



**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
PROFESSIONAL PROGRAMME**

for

December, 2022 Examination

ADVANCED TAX LAWS

(PART I – INDIRECT TAXES)

MODULE 1

PAPER 2

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.

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Note: Students are also required to update themselves on all the relevant Rules, Notifications, Circulars, Clarifications, etc. issued by the CBIC on or before 31st May, 2022 pertaining to GST and Customs Act, 1962.

Lesson 2

Supply

1. Special composition scheme for Brick Kilns

Notification No. 03/2022- Central Tax and Notification No. 04/2022 –Central Tax dated March 31, 2022

These notifications seeks to amend notification no. 10/2019-Central Tax and notification no. 14/2019-Central Tax dated March 07, 2019 to implement special composition scheme for Brick Kilns, as recommended by 45th Goods and Services Tax Council meeting. In the said notification, in the Table, after serial number 3 and the entries relating thereto, the following serial numbers and entries shall be inserted, namely: -

“4.	6815	Fly ash bricks or fly ash aggregate with 90 per cent. or more fly ash content; Fly ash blocks
5.	6901 00 10	Bricks of fossil meals or similar siliceous earths
6.	6904 10 00	Building bricks
7.	6905 10 00	Earthen or roofing tiles”.

This notification shall come into force on the 1st day of April, 2022

Brief Analysis

As per the notification, Building bricks, Earthen or roofing tiles, fly ash bricks and blocks, bricks of fossil meals can opt for a composition scheme to pay a 6 per cent GST without Input Tax Credit (ITC). Those who do not wish to opt for the composition scheme would be subject to 12 per cent Goods and Services Tax (GST) with Input Tax Credit (ITC). This notification came in to effect from April 01, 2022.

For further details please visit:

<https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-03-central-tax-english-2022.pdf>

<https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-04-central-tax-english-2022.pdf>

Lesson 3

Input Tax Credit and Computation of GST Liability

1. Central Goods and Services Tax (Tenth Amendment) Rules, 2021

Notification No. 40/2021- Central Tax dated December 29, 2021

The Central 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 (Tenth 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 rule 36, for sub-rule (4), the following sub-rule shall be substituted, with effect from the 1st day of January, 2022, namely: -

“(4) No input tax credit shall be availed by a registered person in respect of invoices or debit notes the details of which are required to be furnished under subsection (1) of section 37 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 sub-rule (7) of rule 60.”;

(ii) in rule 80,—

(a) after sub-rule (1), the following sub-rule shall be inserted, namely:- —

“(1A) Notwithstanding anything contained in sub-rule (1), for the financial year 2020-2021 the said annual return shall be furnished on or before the twenty-eighth day of February, 2022.”;

(b) after sub-rule (3), the following sub-rule shall be inserted, namely:- —

“(3A) Notwithstanding anything contained in sub-rule (3), for the financial year 2020-2021 the said self-certified reconciliation statement shall be furnished along with the said annual return on or before the twenty-eighth day of February, 2022.”;

(iii) in rule 95, in sub-rule (3), after clause (c), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2021, namely:- —

“Provided that where Unique Identity Number of the applicant is not mentioned in a tax invoice, the refund of tax paid by the applicant on such invoice shall be available only if the copy of the invoice, duly attested by the authorized representative of the applicant, is submitted along with the refund application in **FORM GST RFD-10.**”;

(iv) in rule 142, with effect from the 1st day of January, 2022,–

(a) in sub-rule (3), for the words and letters, “fourteen days of detention or seizure of the goods and conveyance”, the words, brackets and figures, “seven days of the notice issued under sub-section (3) of Section 129 but before the issuance of order under the said sub-section (3)” shall be substituted;

(b) in sub-rule (5), for the words, “tax, interest and penalty payable by the person chargeable with tax”, the words, “tax, interest and penalty, as the case may be, payable by the person concerned” shall be substituted;

(v) after rule 144, the following rule shall be inserted with effect from the 1st day of January, 2022, namely:-

“Recovery of penalty by sale of goods or conveyance detained or seized in transit.- 144A. (1) Where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under sub-section (1) of section 129 within fifteen days from the date of receipt of the copy of the order passed under sub-section (3) of the said section 129, the 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 or conveyance:

Provided that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer.

(2) The said goods or conveyance shall be sold through a process of auction, including e-auction, for which a notice shall be issued in **FORM GST DRC 10** clearly indicating the goods or conveyance to be sold and the purpose of sale:

Provided that where the person transporting said goods or the owner of such goods pays the amount of penalty under sub-section (1) of section 129, including any expenses incurred in safe custody and handling of such goods or conveyance, after the time period mentioned in sub-rule (1) but before the issuance of notice under this sub-rule, the proper officer shall cancel the process of auction and release such goods or conveyance.

(3) The last day for submission of bid or the date of auction shall not be earlier than fifteen days from the date of issue of the notice referred to in sub-rule (2):

Provided that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer.

(4) The proper officer may specify the amount of pre-bid deposit to be furnished in the manner specified by such officer, to make the bidders eligible to participate in the auction, which may be returned to the unsuccessful bidders, forfeited in case the successful bidder fails to make the payment of the full amount, as the case may be.

(5) The proper officer shall issue a notice to the successful bidder in **FORM GST DRC-11** requiring him to make the payment within a period of fifteen days from the date of auction:

Provided that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer.

(6) On payment of the full bid amount, the proper officer shall transfer the possession and ownership of the said goods or conveyance to the successful bidder and issue a certificate in **FORM GST DRC-12**.

(7) The proper officer shall cancel the process and proceed for re-auction where no bid is received or the auction is considered to be non-competitive due to lack of adequate participation or due to low bids.

(8) Where an appeal has been filed by the person under the provisions of subsection (1) read with sub-section (6) of section 107, 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.”;

(vi) for rule 154, the following rule shall be substituted with effect from the 1st day of January, 2022, namely:–

”Disposal of proceeds of sale of goods or conveyance and movable or immovable property.–

154. (1) The amounts so realised from the sale of goods or conveyance, movable or immovable property, for the recovery of dues from a defaulter or for recovery of penalty payable under sub-section (3) of section 129 shall,-

(a) first, be appropriated against the administrative cost of the recovery process;

(b) next, be appropriated against the amount to be recovered or to the payment of the penalty payable under sub-section (3) of section 129, as the case may be;

(c) next, be appropriated against any other amount due from the defaulter under the Act or the Integrated Goods and Services Tax Act, 2017 or the Union Territory Goods and Services Tax Act, 2017 or any of the State Goods and Services Tax Act, 2017 and the rules made thereunder; and

(d) the balance, if any, shall be credited to the electronic cash ledger of the owner of the goods or conveyance as the case may be, in case the person is registered under the Act, and where the said person is not required to be registered under the Act, the said amount shall be credited to the bank account of the person concerned;

(2) 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 six months from the date of sale of such goods or conveyance or such further period as the proper officer may allow, such balance of sale proceeds shall be deposited with the Fund; `

(vii) in rule 159, with effect from the 1st day of January, 2022,–

(a) in sub-rule (2)-

(A) after the words “copy of the order of attachment”, the words, letters and figures —”in **FORM GST DRC-22**” shall be inserted;

(B) after the words “Commissioner to that effect”, the words and figures, “and a copy of such order shall also be sent to the person whose property is being attached under section 83” shall be inserted;

(b) in sub-rule (3)-

(A) for the words “and if the taxable person”, the word “and if the person, whose property has been attached,” shall be substituted;

(B) for the words “by the taxable person”, the words, “by such person” shall be substituted;

(c) in sub-rule (4), for the words “the taxable person” occurring at both the places, the words “such person”

shall be substituted;

(d) in sub-rule (5), for the words brackets and figure —, within seven days of the attachment under sub-rule (1), file an objection, the words, letters and figures “file an objection in **FORM GST DRC-22A**” shall be substituted;

Brief Analysis

Rule 36(4) of Central Goods and Services Tax Rules, 2017 shall be substituted, with effect from January 01, 2022, to provide that Input Tax Credit shall not be available to the registered person unless such invoices/debit notes have been reflected in GSTR-2B of the said person.

Rule 95 has been amended to provide that where Unique Identity Number of the applicant is not mentioned in a tax invoice, the refund of tax paid by the applicant on such invoice shall be available only if the copy of the invoice, duly attested by the authorized representative of the applicant, is submitted along with the refund application in FORM GST RFD-10.

For further details please visit:

<https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-40-central-tax-english-2021.pdf>

Lesson 4

Procedural Compliance under GST

1. Central Goods and Services Tax (Ninth Amendment) Rules, 2021

Notification No. 37/2021- Central Tax dated December 01, 2021

The Central 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 (Ninth 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 rule 137, with effect from the 30th day of November 2021, for the words “four years”, the words “five years” shall be substituted.

(ii) in FORM GST DRC-03, —

(a) in the heading, after the words “or statement”, the words, letters and figures “or intimation of tax ascertained through FORM GST DRC-01A” shall be inserted;

(b) against item 3, in column (3), for the word and letters “Audit, investigation, voluntary, SCN, annual return, reconciliation statement, others (specify)”, the words, letters, figures and brackets “Audit, inspection or investigation, voluntary, SCN, annual return, reconciliation statement, scrutiny, intimation of tax ascertained through FORM GST DRC-01A, Mismatch (Form GSTR-1 and Form GSTR-3B), Mismatch (Form GSTR-2B and Form GSTR-3B), others (specify)” shall be substituted;

(c) against item 5, in column (1), after the word and figures “within 30 days of its issue”, the words, letters, figures and brackets “, scrutiny, intimation of tax ascertained through Form GST DRC01A, audit, inspection or investigation, others (specify)” shall be inserted;

(d) for the table, under serial number 7, for the table, the following table shall be substituted, namely:-

“Sr. No	Tax Period	Act	Place of supply (POS)	Tax/ Cess	Interest	Penalty, if applicable	Fee	Others	Total	Ledger utilised (Cash / Credit)	Debit entry no	Date of debit entry
.	0.	1.	2.	3.
												”.

Brief Analysis

With effect from November 30, 2021, Rule 137 of the CGST Rules, 2017 has been amended to extend the

tenure of National Anti-Profitteering Authority from existing 4 years to 5 years. Amendments have been made in Form GST DRC-03. The heading of the Form has been changed as under: “Intimation of payment made voluntarily or made against the SCN or statement or intimation of tax ascertained through FORM GST DRC-01A”. The causes of payment in item no. 3 have been expanded. The drop-down list provides “Audit, inspection or investigation, voluntary, SCN, annual return, reconciliation statement, scrutiny, intimation of tax ascertained through FORM GST DRC-01A, Mismatch (Form GSTR-1 and Form GSTR-3B), Mismatch (Form GSTR-2B and Form GSTR-3B), others (specify)”. Item no. 5 which require to provide the “details of SCN, if payment is made within 30 days of its issue” has been amended to further include “scrutiny, intimation of tax ascertained through Form GST DRC-01A, audit, inspection or investigation, others (specify)”. A separate column mentioning “Fee” has been inserted in the table of serial No. 7 which requires the details of payments made.

For further details please visit:

<https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-37-central-tax-english-2021.pdf>

2. Mandatory Aadhaar authentication for GST Refund and revocation application

Notification No. 38/2021 – Central Tax dated December 21, 2021

This notification seeks to bring sub-rule (2) and sub-rule (3), clause (i) of sub-rule (6) and sub-rule (7) of rule 2 of the Central Goods and Services Tax (Eighth Amendment) Rules, 2021 into force w.e.f. January 01, 2022.

Brief Analysis

As per this notification Aadhaar authentication is mandatory for GST refund and revocation application.

For further details please visit:

<https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-38-central-tax-english-2021.pdf>

3. Government notifies Sections 108, 109 and 113 to 122 of Finance Act, 2021

Notification No. 39/2021 – Central Tax dated December 21, 2021

This notification seeks to notify January 01, 2022 as the date on which provisions of section 108, 109 and 113 to 122 of the Finance Act, 2021 shall come into force.

Brief Analysis

The provisions of Finance Act, 2021 which amends CGST Act, 2017 are notified w.e.f. January 01, 2022. New clause (aa) is added in Section 7 of CGST Act, 2017 which defines scope of supply. New clause (aa) is also added in Section 16(2) of CGST Act, 2017 which states that Input Tax Credit can be claimed only if it appears in GSTR-2B.

For further details please visit:

<https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-39-central-tax-english-2021.pdf>

4. Reporting of supplies notified under section 9(5) / 5(5) by E-commerce Operator in GSTR-3B (January 04, 2022)

The tax on supplies of restaurant service supplied through e-commerce operators, shall be paid by the ecommerce operator with effect from the January 01, 2022. E-commerce operator and registered person would report taxable supplies notified under section 9(5) of CGST Act, 2017 and similar provisions in

IGST/SGST/UTGST Act in the following manner.

Supplies reported by	Reporting in Form GSTR-3B
Supplies under 9(5) reported by ECO	Table 3.1(a) of GSTR-3B
Registered person/Restaurant supplying through ECO	Table 3.1(c) along-with nil and exempted supply

For further details please visit:

<https://www.gst.gov.in/newsandupdates/read/516>

5. Deployment of Interest Calculator in GSTR-3B (January 26, 2022)

The new functionality of interest calculator in GSTR-3B will facilitate & assist the taxpayers in doing selfassessment. This functionality will arrive at the system computed interest on the basis of the tax liability values declared by the taxpayers, along with the details about the period to which it pertains. The interest applicable, if any, will be computed after the filing of the said GSTR-3B and will be autopopulated in the Table-5.1 of the GSTR3B of the next tax-period. The facility would be similar to the collection of Late fees for GSTR-3B, filed after the Due date, posted in the next period's GSTR-3B. This functionality will inform the taxpayers about the manner of system computed interest for each taxhead and hence will assist the taxpayers in doing correct computation of interest for the tax liability of any past period declared in the GSTR-3B for the current tax period.

For further details please visit:

<https://www.gst.gov.in/newsandupdates/read/520>

6. E-invoicing will be mandatory for taxpayers whose aggregate turnover is more than Rs. 20 crores

Notification No. 01/2022- Central Tax dated February 24, 2022

E-invoicing is now mandatory for registered persons having aggregate turnover above Rs. 20 crores in any of the previous years from 2017-18 till 2021- 22 with effect from April 01, 2022. The existing limit of Rs. 50 crores has been reduced to Rs. 20 crores.

For further details please visit:

<https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-01-central-tax-english-2022.pdf>

Lesson 6

Inspection, search, seizure, offences and penalties

1. Appointment of Common Adjudicating authority for adjudicating the show cause notices issued by DGGI under GST

Notification No. 02/2022- Central Tax dated March 11, 2022

CBIC has issued a notification for delegating powers to Additional Commissioner (AC) or Joint Commissioner (JC) of Central Tax for passing an order or decision in relation to notices issued by officers of Director General of Goods and Services Tax Intelligence (DGGSTI). The specified AC or JC of Central Tax shall be vested with powers for passing an order or decision in respect of notices issued by the officers of DGGSTI under sections 67, 73, 74, 76, 122, 125, 127, 129 and 130 of Central Goods and Services Tax Act 2017. The officers (Additional Commissioner or Joint Commissioner), as the case may be, who are subordinate to the specified Principal Commissioner /Commissioner of Central Tax have been given this power to adjudicate and such power shall be exercisable throughout the territory of India

For further details please visit:

<https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-02-central-tax-english-2022.pdf>

2. Proper officer under sections 73 and 74 of the Central Goods and Services Tax Act, 2017 and under the Integrated Goods and Services Tax Act, 2017

Circular No. 169/01/2022- GST dated March 12, 2022

The Central Tax officers of Audit Commissionerates and Directorate General of Goods and Services Tax Intelligence (hereinafter referred to as “DGGI”) shall exercise the powers only to issue show cause notices. A show cause notice issued by them shall be adjudicated by the competent Central Tax officer of the executive Commissionerate in whose jurisdiction the noticee is registered when such cases pertain to jurisdiction of one executive Commissionerate of Central Tax only.

For further details please visit:

<https://www.cbic.gov.in/resources/htdocs-cbec/gst/Circular-169-2022-GST.pdf>

Lesson 8

Integrated 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

Lesson 9

Union Territory Goods and Services Tax (UTGST)

1. Mechanism for filing of refund claim by the taxpayers registered in erstwhile Union Territory of Daman & Diu for period prior to merger with U.T. of Dadra & Nagar Haveli

Circular No. 168/24/2021- GST dated December 30, 2021

New GSTINs with UT Code 26 were created for the taxpayers of erstwhile UT of Daman and Diu w.e.f August 01, 2020 on merger of the UT of Dadra & Nagar Haveli and UT of Daman & Diu. During the transition, the taxpayers have transferred their ITC balance from their electronic credit ledger of the old GSTIN (by reversing the balance amount available in electronic credit ledger through the last return in FORM GSTR 3B filed for the old GSTIN prior to merger) to the new GSTIN (by availing the ITC for the said amount in the first return in FORM GSTR 3B filed for the new GSTIN) as per procedure specified under Notification No. 10/2020-CT dated 21.03.2020.

The application for refund shall be filed under 'Any other' category on the GST portal using their 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. For example, if the applicant wants to claim refund of unutilised ITC on account of export of goods/services, in remarks column, he shall enter 'Refund of unutilised ITC on account of export of goods/services without payment of tax for the period prior to merger of Daman & Diu with Dadra & Nagar Haveli'. The application shall be accompanied by all the supporting documents which otherwise are required to be submitted with the refund claim.

For further details please visit:

<https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-168-2021-GST.pdf>

Lesson 11

Industry/Sector Specific Analysis

1. GST on service supplied by restaurants through e-commerce operators

Circular No. 167/23/2021- GST dated December 17, 2021

The GST Council in its 45th meeting held on 17th September, 2021 recommended to notify 'Restaurant Service' under section 9(5) of the CGST Act, 2017. Accordingly, the tax on supplies of restaurant service supplied through e-commerce operators shall be paid by the e-commerce operator. In this regard notification No. 17/2021 dated 18.11.2021 has been issued.

Sl No	Issue	Clarification
1.	Would ECOs have to still collect TCS in compliance with section 52 of the CGST Act, 2017?	<p>As 'restaurant service' has been notified under section 9(5) of the CGST Act, 2017, the ECO shall be liable to pay GST on restaurant services provided, with effect from the 1st January, 2022, through ECO. Accordingly, the ECOs will no longer be required to collect TCS and file GSTR 8 in respect of restaurant services on which it pays tax in terms of section 9(5).</p> <p>On other goods or services supplied through ECO, which are not notified u/s 9(5), ECOs will continue to pay TCS in terms of section 52 of CGST Act, 2017 in the same manner at present.</p>
2.	Would ECOs have to mandatorily take a separate registration w.r.t supply of restaurant service [notified under 9(5)] through them even though they are registered to pay GST on services on their own account?	As ECOs are already registered in accordance with rule 8 (in Form GST-REG 01) of the CGST Rules, 2017 (as a supplier of their own goods or services), there would be no mandatory requirement of taking separate registration by ECOs for payment of tax on restaurant service under section 9(5) of the CGST Act, 2017.
3.	Would the ECOs be liable to pay tax on supply of restaurant service made by unregistered business entities?	Yes. ECOs will be liable to pay GST on any restaurant service supplied through them including by an unregistered person.

4.	What would be the aggregate turnover of person supplying 'restaurant service' through ECOs?	It is clarified that the aggregate turnover of person supplying restaurant service through ECOs shall be computed as defined in section 2(6) of the CGST Act, 2017 and shall include the aggregate value of supplies made by the restaurant through ECOs. Accordingly, for threshold consideration or any other purpose in the Act, the person providing restaurant service through ECO shall account such services in his aggregate turnover.
5.	Can the supplies of restaurant service made through ECOs be recorded as inward supply of ECOs (liable to reverse charge) in GSTR 3B?	No. ECOs are not the recipient of restaurant service supplied through them. Since these are not input services to ECO, these are not to be reported as inward supply (liable to reverse charge).
6.	Would ECOs be liable to reverse proportional input tax credit on his input goods and services for the reason that input tax credit is not admissible on 'restaurant service'?	<p>ECOs provide their own services as an electronic platform and an intermediary for which it would acquire inputs/input service on which ECOs avail input tax credit (ITC). The ECO charges commission/fee etc. for the services it provides. The ITC is utilised by ECO for payment of GST on services provided by ECO on its own account (say, to a restaurant). The situation in this regard remains unchanged even after ECO is made liable to pay tax on restaurant service. ECO would be eligible to ITC as before. Accordingly, it is clarified that ECO shall not be required to reverse ITC on account of restaurant services on which it pays GST in terms of section 9(5) of the Act.</p> <p>It may also be noted that on restaurant service, ECO shall pay the entire GST liability in cash (No ITC could be utilised for payment of GST on restaurant service supplied through ECO)</p>
7.	Can ECO utilize its Input Tax Credit to pay tax w.r.t 'restaurant service' supplied through the ECO?	No. As stated above, the liability of payment of tax by ECO as per section 9(5) shall be discharged in cash.
8.	Would supply of goods or services other than 'restaurant service' through ECOs be taxed at 5% without ITC?	<p>ECO is required to pay GST on services notified under section 9(5), besides the services/other supplies made on his own account.</p> <p>On any supply that is not notified under section 9(5), that is supplied by a person through ECO, the liability to pay GST continues on such supplier and ECO shall continue to pay TCS on such supplies.</p> <p>Thus, present dispensation continues for ECO, on supplies other than restaurant services. On such supplies (other than restaurant services made through ECO) GST will continue to be billed, collected and deposited in the same manner as is being done at present. ECO will deposit TCS on such supplies.</p>

9.	Would 'restaurant service' and goods or services other than restaurant service sold by a restaurant to a customer under the same order be billed differently? Who shall be liable for raising invoices in such cases?	Considering that liability to pay GST on supplies other than 'restaurant service' through the ECO, and other compliances under the Act, including issuance of invoice to customer, continues to lie with the respective suppliers (and ECOs being liable only to collect tax at source (TCS) on such supplies), it is advisable that ECO raises separate bill on restaurant service in such cases where ECO provides other supplies to a customer under the same order.
10.	Who will issue invoice in respect of restaurant service supplied through ECO - whether by the restaurant or by the ECO?	The invoice in respect of restaurant service supplied through ECO under section 9(5) will be issued by ECO.
11.	Clarification may be issued as regard reporting of restaurant services, value and tax liability etc in the GST return.	<p>A number of other services are already notified under section 9(5). In respect of such services, ECO operators are presently paying GST by furnishing details in GSTR 3B.</p> <p>The ECO may, on services notified under section 9 (5) of the CGST Act,2017, including on restaurant service provided through ECO, may continue to pay GST by furnishing the details in GSTR 3B, reporting them as outward taxable supplies for the time being.</p> <p>Besides, ECO may also, for the time being, furnish the details of such supplies of restaurant services under section 9(5) in Table 7A(1) or Table 4A of GSTR-1, as the case maybe, for accounting purpose.</p> <p>Registered persons supplying restaurant services through ECOs under section 9(5) will report such supplies of restaurant services made through ECOs in Table 8 of GSTR-1 and Table 3.1 (c) of GSTR-3B, for the time being.</p>

For further details please visit:

<https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular-167-2021-GST.pdf>

Lesson 12

Basic Concepts of Customs Law

1. Clarification regarding applicability of Social Welfare Surcharge on goods exempted from basic and other customs duties / cesses

Circular No. 03/2022 - Customs dated February 01, 2022

Social Welfare Surcharge (SWS) is levied and collected, as a duty of customs, and is calculated at the rate of 10% on the aggregate of duties, taxes and cesses which are levied and collected by the Central Government as a duty of customs on goods imported into India.

It may be noted that at present SWS applies at the rate of 10% of the aggregate of customs duties payable on import of goods and not on the value of imported goods. If aggregate customs duty payable is zero on account of an exemption, the SWS shall be computed as 10% of value equal to 'Nil' (as aggregate amount of customs duties payable is zero). Law does not require computation of SWS on a notional customs duty calculated at tariff rate where applicable aggregate of duties of customs is zero. It is clarified that the amount of Social Welfare Surcharge payable would be 'Nil' in cases where the aggregate of customs duties (which form the base for computation of SWS) is zero even though SWS has not been exempted.

For further details please visit:

<https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2022/Circular-No-03-2022.pdf>

Lesson 13

Valuation & Assessment of Imported and Export Goods & Procedural Aspects

1. Shipping Bill (Post export conversion in relation to instrument based scheme) Regulations, 2022
Notification No. 11/2022 - Customs (N.T.) dated February 22, 2022

Shipping Bill (Post export conversion in relation to instrument based scheme) Regulations, 2022 shall apply to shipping bills or bills of export filed on or after the date of publication of these regulations in the Official Gazette. The application for conversion shall be filed in writing within a period of one year from the date of order for clearance of goods under sub-section (1) of section 51 or section 69 of the Act.

For further details please visit:

<https://egazette.nic.in/WriteReadData/2022/233661.pdf>
