1st July, 2021. Any person, who has obtained a Unique Identity Number (UIN) as per the provisions of Section 25(9) 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.

**For further details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/gst/156-12-2021%20GST%20Circular.pdf>**

### **4. Provisions of Section 110 and 111 of the Finance Act, 2021 made applicable**

**Notification No. 29/2021 – Central Tax, dated July 30, 2021**

This notification seeks to notify section 110 and 111 of the Finance Act, 2021 w.e.f. August 01, 2021. Section 110 omits section 35(5) of CGST Act which means GST Audit (GSTR-9C) by CA/CMA is no longer required and Section 111 substitutes section 44 (Annual return) of CGST Act, 2017.

**For further details please visit:**

<https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-29-central-tax-english-2021.pdf>

## **5. Central Goods and Services Tax (Sixth Amendment) Rules, 2021**

**Notification No. 30/2021 – Central Tax, dated July 30, 2021**

The Government, on the recommendations of the Council, hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely:-

**1. Short title and commencement.** - (1) These rules may be called the Central Goods and Services Tax (Sixth Amendment) Rules, 2021.

(2) They shall come into force from the 1st day of August, 2021.

**2.** In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), for rule 80, the following rule shall be substituted, namely: -

**“80. Annual return.**- (1) Every registered person, other than those referred to in the second proviso to section 44, 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 for every financial year as specified under section 44 electronically in **FORM GSTR-9** on or before the thirty-first day of December following the end of such financial year through the common portal either directly or through a Facilitation Centre notified by the Commissioner:

Provided that a person paying tax under section 10 shall furnish the annual return in **FORM GSTR-9A**.

(2) Every electronic commerce operator required to collect tax at source under section 52 shall furnish annual statement referred to in sub-section (5) of the said section in **FORM GSTR - 9B**.

(3) Every registered person, other than those referred to in the second proviso to section 44, an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, whose aggregate turnover during a financial year exceeds five crore rupees, shall also furnish a self-certified reconciliation statement as specified under section 44 in **FORM GSTR-9C** along with the annual return referred to in sub-rule (1), on or before the thirty-first day of December following the end of such financial year, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.”.

### **Brief Analysis**

This notification seeks to amend Rule 80 of the CGST Rules, 2017 and notify Form GSTR 9 and 9C for FY 2020-21. Rule 80 provides for exemption from GSTR-9C to taxpayers having Annual Aggregate Turnover (AATO) upto Rs. 5 crores.

**For further details please visit:**

<https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-30-central-tax-english-2021.pdf>

## **6. Central Goods and Services Tax (Seventh Amendment) Rules, 2021**

**Notification No. 32/2021 – Central Tax, dated August 29, 2021**

The Government, on the recommendations of the Council, hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely: —

**1. Short title and commencement.** - (1) These rules may be called the Central Goods and Services Tax (Seventh Amendment) Rules, 2021. (2) Save as otherwise provided in these rules, they shall come into force on the date of their publication in the Official Gazette.

**2. In the Central Goods and Services Tax Rules, 2017, —**

(i) in sub-rule (1) of rule 26, -

(a) in the fourth proviso, for the figures, letters and words “31st day of August, 2021”, the figures, letters and words “31st day of October, 2021” shall be substituted;

(b) with effect from the 1 st day of November, 2021, all the provisos shall be omitted;

(ii) with effect from the 1st day of May, 2021, in rule 138E, after the fourth proviso, the following proviso shall be inserted, namely: -

“Provided also that the said restriction shall not apply during the period from the 1 st day of May, 2021 till the 18th day of August, 2021, in case where the return in FORM GSTR-3B or the statement of outward supplies in FORM GSTR-1 or the statement in FORM GST CMP-08, as the case may be, has not been furnished for the period March, 2021 to May, 2021.”;

(iii) in FORM GST ASMT-14, -

(a) after the words, “with effect from -----”, the words, “vide Order Reference No. -----, dated -----” shall be inserted;

(b) the words, “for conducting business without registration despite being liable for registration” shall be omitted;

(c) at the end after “Designation”, the word “Address” shall be inserted.

### **Brief Analysis**

The filing of Form GSTR 3B & GSTR 1/IFF by companies using Electronic Verification Code (EVC), instead of Digital Signature Certificate (DSC) has already been enabled for the period from April 27, 2021 to August 31, 2021. The said period has been further extended to October 31, 2021.

**For further details please visit:**

<https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-32-central-tax-english-2021.pdf>

**7. Notification to make amendments (Eighth Amendment, 2021) to the CGST Rules, 2017**

**Notification No. 35/2021 – Central Tax, dated September 24, 2021**

In the Central Goods and Services Tax Rules, 2017, — (1) In rule 10A of the said rules, with effect from the date as may be notified, -

(a) after the words “details of bank account”, the words “which is in name of the registered person and obtained on Permanent Account Number of the registered person” shall be inserted;

(b) the following proviso shall be inserted, namely:-

“Provided that in case of a proprietorship concern, the Permanent Account Number of the proprietor shall also be linked with the Aadhaar number of the proprietor.”

**For further details please visit:**

<https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-35-central-tax-english-2021.pdf>

**8. Clarification in respect of refund of tax specified in section 77(1) of the CGST Act and section 19(1) of the IGST Act**

**Circular No. 162/18/2021 – GST, dated September 25, 2021**

The refund under section 77 of CGST Act/ Section 19 of IGST Act, 2017 can be claimed before the expiry of two years from the date of payment of tax under the correct head, i.e. integrated tax paid in respect of subsequently held inter-State supply, or central and state tax in respect of subsequently held intra-State supply, as the case may be.

**For further details please visit:**

[https://www.cbic.gov.in/resources/htdocs-cbec/gst/Circular%20No.%20162\\_18\\_2021\\_GST.pdf](https://www.cbic.gov.in/resources/htdocs-cbec/gst/Circular%20No.%20162_18_2021_GST.pdf)

**9. Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of Notification 14/2020- Central Tax dated 21st March, 2020**

**Circular No. 165/21/2021 – GST, dated November 17, 2021**

The Entry at S. No. 4 of the Circular No. 156/12/2021-GST dated 21st June, 2021 is substituted as below:

4.	" In cases, where receiver of services is located outside India, and payment is being received by the supplier of services ,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	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 convertible foreign exchange or in Indian Rupees wherever permitted by the RBI, such
----	---	---



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?	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."
---	--

**For further details please visit:**

<https://www.cbic.gov.in/resources//htdocs-cbec/gst/circular-final-165-21-2021.pdf>

**10. Circular on Clarification on refund related issues (Circular No. 166/22/2021- GST dated November 17, 2021)**

S. No.	Issue	Clarification
1.	Whether the provisions of subsection (1) of section 54 of the CGST Act regarding time period, within which an application for refund can be filed, would be applicable in cases of refund of excess balance in electronic cash ledger?	No, the provisions of sub-section (1) of section 54 of the CGST Act regarding time period, within which an application for refund can be filed, would not be applicable in cases of refund of excess balance in electronic cash ledger.
2.	Whether certification/ declaration under Rule 89(2)(l) or 89(2)(m) of CGST Rules, 2017 is required to be furnished along with the application for refund of excess balance in electronic cash ledger?	No, furnishing of certification/ declaration under Rule 89(2)(l) or 89(2)(m) of the CGST Rules, 2017 for not passing the incidence of tax to any other person is not required in cases of refund of excess balance in electronic cash ledger as unjust enrichment clause is not applicable in such cases.

**For further details please visit:**

<https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-166-22-2021-GST.pdf>

\*\*\*\*\*

## **Lesson 16-Basic overview on Integrated Goods and Service Tax (IGST), Union Territory Goods and Services Tax**

### **1. Change of place of supply for B2B MRO services**

**Notification No. 03/2021 – Integrated Tax, dated June 02, 2021**

This notification seeks to amend earlier Notification of Integrated Tax dated September 30, 2019 to change the place of supply for B2B MRO services in case of Shipping industry, to the location of the recipient.

**For further details please visit:**

<https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-3-2021-igst-english.pdf;jsessionid=B2D877EC2CEDE4B15FFDE49181DC4E05>

### **2. Clarification relating to export of services-condition (v) of section 2(6) of the IGST Act 2017**

**Circular No. 161/17/2021 – GST, dated September 20, 2021**

Supply of services made by a branch or an agency or representational office of a foreign company, not incorporated in India, to any establishment of the said foreign company outside India, shall be treated as supply between establishments of distinct persons and shall not be considered as “export of services” in view of condition (v) of section 2(6) of IGST Act.

Similarly, any supply of service by a company incorporated in India to its branch or agency or representational office, located in any other country and not incorporated under the laws of the said country, shall also be considered as supply between establishments of distinct persons and cannot be treated as export of services.

**For further details please visit:**

[https://www.cbic.gov.in/resources/htdocs-cbec/gst/Circular%20No.%20161\\_14\\_2021\\_GST.pdf](https://www.cbic.gov.in/resources/htdocs-cbec/gst/Circular%20No.%20161_14_2021_GST.pdf)

\*\*\*\*\*