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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 (NEW SYLLABUS)

for

June, 2021 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.

Students appearing in June, 2021 Examination shall note the following:

1. For Direct taxes, Finance Act, 2020 is applicable.
2. Applicable Assessment year is 2021-22 (Previous Year 2020-21).
3. For Indirect Taxes:
 - i) Goods and Services Tax 'GST' is applicable for Executive Programme (Old Syllabus)
 - ii) Goods and Services Tax 'GST' & Customs Law is applicable for Executive Programme (New Syllabus)
 - iii) Goods and Services Tax 'GST' & Customs Law is applicable for Professional Programme (Old Syllabus)
 - iv) Goods and Services Tax 'GST' & Customs Law is applicable for Professional Programme (New Syllabus)
4. Students are also required to update themselves on all the relevant Rules, Notifications, Circulars, Clarifications, etc. issued by the CBDT, CBIC & Central Government, on or before six months prior to the date of the examination.

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Lesson 1

An Overview on Goods and Services Tax ‘GST’

1. Exemption to satellite launch services provided by ISRO, Antrix Corporation Limited and NSIL

Notification No. 05/2020 – Central Tax (Rate), dated October 16, 2020

The Central Government in the public interest AND on the recommendations of the Council, makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.12/2017- Central Tax (Rate), dated June 28, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 691(E), dated the June 28, 2017, namely:—

In the said notification, in the Table, after serial number 19B and the entries relating thereto, the following shall be inserted, namely:-

“19C	9965	Satellite launch services supplied by Indian Space Research Organisation, Antrix Corporation Limited or New Space India Limited	Nil	Nil.”
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Brief Analysis

Satellite launch services supplied by Indian Space Research Organisation, Antrix Corporation Limited or New Space India Limited is exempted under GST.

For further details please visit: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-05-2020-cgst-rate-english.pdf>

Lesson 2

Supply

1. Quarterly Return Monthly Payment Scheme

Circular No. 143/13/2020 – Central Tax, dated November 10, 2020

As a trade facilitation measure and in order to further ease the process of doing business, the GST Council in its 42nd meeting held on October 05, 2020, had recommended that registered person having aggregate turnover up to five (5) crore rupees is allowed to furnish return on quarterly basis along with monthly payment of tax, with effect from January 01, 2021.

Government has issued following notifications to implement the Scheme of quarterly return filing along with monthly payment of taxes.

Sl No.	Notification	Remarks
1.	Notification No. 81/2020 – Central Tax, dated 10.11.2020.	Notifies amendment carried out in sub-section (1), (2) and (7) of section 39 of the CGST Act vide Finance (No.2) Act, 2019.
2.	Notification No. 82/2020 – Central Tax, dated 10.11.2020	Makes the Thirteenth amendment (2020) to the CGST Rules 2017.
3.	Notification No. 84/2020 – Central Tax, dated 10.11.2020.	Notifies class of persons under proviso to section 39(1) of the CGST Act.
4.	Notification No. 85/2020 – Central Tax dated 10.11.2020.	Notifies special procedure for making payment of tax liability in the first two months of a quarter

Brief Analysis

CBIC has introduced Quarterly Return Monthly Payment (QRMP) scheme under GST to help small taxpayers whose aggregate annual turnover is up to Rs. 5 crores in the preceding Financial Year 2019 - 20. The QRMP scheme allows the taxpayers to file Form GSTR-3B on a quarterly basis and pay tax every month. QRMP scheme is an optional scheme. The registered persons opting for the Scheme would be required to furnish the details of outward supply in Form GSTR-1 quarterly as per the Rule 59 of the CGST Rule.

For further details please visit: https://www.cbic.gov.in/resources//htdocs-cbec/gst/Circular_Refund_143_11_2020.pdf;jsessionid=87B395D423DA5A5FB4871B1DA4C5CD06

Lesson 3

Input Tax Credit and Computation of GST Liability

1. Notification on furnishing of returns

Notification No. 81/2020 – Central Tax, dated November 10, 2020

In exercise of the powers conferred by clause (b) of sub-section (2) of section 1 of the Finance (No. 2) Act, 2019 (23 of 2019), the Central Government hereby appoints the 10th day of November, 2020, as the date on which the provisions of section 97 of the said Act shall come into force.

Brief Analysis

From November 10, 2020 the new provisions of Section 39 of the Central Goods and Services Tax Act, 2017 has come into force. Section 39 of CGST Act deals with furnishing of returns.

For further details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-81-central-tax-english-2020.pdf;jsessionid=60B408F6B79F3347E6AFC00B87E0B4FF>

2. Notification to notify class of persons under proviso to section 39(1)

Notification No. 84/2020 – Central Tax, dated November 10, 2020

The Government, on the recommendations of the Council, has notified the registered persons, other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), having an aggregate turnover of up to five crore rupees in the preceding financial year, and who have opted to furnish a return for every quarter, under sub-rule (1) of rule 61A of the Central Goods and Services Tax Rules, 2017 as the class of persons who shall, subject to the following conditions and restrictions, furnish a return for every quarter from January, 2021 onwards, and pay the tax due every month in accordance with the proviso to sub-section (7) of section 39 of the said Act, namely: —

(i) the return for the preceding month, as due on the date of exercising such option, has been furnished:

(ii) where such option has been exercised once, they shall continue to furnish the return as per the selected option for future tax periods, unless they revise the same.

(2) A registered person whose aggregate turnover crosses five crore rupees during a quarter in a financial year shall not be eligible for furnishing of return on quarterly basis from the first month of the succeeding quarter.

Brief Analysis

This notification seeks to notify class of persons under proviso to section 39(1) of the CGST Act, 2017. Option to file quarterly returns is now available to taxpayers having aggregate annual turnover upto Rs. 5 Crores.

Section 39(1) of the CGST Act, 2017:

Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed:

Provided that, the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.

For further details please visit: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-84-central-tax-english-2020.pdf;jsessionid=BADC36CA193133330B2A9F90DED5BAB6>

Lesson 4

Procedural Compliance under GST

1. Notification to make eighth amendment (2020) to CGST Rules

Notification No. 58/2020 – Central Tax, dated July 01, 2020

Central Government, on the recommendations of the Council has notified the CGST (Eighth Amendment) Rules, 2020. This Notification details the manner of furnishing of return or details of outward supplies by Short Messaging Service (SMS) facility for a registered person who is required to furnish a NIL return under section 39 in FORM GSTR-3B or a NIL details of outward supplies under section 37 in FORM GSTR-1.

In the Central Goods and Services Tax Rules, 2017, for the rule 67A, the following rule has been substituted, namely:-

Manner of furnishing of return or details of outward supplies by short messaging service facility- Notwithstanding anything contained in this Chapter, for a registered person who is required to furnish a Nil return under section 39 in **FORM GSTR-3B** or a Nil details of outward supplies under section 37 in **FORM GSTR-1** for a tax period, any reference to electronic furnishing shall include furnishing of the said return or the details of outward supplies through a short messaging service using the registered mobile number and the said return or the details of outward supplies shall be verified by a registered mobile number based One Time Password facility.

Brief Analysis

Taxpayers can now file Nil return under section 39 in Form GSTR-3B or a Nil details of outward supplies under section 37 in Form GSTR-1, through an SMS, apart from filing it through online mode, on GST Portal. To file NIL returns (Form GSTR-1 and FORM GSTR-3B) through SMS, the taxpayer must fulfil following conditions:

- He must be registered as Normal taxpayer/ Casual taxpayer/ SEZ Unit / SEZ Developer.
- He must have valid Goods and Services Taxpayer Identification Number (GSTIN).
- Phone number of Authorized signatory must be registered on the GST Portal.
- No data should be in saved or submitted stage for Form GSTR-1 on the GST Portal, related to that respective month.

NIL Return in Form GSTR-3B or NIL Details in Form GSTR-1 can be filed anytime on or after the 1st of the subsequent month for which the return is to be filed. Taxpayer should have opted for the filing frequency as either monthly or quarterly. NIL Form GSTR-1 for a tax period must be filed by the taxpayer if:

- There are no Outward Supplies (including supplies on which tax is to be charged on reverse charge basis, zero rated supplies and deemed exports) during the month or quarter for which the return is being filed.
- No Amendments is to be made to any of the supplies declared in an earlier return.

- No Credit or Debit Notes to be declared/amended.
- No details of advances received for services to be declared or adjusted.

For further details please visit: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-58-central-tax-english-2020.pdf>

2. Notification to make Ninth Amendment (2020) to CGST Rules

Notification No. 60/2020 – Central Tax, dated July 30, 2020

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

1. (1) These rules may be called the Central Goods and Services Tax (Ninth Amendment) Rules, 2020.
- (2) They shall come into force on the date of their publication in the Official Gazette.

Brief Analysis

This Notification seeks to update the CGST Rules. Detailed scheme is provided to inform the substitution of Form GST INV – 01. Payee information has been made optional. A new format of e-invoice has been notified by CBIC adding more fields and removing some fields. Certain fields have undergone changes in character length as well.

For further details please visit: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-60-central-tax-english-2020.pdf>

3. Notification to make Tenth Amendment (2020) to CGST Rules

Notification No. 62/2020 – Central Tax, dated August 20, 2020

The Central Government, on the recommendations of the Council, has made 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, 2020.
(2) Save as otherwise provided, 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, in rule 8, for sub-rule (4A), the following sub-rule shall be substituted with effect from April 01, 2020, namely: -
“(4A) Where an applicant, other than a person notified under sub-section (6D) of section 25, opts for authentication of Aadhaar number, he shall, while submitting the application under sub-rule (4), with

effect from August 21, 2020, undergo authentication of Aadhaar number and the date of submission of the application in such cases shall be the date of authentication of the Aadhaar number, or fifteen days from the submission of the application in **Part B** of **FORM GST REG-01** under sub-rule (4), whichever is earlier.”.

Brief Analysis

CBIC has prescribed condition of Aadhaar authentication for registration. If a person do not go for Aadhaar authentication then he has to go for physical verification. While applying for registration, taxpayer has to opt to go for Aadhaar authentication or otherwise. If he opts for Aadhaar authentication, then application will be deemed to be filed from the date of authentication or 15 days of filing of application, whichever is earlier. If taxpayer does not opt for Aadhaar authentication, then physical verification will be conducted. However, one more option is given, that if joint Commissioner permits then verification of documents can be done. The time limit has also been prescribed wherein deemed registration will be granted, if the officer failed to take action within time limit prescribed.

For further details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-62-central-tax-english-2020.pdf;jsessionid=035155F89359C157EFF2F42A0FF1A37D>

4. Notification to include export invoices in E - invoicing

Notification No. 70/2020 – Central Tax, dated September 30, 2020

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

In the said notification, in the first paragraph, -

- (i) for the words “a financial year”, the words and figures “any preceding financial year from 2017-18 onwards” shall be substituted;
- (ii) after the words “goods or services or both to a registered person”, the words “or for exports” shall be inserted.

Brief Analysis

E-invoicing is applicable if the aggregate turnover is more than 500 crores in any of the last three Financial Years i.e. from 2017-18 onwards. It is also applicable for Export Invoices.

(Note: Central Government has made E-invoicing mandatory from January 01, 2021 for every taxpayer (other than SEZ unit) whose aggregate turnover exceeds Rs. 100 Crores in any of the financial year from 2017 – 18 as per Notification No. 88 – Central Tax, dated November 10, 2020.)

For further details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-70-central-tax-english-2020.pdf>

5. Notification to make Eleventh Amendment (2020) to CGST Rules

Notification No. 72/2020 – Central Tax, dated September 30, 2020

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

1. These rules may be called the Central Goods and Services Tax (Eleventh Amendment) Rules, 2020 and 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, in rule 46, after clause (q), the following clause shall be inserted, namely:-

“(r) Quick Reference code, having embedded Invoice Reference Number (IRN) in it, in case invoice has been issued in the manner prescribed under sub-rule (4) of rule 48.”

3. In the said rules, in rule 48, in sub-rule (4), the following proviso shall be inserted, namely:-

“Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt a person or a class of registered persons from issuance of invoice under this sub-rule for a specified period, subject to such conditions and restrictions as may be specified in the said notification.”

4. In the said rules, in rule 138A, for sub-rule (2), the following sub-rule shall be substituted, namely:-

“(2) In case, invoice is issued in the manner prescribed under sub-rule (4) of rule 48, the Quick Reference (QR) code having an embedded Invoice Reference Number (IRN) in it, may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice.”

Brief Analysis

This Notification seeks to make the Eleventh amendment (2020) to the CGST Rules. The Commissioner may, on the recommendations of the Council, by notification, exempt a person or a class of registered persons from issuance of e-invoice under this sub-rule for a specified period and Quick Response (QR) Code duly embedded with Invoice Reference Number (IRN) can be produced

for verification instead of physical copies, subject to such conditions and restrictions as may be specified in the said notification.

For further details please visit: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-72-central-tax-english-2020.pdf>

6. Special Procedure for taxpayers for issuance of e-invoices

Notification No. 73/2020 – Central Tax, dated October 01, 2020

The Central Government, has notified the registered persons required to prepare the tax invoice in the manner specified under sub-rule (4) of rule 48 of the CGST Rules, 2017, who have prepared tax invoice in a manner other than the said manner, as the class of persons who shall, during the period from October 01, 2020 to October 31, 2020, follow the special procedure such that the said persons shall obtain an Invoice Reference Number (IRN) for such invoice by uploading specified particulars in FORM GST INV-01 on the Common Goods and Services Tax Electronic Portal, within thirty days from the date of such invoice, failing which the same shall not be treated as an invoice.

Brief Analysis

One time relief provided, Invoice Reference Number (IRN) can be generated for any invoice prepared from October 01, 2020 to October 31, 2020 within 30 days of invoice date of invoice date.

For further details please visit: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-73-central-tax-english-2020.pdf;jsessionid=45912E79CF791A3A1E20EE1E52BC7AF9>

7. Notification to make filing of annual returns optional for small taxpayers

Notification No. 77/2020 – Central Tax, dated October 15, 2020

The Central Government, on the recommendations of the Council, has made the following amendment in the notification of Government of India in the Ministry of Finance, (Department of Revenue), No. 47/2019 – Central Tax dated the 9th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i) vide number G.S.R. 770(E), dated the October 9, 2019, namely: -

In the said notification in the opening paragraph, for the words and figures — “financial years 2017-18 and 2018-19”, the words and figures — “financial years 2017-18, 2018-19 and 2019- 20” shall be substituted.

Brief Analysis

This notification seeks to make filing of annual return under section 44 (1) of CGST Act for Financial Year 2019-20 optional for small taxpayers whose aggregate turnover is less than Rs. 2 crores and who have not filed the said return before the due date.

For further details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-77-central-tax-english-2020.pdf>

8. Number of HSN digits required on tax invoice

Notification No. 78/2020 – Central Tax, dated October 15, 2020

Central Board of Indirect Taxes and Customs, on the recommendations of the Council, has made the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.12/2017 – Central Tax, dated the June 28, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 660(E), namely:–

In the said notification, with effect from the April 01, 2021, for the Table, the following shall be substituted, namely, -

Table

Serial Number (1)	Aggregate Turnover in the preceding Financial Year (2)	Number of Digits of Harmonised System of Nomenclature Code (HSN Code) (3)
1.	Up to rupees five crores	4
2.	more than rupees five crores	6

Provided that a registered person having aggregate turnover up to five crores rupees in the previous financial year may not mention the number of digits of HSN Code, as specified in the corresponding entry in column (3) of the said Table in a tax invoice issued by him under the said rules in respect of supplies made to unregistered persons.

Brief Analysis

This notification prescribes that the number of HSN codes required to be reported on a tax invoice is 4 digits for taxpayers with aggregate turnover up to Rs. 5 crore in the preceding Financial Year, and 6 digits for taxpayers with aggregate turnover exceeding Rs. 5 crore in the preceding Financial Year.

For further details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-78-central-tax-english-2020.pdf>

9. Notification to make twelveth amendment (2020) to CGST Rules

Notification No. 79/2020 – Central Tax, dated October 15, 2020

The Central Government, on recommendations of the Council, has made 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 (Twelveth Amendment) Rules, 2020.

(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, in rule 46, for the first proviso, the following proviso shall be substituted, namely: -

“Provided that the Board may, on the recommendations of the Council, by notification, specify-

(i) the number of digits of Harmonised System of Nomenclature code for goods or services that a class of registered persons shall be required to mention; or

(ii) a class of supply of goods or services for which specified number of digits of Harmonised System of Nomenclature code shall be required to be mentioned by all registered taxpayers; and

(iii) the class of registered persons that would not be required to mention the Harmonised System of Nomenclature code for goods or services:”.

3. In the said rules, for rule 67A, the following rule has been substituted, namely: -

“**67A. Manner of furnishing of return or details of outward supplies by short messaging service facility.**- Notwithstanding anything contained in this Chapter, for a registered person who is required to furnish a Nil return under section 39 in **FORM GSTR-3B** or a Nil details of outward supplies under section 37 in **FORM GSTR-1** or a Nil statement in **FORM GST CMP-08** for a tax period, any reference to electronic furnishing shall include furnishing of the said return or the details of outward supplies or statement through a short messaging service using the registered mobile number and the said return or the details of outward supplies or statement shall be verified by a registered mobile number based One Time Password facility.

Brief Analysis

This amendment prescribes the particulars that are required to be contained in the tax invoice. GSTR – 3B, GSTR -1 and GST CMP – 08 can be filed through SMS using the registered mobile number and the said return or the details of outward supplies or statement shall be verified by a registered mobile number based OTP facility. Requirement for GST Audit is exempted for taxpayer having aggregate turnover upto Rs. 5 Crores to FY 2019-20 as well.

For further details please visit: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-79-central-tax-english-2020.pdf>

10. Notification to make Thirteenth amendment (2020) to CGST Rules

Notification No. 82/2020 – Central Tax, dated November 10, 2020

The Central Government, on recommendations of the Council, has made 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 (Thirteenth Amendment) Rules, 2020.

(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, for rule 59, the following rule shall be substituted with effect from the 1st day of January, 2021 namely: -

“59. Form and manner of furnishing details of outward supplies.- (1) Every registered person, other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017, required to furnish the details of outward supplies of goods or services or both under section 37, shall furnish such details in **FORM GSTR-1** for the month or the quarter, as the case may be, electronically through the common portal, either directly or through a Facilitation Centre as may be notified by the Commissioner.

(2) The registered persons required to furnish return for every quarter under proviso to sub-section (1) of section 39 may furnish the details of such outward supplies of goods or services or both to a registered person, as he may consider necessary, for the first and second months of a quarter, up to a cumulative value of fifty lakh rupees in each of the months, - using Invoice Furnishing Facility (IFF) electronically on the common portal, duly authenticated in the manner prescribed under rule 26, from the 1st day of the month succeeding such month till the 13th day of the said month.

(3) The details of outward supplies furnished using the IFF, for the first and second months of a quarter, shall not be furnished in **FORM GSTR-1** for the said quarter.

(4) The details of outward supplies of goods or services or both furnished in **FORM GSTR-1** shall include the—

(a) invoice wise details of all -

(i) inter-State and intra-State supplies made to the registered persons; and

(ii) inter-State supplies with invoice value more than two and a half lakh rupees made to the unregistered persons;

(b) consolidated details of all -

(i) intra-State supplies made to unregistered persons for each rate of tax; and

(ii) State wise inter-State supplies with invoice value upto two and a half lakh rupees made to unregistered persons for each rate of tax;

(c) debit and credit notes, if any, issued during the month for invoices issued previously.

(5) The details of outward supplies of goods or services or both furnished using the IFF shall include the –

(a) invoice wise details of inter-State and intra-State supplies made to the registered persons;

(b) debit and credit notes, if any, issued during the month for such invoices issued previously.”.

Brief Analysis

In the amended rules a new Invoice Furnishing Facility (IFF) has been introduced for quarterly return filers to furnish their documents for each of the first two month of the quarter, between the 1st and 13th of the succeeding month. Provisions and Format of the new auto-drafted ITC statement FORM GSTR-2B have been specified. Due dates for furnishing Form GSTR-3B for the months/quarters of October 2020 to March 2021 for taxpayers with turnover up to Rs. 5 crore have been notified. Provisions for the payment of taxes for quarterly GSTR-3B return filers have been prescribed.

For further details please visit: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-82-central-tax-english-2020.pdf>

11. Notification to notify special procedure for making payment of 35% as tax liability

Notification No. 85/2020 – Central Tax, dated November 10, 2020

The Central Government, on the recommendations of the Council, hereby notifies the registered persons, notified under proviso to sub-section (1) of section 39 of the said Act, who have opted to furnish a return for every quarter or part thereof, as the class of persons who may, in first month or second month or both months of the quarter, follow the special procedure such that the said persons may pay the tax due under proviso to sub-section (7) of section 39 of the said Act, by way of making a deposit of an amount in the electronic cash ledger equivalent to, -

- (i) thirty five per cent. of the tax liability paid by debiting the electronic cash ledger in the return for the preceding quarter where the return is furnished quarterly; or
- (ii) the tax liability paid by debiting the electronic cash ledger in the return for the last month of the immediately preceding quarter where the return is furnished monthly:

Provided that no such amount may be required to be deposited-

(a) for the first month of the quarter, where the balance in the electronic cash ledger or electronic credit ledger is adequate for the tax liability for the said month or where there is nil tax liability ;

(b) for the second month of the quarter, where the balance in the electronic cash ledger or electronic credit ledger is adequate for the cumulative tax liability for the first and the second month of the quarter or where there is nil tax liability:

Provided further that registered person shall not be eligible for the said special procedure unless he has furnished the return for a complete tax period preceding such month.

Brief Analysis

The Central Government has notified the registered persons under proviso to sub-section (1) of section 39 of CGST Act, who have opted to furnish a return for every quarter or part thereof, as the class of persons who may, in first month or second month or both months of the quarter, follow the special procedure such that the said persons may pay the tax due under proviso to sub-section (7) of section 39 of the said Act, by way of making a deposit of an amount in the electronic cash ledger equivalent to 35% of the tax liability paid by debiting the electronic cash ledger in the return for the preceding quarter where the return is furnished quarterly; or the tax liability paid by debiting the electronic cash ledger in the return for the last month of the immediately preceding quarter where the return is furnished monthly.

For further details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-85-central-tax-english-2020.pdf>

12. Notification to implement e-invoicing for the tax payers

Notification No. 88/2020 – Central Tax, dated November 10, 2020

In exercise of the powers conferred by sub-rule (4) of rule 48 of the Central Goods and Services Tax Rules, 2017, the Government, on the recommendations of the Council, hereby makes the following further amendments in the 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 21st March, 2020, namely:-

In the said notification, in the first paragraph, with effect from the 1st day of January, 2021, for the words “five hundred crore rupees”, the words “one hundred crore rupees” shall be substituted.

Brief Analysis

Central Government has made E-invoicing mandatory from January 01, 2021 for every taxpayer (other than SEZ unit) whose aggregate turnover exceeds Rs. 100 Crores in any of the financial year from 2017 – 18. Electronic Invoicing is the introduction of the digital invoice for goods and services provided by the business firms generated at the government portal. It is a system in which all Business to Business invoices are electronically uploaded and authenticated by the designated portal.

For further details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/gst/notfctn-88-central-tax-english-2020.pdf>

13. Notification to make Fourteenth Amendment (2020) to CGST Rules

Notification No. 94/2020 – Central Tax, dated December 22, 2020

The Central Government, on the recommendations of the Council, has made 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 (Fourteenth Amendment) Rules, 2020.

(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, in rule 8, for sub-rule (4A), with effect from a date to be notified, the following sub-rule shall be substituted, namely: -

“(4A)Every application made under rule (4) shall be followed by—

- (a) biometric-based Aadhaar authentication and taking photograph, unless exempted under sub-section (6D) of section 25, if he has opted for authentication of Aadhaar number; or
- (b) taking biometric information, photograph and verification of such other KYC documents, as notified, unless the applicant is exempted under sub-section (6D) of section 25, if he has opted not to get Aadhaar authentication done,

of the applicant where the applicant is an individual or of such individuals in relation to the applicant as notified under sub-section (6C) of section 25 where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in **FORM GST REG-01** at one of the Facilitation Centres notified by the Commissioner for the purpose of this sub-rule and the application shall be deemed to be complete only after completion of the process laid down under this sub-rule.”.

Brief Analysis

Application for GST registration is to be followed by biometric-based Aadhaar authentication and taking photograph / KYC of the applicant. Time limit for grant of Registration has been increased to seven days from three days. More conditions has been added for cancellation of GST Registration as

per Rule 21 of CGST Rules, 2017. Proper Officer may suspend the Registration without affording the reasonable opportunity of being heard. The registration shall be suspended if an analysis of GSTR-1 of the taxpayer and suppliers / other analysis shows significant differences or anomalies. The new Rule restricts the use of ITC for discharging the output tax liability. As per the notification in Rule 36(4) of CGST Rules, 2017, the limit is revised to 5% instead of earlier 10%.

Restrictions on use of amount available in electronic credit ledger (Rule 86A of CGST Rules, 2017)
It has been provided that taxpayers shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of 99% of such tax liability.

For further details please visit: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-94-central-tax-english-2020.pdf>

Lesson 12

Basic Concepts of Customs Law

1. Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020

Notification No. 81/2020 – Customs (N.T.), dated August 21, 2020

The Central Government has made the following rules, namely:-

1. Short title, commencement and application.- (1) These rules may be called the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020.

(2) They shall come into force on September 21, 2020.

(3) They shall apply to import of goods into India where the importer makes claim of preferential rate of duty in terms of a trade agreement.

2. Definitions.- (1) In these rules, unless the context otherwise requires, -

(a) “Act” means the Customs Act, 1962 (52 of 1962);

(b) “Preferential rate of duty” means rate at which customs duty is charged in accordance with a trade agreement;

(c) “Preferential tariff treatment” means allowing preferential rate of duty to goods imported into India in accordance with a trade agreement;

(d) “Rules of Origin” means rules notified for a trade agreement in terms of sub-section (1) of section 5 of the Customs Tariff Act, 1975 (51 of 1975);

(e) “Tariff notification” means notification issued under sub-section (1) of section 25 of the Act specifying preferential rates of customs duty in accordance with a trade agreement;

(f) “Verification” means verifying genuineness of a certificate of origin or correctness of the information contained therein in the manner prescribed by the respective Rules of Origin;

Brief Analysis

These rules are called the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020. These rules apply to import of goods into India where the importer makes claim of preferential rate of duty in terms of a trade agreement.

Origin related information to be possessed by importer-

The importer claiming preferential rate of duty shall-

- (a) possess information, as per Form I, to demonstrate the manner in which country of origin criteria, including the regional value content and product specific criteria, specified in the Rules of Origin, are satisfied, and submit the same to the proper officer on request.
- (b) keep all supporting documents related to Form I for at least five years from date of filing of bill of entry and submit the same to the proper officer on request.
- (c) exercise reasonable care to ensure the accuracy and truthfulness of the aforesaid information and documents

For further details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt81-2020revised.pdf>

Lesson 13

Valuation & Assessment of Imported and Export Goods & Procedural Aspects

1. Procedure for inspection of ICDs/CFSs/AFSs

Circular No. 44/2020 –Customs, dated October 08, 2020

The Board vide Notification No. 26/2009-Customs (N.T.) dated 17.3.2009 notified Handling of Cargo in Customs Area Regulations 2009 to regulate the functioning of Customs Cargo Service Providers including custodians of ICDs/CFSs. Further, Circular 13/2009 dated 23.03.2009, Circular No. 04/2011 dated 10.01.2011, Circular No. 40/2016 dated 26.08.2016 and Circular No. 49/2018 dated 03.12.2018 were also streamline various procedures relating to ICDs/CFSs. Further, D.O letter No. 434/15/2017-Cus. IV dated 16.08.2019 was issued by Member (Customs) wherein, he has inter alia, stated that it is necessary that each ICD/CFS is closely monitored by way of some sort of audit /visits to ensure that the performance of ICDs/CFSs is of desired standards and requested to put a system in place and take necessary action in a time bound manner. Chief Commissioners were requested to take stock of the issues for all ICDs/CFSs under their jurisdiction, draw a plan for time bound actions and submit an action taken report by November 30, 2019. However, the compliance reports in response to the above letter are not complete in many zones. Apparently, many other field formations are not checking the performance of ICDs and CFSs in their jurisdiction in a systemic way on regular basis.

Board has decided to put in place a proper system for regular inspection for ICDs/CFSs. Such a system would ensure better functioning of ICDs/CFSs in future and would be of great benefit to the importers and exporters using these facilities. Periodical inspections and remedial actions would also avoid these kinds of audit objections. It will bring accountability, standardization and better facility for cross-border trading and in turn improve ease of doing business.

Brief Analysis

The jurisdictional Commissioner at the beginning of every financial year shall chalk out an action plan to conduct inspection of Inland Container Depots (ICDs)/ Container Freight Stations (CFSs) in their jurisdiction, by an officer of the rank of Deputy/Assistant Commissioner or above probably in the first quarter of the financial year. The first inspection, wherever required, shall be completed by December 31, 2020.

For further details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-44-2020.pdf>

2. Faceless Assessment - Measures for timely assessment of Bills of Entry

Circular No. 45/2020 –Customs, dated October 12, 2020

Board has reviewed the implementation of Faceless Assessment. While the implementation has been largely smooth, Board's attention had been drawn to some issues impacting the pace of assessment and clearances of consignments. As the prompt and timely assessment of Bills of Entry and clearance of imported consignments are key objectives of Turant Customs, these issues have been examined and remedial measures have been identified. Accordingly, Board prescribes the following measures for Faceless Assessment:

Continuous Assessment:

(i) There may be possible delays in assessment when Bills of Entry (B/E) are assigned to FAGs in locations that are on an official holiday or when assessment is to be done on a closed holiday (say, Sunday). Further, time sensitive goods such as life-saving drugs or imports by security/defence and other Government agencies would require prompt Customs clearance at all times including outside the normal office hours. Hence, it is decided to make all Saturdays (except second Saturday) as working day for all the faceless assessment groups across the country. Further, it is desired that the CoConvenors of the NACs must co-ordinate with the NACs for ensuring expedited assessment by the FAGs/PAGs across different zones so there is no delay in assessment and Customs clearance during holidays at all or some locations. In this direction, the Co-Convenors of the NACs may get the NACs to draw up official rosters among FAGs/PAGs so as to have adequate number of officers, depending on the volume of B/Es, working on Sundays and other holidays including second Saturdays. The number of locations, officers and their working timing can be fixed keeping in mind the overall objectives.

Brief Analysis

The Port of Import should monitor clearance of time-sensitive/urgent consignments such as lifesaving drugs, security / defence related consignments etc. imported by Government and its agencies/PSUs etc. so that these are not delayed.

For further details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-45-2020.pdf>

3. Contactless delivery of international courier consignments

Circular No. 47/2020 –Customs, dated October 20, 2020

In light of the need for contactless delivery and also considering that the OTP based validation gives secure confirmation of delivery to the intended consignee through his registered mobile number, which also has the necessary KYC, Board, has decided to allow the delivery of international courier shipments, based on the OTP validation as follows:

- (i) Consignee gets OTP on their mobile number which has been registered with the authorized courier. The authorized courier should exercise due diligence to ensure that the mobile number belongs to the consignee at the time of registering the phone number.
- (ii) At the time of delivery, the authorised courier electronically validates the OTP from the consignee.
- (iii) Upon successful validation, the shipment is delivered as per the instructions of the consignee. In case of failure to validate the OTP, the consignment will not be delivered.

Brief Analysis

This Circular was issued to maintain the required social distancing considering the COVID-19 pandemic. The OTP based validation is an alternative means of obtaining proof of delivery to the existing procedure of taking physical signatures. Thus, the authorized couriers will obtain the proof of delivery either by taking the physical signatures or through OTP based validation.

For further details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-47-2020.pdf>

4. Import and Export of Vaccines in relation to COVID -19 through Courier

Circular No. 56/2020 –Customs, dated December 30, 2020

The COVID-19 pandemic has posed unprecedented challenges to Customs and other administrations the world over. Right from the onset of the pandemic, the Board has been taking various measures to keep import-export supply chains operational and ensure that critical goods are released expeditiously by the Customs. In this context the Board notes that efficient clearance and distribution of vaccines would be a critical requirement in the collective fight against the COVID-19 pandemic. The challenges in doing so is heightened by the fact that the vaccines need to be stored and transported under controlled temperatures and there are multiple stakeholders involved in this process. This necessitates putting in place efficient cross-border procedures for speedy evacuation of the vaccines. Accordingly the Board has proactively reviewed the extant process for cross-border movement of goods and focussed on especially facilitating the Customs clearance of imported/ export of vaccines relating to COVID -19.

In order to facilitate the import/ export of vaccines in relation to COVID -19 through Courier, at locations where the Express Cargo Clearance System (ECCS) is operational, the Board has issued the Courier Imports and Exports (Electronic Declaration and Processing) Amendment Regulations, 2020. These new regulations amend the Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010 to provide the following: (i) Imports of and exports of vaccines in relation to COVID 19 has been allowed without any value limitation. (ii) Since the vaccines will be

imported in durable containers equipped with the requisite temperature monitoring and tracking devices, sub-regulation (3) of regulation 6 and the declaration in Form H (CSB IV) of the Regulations have been suitably amended to provide for the export of the durable container including accessories thereof, imported in relation to COVID-19 vaccines. The clarifications contained in Circular No.51/2020-Customs, dated 20.11.2020 would apply for the temporary importation and re-export of the durable containers including accessories thereof imported in relation to the COVID-19 vaccines through Courier. Care should be taken to ensure compliance with the procedure contained in said Circular including execution of a continuity bond, declaration of the durable containers and accessories thereof as a separate item in the Customs declaration during import and re-export. Importers may be advised to indicate the unique identifier of the container and the accessories during import in the Courier Bill of Entry (CBE-XIII or CBE-XIV, as applicable) 1 and also at the time of re-export in the Courier Shipping Bill (CSB IV) for facilitating clearance.

Brief Analysis

COVID – 19 Vaccines need to be stored and transported under controlled temperatures. This necessitates putting in place efficient cross-border procedures for speedy evacuation of the vaccines. The board has amended the Courier Imports and Exports (Electronic Declaration and (Processing) Amendment Regulations. Accordingly, import and export of Covid-19 vaccines have been allowed without any value addition. Since the vaccines will be imported in durable containers equipped with the requisite temperature and monitoring and tracking devices, provision has been made to facilitate temporary importation and re-exportation of durable containers.

For further details please visit: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-56-2020-new.pdf>
