



**THE INSTITUTE OF
Company Secretaries of India**
भारतीय कम्पनी सचिव संस्थान
IN PURSUIT OF PROFESSIONAL EXCELLENCE
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(Under the jurisdiction of Ministry of Corporate Affairs)

SUPPLEMENT EXECUTIVE PROGRAMME

For June, 2024 Examination

TAX LAWS (PART II – INDIRECT TAXES)

***[Supplement covers amendments/developments from
August, 2021 to November, 2023]***

MODULE 1

PAPER 4

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(PART II- INDIRECT TAXES)

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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 30th November, 2023 pertaining to GST and Customs Act, 1962.

Lesson 12 - Basics of Goods and Service Tax “GST”

1. 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://taxinformation.cbic.gov.in/view-pdf/1002906/ENG/Circulars>

2. Clarification regarding applicable GST rates & exemptions on certain services

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

The issue-wise clarifications 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 any 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://taxinformation.cbic.gov.in/view-pdf/1002901/ENG/Circulars>

3. Notification regarding insertion and substitution in certain items in Schedule I, II & III **(Notification no. 03/2023- Central Tax (Rate) New Delhi, dated the February 28, 2023)**

The Central Government, on the recommendations of the Council, hereby makes the further amendments in the notification No.1/2017-Central Tax (Rate), regarding substitution of Jaggery of all types like certain items in Schedule I, and in Schedule II a new entries inserted namely Pencil sharpeners & in Schedule III the word “other than pencil sharpeners” is inserted. This notification shall come into force on the 1st day of March, 2023.

Brief Analysis

In this notification the Central Government, hereby makes the further amendments in the notification No.1/2017-Central Tax (Rate), regarding substitution of Jaggery of all types by: -“Jaggery of all types including Cane Jaggery(gur), Palmyra Jaggery, pre-packaged and labelled; Khandsari Sugar, pre-packaged and labelled; Rab, pre-packaged and labelled”; like certain items in Schedule I- 2.5%, against S. No. 91A, in column (3), and in

Schedule II –6%, after S. No. 186 and entries relating Pencil sharpeners” and in Schedule III –9%, against S. No. 302A, in column (3), at the end, the brackets and words “[other than pencil sharpeners]” shall be inserted.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009644/ENG/Notifications>

4. Notification for further amendments in the notifications of the Government of India, Ministry of Finance (Department of Revenue), No. 2/2017-Central Tax (Rate) and No. 2/2017- Union Territory (Rate) and No. 2/2017- Integrated Tax (Rate).

(Notification No. 04/2023- Central Tax (Rate), Integrated Tax (Rate), and Union Territory (Rate), February 28, 2023)

The Central Government, being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No.2/2017-Central Tax (Rate), No.2/2017-Integrated Tax (Rate) and No.2/2017-Union Territory (Rate), dated the June, 28th, 2017. In the said notifications, in the Schedule, against S. No.94, in Column (3), after the item (ii) and the entries relating thereto, the following item and entry shall be inserted, namely: -“(iii) Rab, other than pre-packaged and labelled”. The said Notifications came into force from March 01, 2023.

Brief Analysis

In this notification the Central Government, hereby makes the further amendments in the notification of the Government of India, by inserting item no (iii) i.e. “Rab, other than pre-packaged and labelled” in the Schedule, against S. No.94, in Column (3), after the item (ii) and the entries relating thereto.

For further details please visit:

<https://taxinformation.cbic.gov.in/view-pdf/1009645/ENG/Notifications>

<https://taxinformation.cbic.gov.in/view-pdf/1009649/ENG/Notifications>

<https://taxinformation.cbic.gov.in/view-pdf/1009653/ENG/Notifications>

5. Notification for Amendment in Compensation Cess

(Notification No.1/ 2023-Compensation Cess (Rate), New Delhi, the February 28, 2023)

The Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No. 1/2017-Compensation Cess (Rate), dated the 28th June, 2017 published in the Gazette of India. In the said notification, in the Schedule, against Sl. No. 41A, in column (3), for the entry, the following entry shall be substituted, namely: - “Coal rejects supplied to a coal washery or by a coal washery, arising out of coal on which compensation cess has been paid and input tax credit thereof has not been availed by any person”. The said Notifications came into force from March 01, 2023.

Brief Analysis

In this notification the Compensation Cess on Coal rejects supplied to a coal washery or by a coal washery, arising out of coal is amended.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009654/ENG/Notification>

6. Clarification regarding GST rates and classification of certain goods based on the recommendations of the GST Council in its 50th meeting held on 11th July, 2023
(Circular No. 200/12/2023-GST-August 01, 2023)

Based on the recommendations of the GST Council in its 50th meeting held on July 11, 2023, clarifications with reference to GST levy related to the following items are being issued:

- A. Un-fried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion; falling under CTH 1905 will attract GST rate of 5%.
- B. Fish Soluble Paste; attracted 18% under the residual entry S No. 453 of Schedule III of notification no. 1/2017-Central Tax (Rate), dated the 28th June, 2017.
- C. Desiccated coconut; falling under CTH 0801, the issue for past period from 01.07.2017 up to and inclusive of 27.07.2017 is hereby regularized on “as is” basis.
- D. Biomass briquettes; falling under any chapter, the issue for past period from 01.07.2017 up to and inclusive of 12.10.2017 is hereby regularized on “as is” basis.
- E. Imitation zari thread or yarn known by any name in trade parlance; that imitation zari thread or yarn known as “Kasab” or by any other name in trade parlance, would attract a uniform GST rate of 12% under tariff heading 5605.
- F. Supply of raw cotton by agriculturist to cooperatives; attracts 5% GST on reverse charge basis; clarification is hereby regularized on “as is basis”.
- G. Plates, cups made from areca leaves; regularized on “as is basis” for the period prior to 01.10.2019.

Goods falling under HSN heading 9021; would attract a GST rate of 5% and in view of prevailing genuine doubts, the issue for the past periods is hereby regularized on “as is basis”. However, it is clarified that no refunds will be granted in cases where GST has already been paid at higher rate of 12%.

Brief Analysis

In this circular clarification regarding GST rates and classification of goods like Un-fried or un-cooked snack pellets, Fish Soluble Paste, Desiccated coconut, Biomass briquettes, Imitation zari thread, raw cotton and Plates, cups made from areca leaves has been issued by the Central Government.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1003174/ENG/Circulars>

7. Clarifications regarding applicability of GST on certain services
(Circular No. 201/13/2023-GSTNo. 201/13/2023- August 01, 2023 GST)-August 01, 2023)

GST Council in the 50th meeting held on July 11, 2023 clarified the following issues:

1) Whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to Reverse Charge Mechanism (RCM): It is hereby clarified that services supplied by a director of a company or body corporate to the company or body corporate in his private or personal capacity such as services supplied by way of renting of immovable property to the company or body corporate are not taxable under RCM. Only those services supplied by director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM in the hands of the company or body corporate under notification No. 13/2017-CTR (Sl. No. 6) dated 28.06.2017.

2) Whether supply of food or beverages in cinema hall is taxable as restaurant service: It is hereby clarified that supply of food or beverages in a cinema hall is taxable as ‘restaurant service’ as long as:

- a) The food or beverages are supplied by way of or as part of a service, and
- b) Supplied independent of the cinema exhibition service.

It is further clarified that where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

Brief Analysis

In this circular clarification regarding services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to Reverse Charge Mechanism (RCM) and supply of food or beverages in cinema hall is taxable as restaurant service has been issued.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1003175/ENG/Circulars>

8. Notification- special procedure to be followed by the electronic commerce operators in respect of supplies of goods through them by composition taxpayers

(Notification No. 36/2023 – Central Tax – August 04, 2023)

The Central Government, on the recommendations of the Council, hereby notifies the electronic commerce operator who is required to collect tax at source under section 52 as the class of persons who shall follow the special procedure in respect of supply of goods made through it by the persons paying tax under section 10 of the said Act, namely:-

- i. the electronic commerce operator shall not allow any inter-State supply of goods through it by the said person;

the electronic commerce operator shall collect tax at source under sub-section (1) of section 52 of the said Act in respect of supply of goods made through it by the said person and pay to the Government as per provisions of subsection (3) of section 52 of the said Act. And (iii) the electronic commerce operator shall furnish the details of supplies of goods made through it by the said person in the statement in **FORM GSTR-8** electronically on the common portal.

Brief Analysis

In this notification, the Central Government has issued the special procedure to be followed by the electronic commerce operators in respect of supplies of goods through them by composition taxpayers. The electronic commerce operator shall not allow any inter-State supply of goods through it by the said person. They have to collect the tax at source as per GST laws.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009818/ENG/Notifications>

9. Notification-special procedure to be followed by the electronic commerce operators in respect of supplies of goods through them by unregistered persons.

(Notification No. 37/2023 – Central Tax – August 04, 2023)

The Central Government, on the recommendations of the GST Council, hereby notifies the electronic commerce operator who is required to collect tax at source under section 52 as the class of persons who shall follow the stated special procedure in respect of supply of goods made through it by the persons exempted from obtaining registration in accordance with the notification issued under sub-section (2) of section 23 vide notification number 34/2023- Central Tax, dated the 31st July, 2023, Namely:-

- i. The electronic commerce operator shall allow the supply of goods through it by the said person only if enrolment number has been allotted on the common portal to the said person;
- ii. The electronic commerce operator shall not allow any inter State supply of goods through it by the said person;

the electronic commerce operator shall not collect tax at source under sub-section (1) of section 52 in respect of supply of goods made through it by the said person; and (4) the electronic commerce operator shall furnish the details of supplies of goods made through it by the said person in the statement in FORM GSTR-8 electronically on the common portal.

Brief Analysis

In this notification, the Central Government has issued the special procedure to be followed by the electronic commerce operators in respect of supplies of goods through them by unregistered persons.

For further details please visit: <https://taxinformation.cbic.gov.in/content-page/explore-notification>

CASE LAWS

November 09, 2021	In re Airbus Group India (P) Limited	GST AAAR Karnataka
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Services provided by ‘Airbus Group India’ are Intermediary Services and liable to 18% GST Facts of the case:

Facts of the case:

The Appellant has approached Karnataka Appellate Authority for Advance Ruling in appeal for determination of issue as to whether the amount of services rendered by the appellant to Airbus SAS France would be construed as those of an intermediary as defined under Section 2(13) of the CGST Act, 2017, or otherwise. Airbus France has entered into an “Intra-Group Services Agreement” with effect from 1st April 2020 with the Appellant in terms of which the Appellant is required to perform two functions;

i.e. (i) Procurement Operations and (ii) Procurement Transformation & Central Services. For the above said services, the Appellant would be remunerated with a service fee computed on a ‘cost plus mark-up’ basis.

In order to obtain a ruling on the classification of the service provided by them, the Appellant approached the Authority for Advance Ruling (AAR) seeking a ruling on the following question:

Whether the activities carried out by the Appellant in India would constitute a supply of “Other Support Services”

falling under Heading 9985 or as “Intermediary Service” classifiable under Heading 9961/9962 or any other classification of services as specified under GST laws?

Whether the services rendered by the Appellant would not be liable to GST, owing to the reason that such services may qualify as “export of services” in terms of clause 6 of Section 2 of the IGST Act, 2017 and consequently, be construed as a ‘zero-rated supply’ in terms of Section 16 of the IGST Act? “

Order:

Section 13(8)(b) of the IGST Act, 2017 stipulates that the place of supply in the case of intermediary services will be the location of the supplier of service. In this case, the activity of the Appellant who is the supplier of intermediary service i.e. collection of information of parties in India, analysis of potential suppliers and skill development of existing suppliers, are all very much done in India, which is the location of the supplier of intermediary service. Therefore, by virtue of Section 13(8) (b) of the IGST Act, it automatically flows that the place of supply of the intermediary service provided by the Appellant to Airbus France, is in India. Therefore, the intermediary services provided by the Appellant to Airbus France, do not qualify as export of service. The Karnataka Appellate Authority of Advance Ruling (AAAR) ruled that the 18% GST applicable on Services Provided by Airbus Group as it qualifies as Intermediary services.

For further details please visit:<https://gst.kar.nic.in/Documents/General/AirbusGroupIndiaPrivateLimited.pdf>

October 14, 2022	In Re : Coperion Ideal Pvt. Ltd. (2022)	AAAR-UTTAR PRADESH
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Facts of the case:

Appellant-assessee is engaged in designing, conveying, fabrication and supply of Pneumatic Conveying System(PCS) along with its parts and components which are sold both within and outside India – As regards to imported components, appellant-assessee supplies imported components to customers in India on High Seas Sale basis under High Sea Sales Contract – Appellant-assessee sought advance ruling before AAR on whether supply of components of Pneumatic Conveying System supplied by assessee to its customers on High Seas Sales will be treated neither as supply of goods nor as supply of service by virtue of Entry 8 to Schedule III of CGST Act – AAR ruled that question of taxability of supply of goods on High Sea Sales does not come within purview of Section 97 of CGST Act and falls within purview of Circular No.33/2017-Cus dated 1-8-2017.

Held:

Further number of activities taken by appellant-assessee under contract includes both supply of goods and supply of services – From entry No.8 of Schedule III of Central Goods and Services Tax Act, 2017, components needed for Pneumatic Conveying System made by appellant-assessee to its customers on High Sea Sales will not be treated as supply of ‘goods’ and they will not be liable for imposition of tax – However, components that are regarded as ‘services’ shall fall within purview of ‘supply of services’, further fall under purview of ‘supply’ as defined under Section 7 of Central Goods and Services Tax Act, 2017.

December 30, 2023	In Re : Doms Industries Pvt. Ltd. (2023)	AAR - GUJARAT
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Facts of the case:

Applicant is manufacturer and suppliers of stationery items - Applicant supplies different products in single box/pack for single price - One kit contains pencils, eraser and sharpner - Second one contains colouring books, pencils, colour pencil, oil pastels, wax crayons, eraser, scale and sharpner and third one contains pencil, eraser, scale and sharpner.

Held:

In order to qualify any supply under mixed supply following conditions are to be satisfied viz (i) there should be two or more individual supplies of goods or services or in any combination thereof, (ii) such supply should be made in conjunction with each other for a single price and (iii) such supply does not constitute a composite supply - In instant case, supply of different products in single box/pack and in single price made by applicant satisfies all three conditions of mixed supply; therefore, said supply is covered under category of mixed supply under section 2(74) and supply which attracts higher rate of tax among all taxable supplies containing in pack/box shall be applicable rate of tax for said mixed supply.

April 20, 2023	In Re : Eden Real Estates Pvt. Ltd. (2023)	AAAR-WEST BENGAL
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Facts of the case:

Applicant-assessee is developing a residential housing project and supplying construction services to recipients for possession of dwelling units - In addition to construction services, applicant-assessee provides services towards right to use of car parking space to prospective buyers who opt for same for which they are additionally charged by applicant-assessee during sale of apartment– Applicant assessee seeks advance ruling on whether amounts charged by applicant-assessee for right to use of car/two wheeler vehicle.

parking space along with sale of under constructed apartments to its prospective buyers is to be treated as a composite supply of construction of residential apartment services or same is a distinct supply under section 7 of CGST/WBGST Act, 2017 – Further, If same is not to be treated as a composite supply, then rate of tax applicable on such charges collected by applicant-assessee from its prospective customers.

Held: Aforesaid fact delineates that such supply is altogether a separate service and it cannot be treated as naturally bundled with construction services – Hence, supply of services for right to use of car parking space is a separate supply and not to be construed as a composite supply of construction of residential apartment services – Further, supply of services for right to use of car parking space would be taxable at 18 percent.

Lesson 13 - Concepts of Time, Value & Place of Taxable Supply

1. GST applicability on liquidated damages, compensation and penalty arising out of breach of contract or other provisions of law

(Circular No. 178/10/2022 - Central Tax dated August 03, 2022)

Taxability of liquidated damages is that where the amount paid as 'liquidated damages' is an amount paid only to compensate for injury, loss or damage suffered by the aggrieved party due to breach of the contract and there is no agreement, express or implied, by the aggrieved party receiving the liquidated damages, to refrain from or tolerate an act or to do anything for the party paying the liquidated damages, in such cases liquidated damages are mere a flow of money from the party who causes breach of the contract to the party who suffers loss or damage due to such breach. Such payments do not constitute consideration for a supply and are not taxable.

Brief Analysis

As per this circular, GST on payments like liquidated damages paid for breach of contract; Penalty paid by a mining company to State Government for unaccounted stock of river bed material; Late payment charges collected by any service provider for late payment of bill etc. do not constitute consideration for a supply and are not taxable. If a payment constitutes a consideration for a supply, then it is taxable irrespective of by what name it is called; the payment is merely an event in the course of the performance of the agreement and it does not represent the 'object', as such, of the contract then it cannot be considered 'consideration. Further, cancellation charges of railway tickets for a class would attract GST at the same rate as applicable to the class.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1003115/ENG/Circulars>

2. Clarifications regarding applicable GST rates & exemptions on certain services

(Circular No. 177/09/2022 - Central Tax dated August 03, 2022)

The payment of GST on supply of ice-cream by ice-cream parlors @ 5% without ITC shall be treated as fully GST paid to avoid unnecessary litigation. Since the decision is only to regularize the past practice, no refund of GST shall be allowed, if already paid at 18%. With effect from 06.10.2021, the ice Cream parlors are required to pay GST on supply of ice-cream at the rate of 18% with ITC.

Brief Analysis

As per this circular, CBIC made issue-wise clarifications on some issues as recommended by the GST Council as- with effect from 06.10.2021, the ice cream parlors are required to pay GST on supply of ice-cream at the rate of 18% with ITC. It is further clarified that application fee charged for entrance or the fee charged for issuance of eligibility certificate for admission or for issuance of migration certificate by educational institutions is exempt.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1003114/ENG/Circulars>

3. Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 47th meeting held on 28th – 29th June, 2022 at Chandigarh

(Circular No. 179/11/2022 - Central Tax dated August 03, 2022)

Electrically operated vehicle including three wheeled electric vehicle means vehicle that runs solely on electrical energy derived from an external source or from electrical batteries. Therefore, the fitting of batteries cannot be considered as a concomitant factor for defining a vehicle as an electrically operated electric vehicle. In view of the above, it is clarified that electrically operated vehicle is to be classified under HSN 8703 even if the battery is not fitted to such vehicle at the time of supply and thereby attract GST at the rate of 5% in terms of entry 242A of Schedule I of notification No. 1/2017-Central Tax (Rate).

Brief Analysis

As per this Circular, CBIC made Clarifications regarding GST rates & classification (goods) based on the recommendations of the GST Council which covers, Electric vehicles attract GST rate of 5%. Mangoes under CTH 0804 including mango pulp, attract GST at 12% rate, Treated sewage water attracts Nil rate of GST, Nicotine Polacrilex Gum attracts a GST rate of 18% & Fly ash bricks and aggregate - condition of 90% fly ash content applied only to fly ash aggregate, and not fly ash bricks and others.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1003116/ENG/Circulars>

4. Clarification regarding GST rates and classification of certain goods

(Circular No. 189/01/2023-GST-January 13, 2023)

CBIC makes clarifications, with reference to applicability of GST based on the recommendations of GST Council in its 48th meeting held on December 17, 2022, related to the various items like; Rab, by-products of milling of Dal/ Pulses, Carbonated Beverages of Fruit Drink, fryums, Sports Utility Vehicles (SUVs) etc.

Brief Analysis

As per this Circular, CBIC made Clarifications regarding GST rates & classification (goods) based on the recommendations of the GST Council which covers, the various items like; Rab which is appropriately classifiable under heading 1702 attracting GST rate of 18%, by-products of milling of Dal/ Pulses such as Chilka, Khanda and Churi/Chuni shall be exempt under GST, Carbonated Beverages of Fruit Drink or 'Carbonated Beverages with Fruit Juice attract GST at the rate of 28% and Compensation Cess at the rate of 12%, fryums covers goods with description 'Extruded or expanded products, savoury or salted', and thereby attract GST at the rate of 18%, Sports Utility Vehicles (SUVs) which attract compensation cess at the rate of 22% and IGST rate has been increased from 5% to 12% on goods specified under notification No. 3/2017-Integrated Tax (Rate).

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1003143/ENG/Circulars>

5. Clarifications regarding applicability of GST on certain services

(Circular No. 190/02/2023- GST, dated January 13, 2023)

CBIC makes clarifications, regarding accommodation services supplied by Air Force Mess to its personnel

qualify to be considered as services supplied by Central Government, State Government, Union Territory or local authority hence are exempt from GST. Further, Govt. is clarified that incentives paid by MeitY to acquiring banks under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of subsidy and thus not taxable.

Brief Analysis

As per this Circular, CBIC made Clarifications regarding applicability of GST on certain services like accommodation services supplied by Air Force Mess to its personnel are exempt from GST vide Sl. No. 6 of notification No. 12/2017 –Central Tax (Rate) dated 28.06.2017 and Incentive paid by MeitY to acquiring banks under Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transaction up to Rs.2000/-. The incentive is in the nature of a subsidy directly linked to the price of the service and the same does not form part of the taxable value of the transaction in view of the provisions of section 2(31) and section 15 of the CGST Act, 2017. It is hereby clarified that incentives paid by MeitY to acquiring banks under the Incentive scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of subsidy and thus not taxable.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1003144/ENG/Circulars>

6. Seeks to make amendments (Third Amendment, 2023) to the CGST Rules, 2017

(Notification No. 45/2023 – Central Tax, dated 06th September, 2023)

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:-After rule 31A, the following rules shall be inserted, namely: -

31B. Value of supply in case of online gaming including online money gaming.

Notwithstanding anything contained in this chapter, the value of supply of online gaming, including supply of actionable claims involved in online money gaming, shall be the total amount paid or payable to or deposited with the supplier by way of money or money's worth, including virtual digital assets, by or on behalf of the player:

31C. Value of supply of actionable claims in case of casino.—Notwithstanding anything contained in this chapter, the value of supply of actionable claims in casino shall be the total amount paid or payable by or on behalf of the player for – (i) purchase of the tokens, chips, coins or tickets, by whatever name called, for use in casino; or (ii) participating in any event, including game, scheme, competition or any other activity or process, in the casino, in cases where the token, chips, coins or tickets, by whatever name called, are not required:

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009850/ENG/Notifications>

7. Seeks to notify supply of online money gaming, supply of online gaming other than online money gaming and supply of actionable claims in casinos under section 15(5) of CGST Act

(Notification No. 49/2023 – Central Tax, 29th September, 2023)

The Government on the recommendations of the Council, in exercise of the powers conferred under sub-section (5) of section 15 of the Central Goods and Services Tax Act, 2017, notifies the (i) supply of online money gaming; (ii) supply of online gaming, other than online money gaming; and (iii) supply of actionable claims in casinos; as under the said sub-section. This notification shall come into force on the 1st day of October, 2023.

For further details please visit:<https://taxinformation.cbic.gov.in/view-pdf/1009871/ENG/Notifications>

8. Seeks to make amendments (Third Amendment, 2023) to the CGST Rules, 2017 in supersession of Notification No. 45/2023 dated 06.09.2023 (Notification No. 51/2023 – Central Tax, 29th September, 2023)

The Central Government, on the recommendations of the Council and in supersession of the CGST Rules (Third Amendment) Rules, 2023, hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely-

A. In rule 14,– (i) in the heading, after the words “online recipient” the letters and words “or to a person supplying online money gaming from a place outside India to a person in India” shall be inserted.

B. In the said rules, after rule 31A, the rules 31B ‘Value of supply in case of online gaming including online money gaming.’ & Rule 31C ‘Value of supply of actionable claims in case of casino.’ shall be inserted.

C. In rule 8, for sub-rule (1), shall be substituted, as:–(1) Every person who is liable to be registered under sub-section (1) of section 25 and every person seeking registration under sub-section (3) of section 25, except–(i) a non-resident taxable person; (ii) a person required to deduct tax at source under section 51 (iii) a person required to collect tax at source under section 52; (iv) a person supplying online information and database access or retrieval services (OIDAR) from a place outside India to a non-taxable online recipient referred to in section 14 or a person supplying online money gaming from a place outside India to a person in India referred to in section 14A under the Integrated Goods and Services Tax Act, 2017 (13 of 2017), shall, before applying for registration, declare his Permanent Account Number, State or Union territory in Part A of FORM GST REG-01 on the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

D. In rule 46, in clause (f), in the proviso, after the words “Provided that” the words “in cases involving supply of online money gaming or in cases” shall be inserted.

E. For rule 64, the rule shall be substituted, as: – “Form and manner of submission of return by persons providing online information and data base access or retrieval services and by persons supplying online money gaming from a place outside India to a person in India.-Every registered person either providing online money gaming from a place outside

India to a person in India, or providing online information and data base access or retrieval services from a place outside India to a non-taxable online recipient referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 or to a registered person other than a non-taxable online recipient, shall file return in FORM GSTR-5A on or before the twentieth day of the month succeeding the calendar month or part thereof.”

For further details please visit:<https://taxinformation.cbic.gov.in/view-pdf/1009873/ENG/Notifications>

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 following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.</p> <p>Doubts have been raised seeking following clarification:</p> <ol style="list-style-type: none"> Which of the following dates are relevant to determine the 'financial year' for the purpose of section 16(4): <ol style="list-style-type: none"> date of issuance of debit note, or date of issuance of underlying invoice. 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 The amended provision will be applicable only in respect of the debit notes issued after 	<ol style="list-style-type: none"> 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. The amendment made is shown as below: <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 invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier."</i> <p>As can be seen, the words "invoice relating to such" were omitted w.e.f. 01.01.2021.</p> 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 delink the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing input tax credit."</i> Accordingly, it is clarified that: <ol style="list-style-type: none"> 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 the purpose of section 16(4) of the CGST Act. 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

	01.01.2021?	<p>the provisions of section 16(4), as it existed before the said amendment on 01.01.2021.</p> <p>Illustration 1. 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>Illustration 2. A debit note has been issued on 10.11.2020 in respect of 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.	Whether carrying physical copy of invoice is compulsory during movement of goods in cases where suppliers have issued invoices in the manner prescribed under rule 48 (4) of the CGST Rules, 2017 (i.e. in cases of e-invoice).	<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 invoice or bill of supply or delivery challan, as the case may be; and (b) a copy of the e-way bill or the e-way bill number, either physically or mapped to a Radio Frequency Identification Device 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 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</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 e-invoice has been generated, the Quick Reference (QR) code, having an</p>

		<p>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.</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 Invoice Reference Number (IRN) 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 unutilized ITC is applicable in case of exports of goods which are having NIL rate of export duty.	<p>1. The term ‘subjected to export duty’ used in first proviso to section 54(3) of the CGST Act, 2017 means where the goods are actually liable 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. 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.</p> <p>3. Goods, which are not subject to any export duty and 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, 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.</p>

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1002905/ENG/Circulars>

2. 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.”
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://taxinformation.cbic.gov.in/view-pdf/1009024/ENG/Notifications>

3. Manner of filing refund of unutilized ITC on account of export of electricity

Circular No. 175/07/2022 - Central Tax dated July 06, 2022

The turnover of export of electricity would be calculated by multiplying the energy exported during the period of refund with the tariff per unit of electricity, specified in the agreement. It is clarified that quantum of Scheduled Energy exported, as reflected in the Regional Energy Account (REA) issued by Regional Power Committee (RPC) Secretariat for a particular month, will be deemed to be the quantity of electricity exported during the said month and will be used for calculating the value of zero rated supply in case of export of electricity. Such monthly Regional Energy Account (REA) issued by Regional Power Committee (RPC) Secretariat, as uploaded on the websites of RPC Secretariat, can be downloaded by GST officers as well as the concerned electricity generator for the purpose of refund under Rule 89(4) of CGST Rules 2019. The calculation of the value of the exports of

electricity during the month, can be done based on the quantity of scheduled electricity exported during the month by the exporter (as detailed in the REA for the month) and the tariff rate per unit.

Brief Analysis

In the given circular, Department describes the Manner of filing refund of unutilized ITC on account of export of electricity. The applicant would be required to file the application for refund under “Any Other” category electronically in FORM GST RFD-01, and required to furnish/upload the details contained in Statement 3B of FORM GST RFD-01 (PDF) containing the number and date of the export invoices, details of energy exported, tariff per unit for export of electricity & upload the copy of statement of scheduled energy for electricity exported by the Generation Plants. The proper officer will Processing of refund claim as;

$$\text{Refund Amount} = (\text{Turnover of zero-rated supply of goods} + \text{Turnover of zero rated supply of services}) \times \text{Net ITC} \div \text{Adjusted Total Turnover}$$

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1003107/ENG/Circulars>

4. Clarification on various issues pertaining to GST

(Circular No. 172/04/2022 - Central Tax dated 06th July 2022)

S. No.	Issue	Clarification
Refund claimed by the recipients of supplies regarded as deemed export		
1.	Whether the Input Tax Credit (ITC) availed by the recipient of deemed export supply for claiming refund of tax paid on supplies regarded as deemed exports would be subjected to provisions of Section 17 of the CGST Act, 2017.	The refund in respect of deemed export supplies is the refund of tax paid on such supplies. However, the recipients of deemed export supplies were facing difficulties on the portal to claim refund of tax paid due to requirement of the portal to debit the amount so claimed from their electronic credit ledger. Considering this difficulty, the tax paid on such supplies, has been made available as ITC to the recipients vide Circular No. 147/03/2021 -GST dated 12.03.2021 only for enabling them to claim such refunds on the portal. The ITC of tax paid on deemed export supplies, allowed to the recipients for claiming refund of such tax paid, is not ITC in terms of the provisions of Chapter V of the CGST Act, 2017. Therefore, the ITC so availed by the recipient of deemed export supplies would not be subjected to provisions of Section 17 of the CGST Act, 2017.

Brief Analysis

In this Circular, Board (CBIC) clarifies on various issue pertaining to GST: As In case of deemed export supply to remove difficulties on the portal in claiming refund of tax paid, now made available as ITC to the recipients only for enabling them to claim such refunds on the portal. Further, The ITC of tax paid on deemed export supplies, allowed to the recipients for claiming refund of such tax paid, is not ITC in terms of the provisions of Chapter V of the CGST Act, 2017. Therefore, such ITC availed by the recipient of deemed export supply for claiming

refund of tax.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1003104/ENG/Circulars>

5. Amendments Notification - (Second Amendment, 2023) to the CGST Rules, 2017

(Notification No. 38/2023 – Central Tax dated 4th August, 2023)

The Central Government, on the recommendations of the Council, amended the Central Goods and Services Tax Rules, 2017, the amended rules inter alia provides for physical verification of business premises in certain cases under Rules 25. Rule 25 substituted as (1) where the proper officer is satisfied that the physical verification of the place of business of a person is required after the grant of registration, he may get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in FORM GST REG-30 on the common portal within a period of *fifteen working days* following the date of such verification. (2) Where the physical verification of the place of business of a person is required before the grant of registration in the circumstances specified in the proviso to sub- rule (1) of rule 9, the proper officer shall get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in FORM GST REG-30 on the common portal at least five working days prior to the completion of the time period specified in the said proviso.”.

Brief Analysis

In this Circular, Board(CBIC) on the recommendations of the Council, amended the Rule 25 (i) of the GST Rules, 2017 related to physical verification of the place of business by the Proper officer in certain cases. Proper office after physical verification need to upload the report along with the other documents on the common portal within specified days.

For further details please visit:<https://taxinformation.cbic.gov.in/view-pdf/1009820/ENG/Notifications>

CASE LAWS

February 16, 2021	M/s. Ram Auto (Appellant) vs. Commissioner of Central Taxes & Central Excise	Madras High Court
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Benefit of Input Tax Credit (ITC) cannot be denied on account of having entered details in the wrong column.

Facts of the case:

The Appellant was a dealer in two-wheelers. The Assessee was registered under Tamil Nadu Value Added Tax Act, 2006. The Appellant was having ITC to the tune of Rs. 4,85,684/-. Following the introduction of the GST regime, transition and migrations from the earlier system had to be made under which the appellant was required to file the necessary Form GST TRAN-1. While filing the said Form, instead of entering the details under column 7(a), the petitioner erroneously entered the details against column 7(d). The column 7(d) would apply only in cases of stock of goods not supported by invoices/documents evidencing payment of tax. While the appellant was very much having the necessary invoices/documents evidencing payment of tax, since the appellant did not enter the details correctly, the consequential credit under the new GST regime was not given. The appellant submitted a request wherein it pointed out that the mistake committed by them was purely inadvertent. As a result, the appellant was not able to adjust the claimed credit amount against their present liability.

Decision:

The Madras High Court held that the benefit of Input Tax Credit (ITC) cannot be denied for having entered the details in the wrong column.

September 30, 2021	In Re GRB Dairy Foods (P) Ltd. (2022)	AAR - TAMILNADU
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ITC is not available on input or input services procured for promotional schemes**Facts of the case:**

The Appellant was engaged in the business of manufacture and supply of ghee and other products and sold products through various retail stores across the country. With the objective of expanding the market share, the appellant had launched a sales promotional offer to enhance sales of its products. It filed an application for advance ruling to determine whether ITC would be eligible on inputs/input services procured to implement promotional scheme.

Decision:

The Appellate Authority for Advance Ruling Ruled that inputs or input services procured for a promotional scheme of products are not qualified for ITC. Goods and services distributed under promotional scheme were without consideration and those goods and services were not for further supply but for consumption by retailers under scheme. Moreover, the inputs and input services procured by appellant were for his buyers provided as rewards and not for his own activity such as advertising product. Since, the rewards extended to retailers/stockist under scheme were not in nature of discount; Therefore, Input Tax Credit of GST paid on such inputs/input services procured would not be available.

Lesson 15 - Procedural Compliance under GST

1. 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 1st 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 1st 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://taxinformation.cbic.gov.in/view-pdf/1000501/ENG/Notifications>

2. 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, -

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;
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://taxinformation.cbic.gov.in/view-pdf/1000498/ENG/Notifications>

3. 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://taxinformation.cbic.gov.in/view-pdf/1002903/ENG/Circulars>

4. 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 as per the IGST Act 2017; whether in such cases, the Dynamic QR Code is required on the invoice issued, for such supply of services, to such recipient located outside India?	No. Wherever an invoice is issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of IGST Act 2017, and the payment is received by the supplier, inconvertible foreign exchange or in Indian Rupees wherever permitted by the RBI, such invoice may be issued without having a Dynamic QR Code, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier."
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For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1003083/ENG/Circulars>

5. 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://taxinformation.cbic.gov.in/view-pdf/1003082/ENG/Circulars>

6. 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:-

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.

(3) 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:-

(e)	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-Profiteering 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://taxinformation.cbic.gov.in/view-pdf/1000496/ENG/Notifications>

7. 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://taxinformation.cbic.gov.in/view-pdf/1009026/ENG/Notifications>

8. 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, 10 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://taxinformation.cbic.gov.in/view-pdf/1009025/ENG/Notifications>

9. 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://taxinformation.cbic.gov.in/view-pdf/1009232/ENG/Notifications>

10. CBIC notifies the provisions of clause (c) of section 110 and section 111 of the Finance Act, 2022 (Notification No. 09/2022 - Central Tax dated July 05, 2022)

As per clause (c) of section 110 of Finance Act, 2022, it is said that A registered person can transfer any amount lying in the tax, interest, penalty, fee or any other amount for:-

- IGST, CGST, SGST, UTGST or cess' or
- IGST or CGST of a distinct person as specified in sub section 4 and 5 of section 25.

Such transfer shall be deemed as a refund from the electronic cash ledger and there is an exception that if there is a tax payable in the electronic liability register then there shall not be any transfer. As per section 111, it is said that for those taxable person who has wrongfully availed and utilised the ITC, they shall be liable to pay the interest @ 24%.

Brief Analysis

The Board (CBIC) notifies, the clause (c) of Section 110 and section 111 of the Finance Act, 2022 related to amendment in Section 49 and section 50 of the CGST Act which relates to Interest on delayed payment of tax. Sub-section (10) of section 49 substituted as A registered person may, on the common portal, transfer any amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for - IGST, CGST, SGST, UTGST or cess' or IGST or CGST of a distinct person as specified in sub section 4 and 5 of section 25 and section 50 substituted as “(3) Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed

and utilised, at such rate not exceeding twenty-four percent as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed.”

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009412/ENG/Notifications>

**11. Notification to make amendments (First Amendment, 2022) to the CGST Rules, 2017
(Notification No. 14/2022 - Central Tax dated July 05, 2022)**

These rules may be called the Central Goods and Services Tax (Amendment) Rules, 2022. Rule 21A has been amended to provide that where the registration has been suspended under sub-rule (2A) for contravention of the provisions contained in clause (b) or clause (c) of sub-section (2) of section 29 and the registration has not already been cancelled by the proper officer under rule 22, the suspension of registration shall be deemed to be revoked upon furnishing of all the pending returns. Explanation 1 to Rule 43 has been amended to provide that value of supply of Duty Credit Scrips shall not be included for the purpose of reversal of common credits.

Brief Analysis

In the given notification Central Government, makes the rules further to amend the Central Goods and Services Tax Rules, 2017 by inserting the proviso of in rule 21A, in sub-rule (4) and clause (d) in rule 43, clause (s) in rule 48, Sub-rule 4B in rule 86 and rule 87 insert rule 88B and other amendment in rule 96, rule 95A and in the said rules, in **FORM GSTR-3B, FORM GSTR-9** etc.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009417/ENG/Notifications>

**12. Mandatory furnishing of correct and proper information of inter-State supplies and amount of ineligible/blocked Input Tax Credit and reversal thereof in return in FORM GSTR -3B and statement in FORM GSTR -1
(Circular No. 170/02/2022 - Central Tax dated July 06, 2022)**

CBIC has advised that the registered persons making inter-State supplies –

- (i) to the unregistered persons, shall also report the details of such supplies, place of supply -wise, in Table 3.2 of FORM GSTR -3B and Table 7B or Table 5 or Table 9/10 of FORM GSTR -1, as the case may be;
- (ii) to the registered persons paying tax under section 10 of the SGST/CGST Act (composition taxable persons) and to UIN holders, shall also report the details of such supplies, place of supply -wise, in Table 3.2 of FORM GSTR -3B and Table 4A or 4C or 9 of FORM GSTR -1, as the case may be, as mandated by the law.
- (iii) shall update their customer database properly with correct State name and ensure that correct PoS is declared in the tax invoice and in Table 3.2 of FORM GSTR -3B while filing their return, so that tax reaches the Consumption State as per the principles of destination-based taxation system.

Brief Analysis

In this circular CBIC, Mandate to furnish correct and proper information of inter-State supplies and amount of ineligible/blocked Input Tax Credit and reversal thereof in return in FORM GSTR-3B and statement in FORM GSTR-1 to remove infirmities in information being furnished by the registered person in relation to inter-State supplies effected to unregistered person, registered person paying tax under section 10 and also to bring

clarity regarding reporting of information about reversal of Input Tax Credit (hereinafter referred to as the “ITC”) as well as ineligible ITC by insuring that ITC not available, on account of limitation of time period as delineated in sub-section (4) of section 16 of the CGST Act or where the recipient of an intra-State supply is located in a different State / UT than that of place of supply, may be reported by the registered person in Table 4D(2). Such details are available in Table 4 of FORM GSTR-2B and it is clarified that the reversal of ITC of ineligible credit under section 17(5) or any other provisions of the CGST Act and rules there under is required to be made under Table 4(B) and not under Table 4(D) of FORM GSTR-3B.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1003102/ENG/Circulars>

13. Notification issued by CBIC to implement e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 10 Crores from October 01, 2022
(Notification No. 17/2022 - Central Tax dated August 01, 2022)

The threshold limit of aggregate turnover for the applicability of e-invoicing provisions reduced from Rs. 20 crore to Rs. 10 crore w.e.f. October 01, 2022.

Brief Analysis

CBIC clarifies, that a Registered person whose aggregate turnover in a financial year exceeds Rs. 10 crore w.e.f. October 01, 2022. Will prepare invoice on the common goods & service tax Electronic portal in such a manner as specified.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009474/ENG/Notifications>

14. Amendments to the Finance Act 2022 has been notified w.e.f. October 01, 2022
(Notification No. 18/2022 - Central Tax dated September 28, 2022)

CBIC has notified October 01, 2022 as the date on which provisions of sections 100 to 114 related to amendments in Central Goods and Services Tax Act, 2017, except clause (c) of section 110 and section 111 of Finance Act, 2022 shall come into force.

Brief Analysis

As per this Notification, the Central Government hereby appoints the 1st day of October, 2022 in the matter of the provisions of sections 100 to 114 except clause (c) of section 110 and section 111, as of the said Act comes into effect by Notification No. 9/2017 –Central Tax-New Delhi, the 28th June, 2017.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009513/ENG/Notifications>

15. Central Goods and Services Tax (Second Amendment) Rules, 2022
(Notification No. 19/2022 – Central Tax dated September 28, 2022)

This notification seeks to make amendments (Second Amendment, 2022) to the CGST Rules, 2017. In rule 96 of the said rules, in sub-rule (3), for the words, letters and figures, —FORM GSTR 3 or FORM GSTR-3B, as the case may be, the letters and figure, —FORM GSTR-3B shall be substituted. FORM GSTR-1A, FORM GSTR-2 and FORM GSTR-3 of the said rules shall be omitted.

Brief Analysis

CBIC notifies the amendment in Rule 21, for filing return monthly and quarterly for not filing return continuous for 6 months and two tax periods respectively and in Rule 36, Rule 37, Rule 38 the word, letters and figure, -in FORM GSTR-2 shall be omitted; Rule 42, rule 96 for the words, letters and figures, -FORM GSTR-3 or FORM GSTR-3B, as the case may be, the letters and figure, -FORM GSTR-3B shall be substituted and in others.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009514/ENG/Notifications>

16. Central Board of Indirect Taxes & Customs (CBIC) reduces e-invoicing limit from 10 crore to 5 crore

(Notification No. 10/2023-Central Tax New Delhi dated May 10, 2023)

The Government, on the recommendations of the Council, reduced the limit of e-invoicing from existing limit of Rs. 10 crore to Rs. 5 crore. This amendment will come in to effect from the 1st day of August, 2023.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009732/ENG/Notifications>

17. CBIC rolls out Automated Return Scrutiny Module for GST returns in ACES-GST backend application for Central Tax Office

(Press Release dated May 11, 2023)

Central Board of Indirect Taxes & Customs (CBIC) has rolled out the Automated Return Scrutiny Module for GST returns in the ACES-GST backend application for Central Tax Officers. This module will enable the officers to carry out scrutiny of GST returns of Centre Administered Taxpayers selected on the basis of data analytics and risks identified by the System. In the module, discrepancies on account of risks associated with a return are displayed to the tax officers. Tax officers are provided with a workflow for interacting with the taxpayers through the GSTN Common Portal for communication of discrepancies noticed under FORM ASMT- 10, receipt of taxpayer's reply in FORM ASMT-11 and subsequent action in form of either issuance of an order of acceptance of reply in FORM ASMT-12 or issuance of show cause notice or initiation of audit / investigation.

Brief Analysis

Under this press release the Union Minister for Finance and Corporate Affairs had given directions to roll out an Automated Return Scrutiny Module for GST return at the earliest. In order to implement this non-intrusive means of compliance verification, CBIC has rolled out the Automated Return Scrutiny Module for GST returns in the ACES-GST backend application for Central Tax Officers. This module will enable the officers to carry out scrutiny of GST returns of Centre Administered Taxpayers selected on the basis of data analytics and risks identified by the System.

For further details please visit: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1923445>

18. Rationalisation of late fee for GSTR-9 and Amnesty to GSTR-9 non-filers

(Notification no.07/2023–Central tax- March 31, 2023)

The Central Government, on the recommendations of the Council, hereby waives the amount of late fee referred to in section 47 of the said Act in respect of the return to be furnished under section 44 of the said Act for the financial year 2022-23 onwards.

Brief Analysis

In the said notification the Central Government, hereby waives the amount of late fee referred to in section 47 of the said Act, the registered persons who fails to furnish the return by the due date in respect of the return to be furnished under section 44 of the said Act for the financial year 2022-23 onwards, which is in excess of amount Twenty-five rupees per day, subject to a maximum of an amount calculated at 0.02 percent. of turnover in the State or Union territory for Registered persons having an aggregate turnover of up to five crore rupees in the relevant financial year and Fifty rupees per day, subject to a maximum of an amount calculated at 0.02 percent. Of turnover in the State or Union territory for registered persons having an aggregate turnover more than five crore rupees and up to twenty crores rupees in the relevant financial year.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009689/ENG/Notifications>

Lesson 16- Basic over view on IGST, UTGST, and GST Compensation to States

1. 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://taxinformation.cbic.gov.in/view-pdf/1002904/ENG/Circulars>

2. 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://taxinformation.cbic.gov.in/view-pdf/1003080/ENG/Circulars>

3. GST Compensation Cess has been extended up to 31st March 2026

(Notification No. 01/2022-Compensation Cess dated June 24, 2022)

The Government has extended the period during which the GST compensation cess may be levied till March 2026. The compensation cess will continue to be collected from July 1, 2022, to March 31, 2026, in accordance

with the Goods and Services Tax (Period of Levy and Collection of Cess) Rules, 2022, which were announced by the finance ministry

Brief Analysis

As per this Notification, a new rule, Goods and Services Tax (Period of Levy and Collection of Cess) Rules, 2022 come into force with effect from the 1st day of July, 2022 and the period for levy and collection of cess under sub-section (1) of section 8 of the GST (Compensation to States) Act, 2017 shall be upto the 31st March, 2026.

For further details please visit: <https://egazette.nic.in/WriteRead-Data/2022/236790.pdf>

4. Notification for further amendments in the notifications of the Government of India, Ministry of Finance (Department of Revenue), No. 2/2017- Union Territory (Rate) and No. 2/2017- Integrated Tax (Rate)

[Notification No. 04/2023- Central Tax (Rate), Integrated Tax (Rate), and Union Territory (Rate), New Delhi, dated the February 28, 2023]

The Central Government, being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No.2/2017-Integrated Tax (Rate) and No.2/2017-Union Territory (Rate), dated the June, 28th, 2017. In the said notifications, in the Schedule, against S. No. 94, in Column (3), after the item (ii) and the entries relating thereto, the following item and entry shall be inserted, namely: -“(iii) Rab, other than pre-packaged and labelled”. The said Notifications came into force from March 01, 2023.

Brief Analysis

In this notification the Central Government, hereby makes the further amendments in the notification of the Government of India, by inserting item no (iii) i.e. “Rab, other than pre-packaged and labelled” in the Schedule, against S. No. 94, in Column (3), after the item (ii) and the entries relating thereto

For further details please visit:

<https://taxinformation.cbic.gov.in/view-pdf/1009649/ENG/Notifications>

<https://taxinformation.cbic.gov.in/view-pdf/1009653/ENG/Notifications>

5. Notification for Amendment in Compensation Cess

[N/No.1/ 2023-Compensation Cess (Rate), New Delhi, the February 28, 2023]

The Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No. 1/2017-Compensation Cess (Rate), dated the 28th June, 2017 published in the Gazette of India. In the said notification, in the Schedule, against Sl. No. 41A, in column (3), for the entry, the following entry shall be

substituted, namely: - “Coal rejects supplied to a coal washery or by a coal washery, arising out of coal on which compensation cess has been paid and input tax credit thereof has not been availed by any person”. The said Notifications came into force from March 01, 2023.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009654/ENG/Notifications>

Lesson 17- Overview of Customs Act

1. Principal Commissioners/Commissioners of Customs to decide the amount of security required in certain cases of provisional assessments

(Circular No. 19/2021 –Customs, dated August 16, 2021)

Amendment in Circular No.38/2016-Customs with the insertion of a new entry 5(d) to enable Principal Commissioners/Commissioners of Customs to decide the amount of security required in certain cases of provisional assessments. The new entry 5(d) is applicable to all fresh import consignments and those pending finalisation of assessment under Section 18 of the Customs Act, 1962.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1000221/ENG/Circulars>

2. 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://taxinformation.cbic.gov.in/view-pdf/1009230/ENG/Notifications>

3. Amendments to the Finance Act 2022 has been notified w.e.f. October 01, 2022

(Notification No. 18/2022 - Central Tax dated September 28, 2022)

CBIC has notified October 01, 2022 as the date on which provisions of sections 100 to 114 related to amendments in Central Goods and Services Tax Act, 2017, except clause (c) of section 110 and section 111 of Finance Act, 2022 shall come into force.

Brief Analysis

As per this Notification, the Central Government hereby appoints the 1st day of October, 2022 in the matter of the provisions of sections 100 to 114 except clause (c) of section 110 and section 111, as of the said Act came into effect by Notification No. 9/2017 –Central Tax-New Delhi, the 28th June, 2017.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009513/ENG/Notifications>

4. Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023 (CAVR, 2023)

(Notification No. 03/2023-Customs (N.T.) January 11, 2023)

After information to and feedback from public and stakeholders, including Directorates involved in implementation CBIC has notified the Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023. The rules provide guidance to both, the person making the reference to the Board, as well as in the

undertaking of detailed examination. The operation of the CAVR, 2023 dated 11th January 2023 shall come into effect on February 11, 2023.

Brief Analysis

Under this notification the Central Government, hereby makes new rules by the name of Customs (Assistance in Value Declaration of Identified Imported Goods) Rules, 2023 and the same shall come into force on 11th day of February, 2023.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009611/ENG/Notifications>

5. Fixation of Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold and Silver (Notification No. 11/2023-CUSTOMS (N.T.), New Delhi, February 28, 2023)

By the said notification the Central Government, hereby brings changes in Tariff Value (US \$) of certain goods like Edible Oils, Brass Scrap, Areca Nut, Gold and Silver etc. in TABLE-1, TABLE-2, and TABLE-3. This change will be effective from March 01, 2023.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009656/ENG/Notifications>

6. Exemption of COVID-19 vaccine (Notification No. 01 /2023 – Customs, dated January 13, 2023)

The Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the goods of the description specified in column (3) of the Table below, falling within the Chapter, heading, sub-heading or tariff item of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) specified in column (2) of the said Table, when imported into India by Central Government or State Governments, from the whole of the duty of customs leviable thereon under the said First Schedule.

Brief Analysis

As per this notification, the Central Government hereby exempts the COVID-19 vaccine from the whole of the duty of customs leviable thereon under the said First Schedule.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009613/ENG/Notifications>

7. Faceless Assessment – Standard Examination Orders (SEOs) through RMS - Phased implementation of Standardized Examination Orders through RMS (Circular No. 02/2023-Customs-January 11, 2023)

Considering the on track implementation and feedback from the National Customs Targeting Centre (NCTC) in Assessment Groups 4, the Board has decided to implement Standard Examination Orders (SEOs) through the Risk Management System across other assessment groups, National Assessment Centre (NAC) wise as per specified schedule.

Brief Analysis

In this Notification, CBIC (board) has decided to implement Standard Examination Orders (SEOs) for goods covered under Assessment Groups through the Risk Management System across assessment groups, National Assessment Centre (NAC) wise as per the given schedule and getting feedback from the National Customs Targeting Centre (NCTC) in such assessment groups.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1003142/ENG/Circulars>

8. Amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 50/2017-Customs, dated the 30th June, 2017

(Notification No. 02/2023-Customs New Delhi, dated February 01, 2023)

In the said notification, It is inserted as; If, at the time of import, the importer produces to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, a certificate from an Officer not below the rank of Joint Secretary to the Government of India in the Ministry of Heavy Industries certifying that the imported goods (having regard to their description, quantity and technical specification) are intended for use by testing agencies specified in List 37 for testing and/or certification purposes only; This notification came into force from February 02, 2023.

Brief Analysis

In the said notification, the Central Government, hereby makes the further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 50/2017-Customs, dated the 30th June, 2017 by inserting few entries in the said Table regarding Pecan nuts, Fish lipid oil, Crude glycerin, Algal Prime (flour), Acid grade fluorspar and in the in the Annexure, - Condition No. 113 inserted, and List 36 and List 37 and the entries relating thereto in the matter of Petrol/ Diesel Vehicles, Automotive Research Association, International Centre for Automotive Technology etc.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009620/ENG/Notifications>

9. Amendment in Circular No. 29/2020-Customs dated 22.06.2020 for allowing transshipment of Bangladesh export cargo to third countries through Delhi Air Cargo - reg.

Circular No. 03/2023-Customs, New Delhi dated February 07, 2023)

The Circular allows inter alia transshipment of Bangladesh export cargo through Kolkata Air Cargo. The goods loaded on containers/ closed bodied trucks enter India from LCS Petrapole, move by road to Kolkata Air Cargo, from where they are airlifted and transported to third countries. It has been represented to allow this movement through Delhi Air Cargo also, for better cargo evacuation and improved logistics efficiency.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1003145/ENG/Circulars>

10. Amendment in Project Imports Regulations, 1986, to insert a new regulation

(Notification No. 07/2023-Customs New Delhi, dated February 01, 2023)

Central Board of Indirect Taxes and Customs (CBIC) has issued Project Imports (Amendment) Regulations, 2023 to amend the Project Imports Regulations, 1986, same came into force from February 02, 2023.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009625/ENG/Notifications>

11. Fixation of Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold and Silver

(Notification No. 09/2023-CUSTOMS (N.T.), New Delhi, February 15, 2023)

The Central Board of Indirect Taxes & Customs, being satisfied that it is necessary and expedient to do so, hereby makes amendments in TABLE-1, TABLE-2, and TABLE-3 for fixation of Tariff Value of Edible Oils like Crude Palm Oil, RBD Palm Oil & Others – Palm Oil, Brass Scrap, Areca Nut, Gold and Silver. This notification came into force with effect from February 16, 2023.

Brief Analysis

By the said notification the Central Government, hereby brings changes in Tariff Value (US \$) of certain goods like Edible Oils, Brass Scrap, Areca Nut, Gold and Silver etc. in TABLE-1, TABLE-2, and TABLE-3. This change will be effective from February 16, 2023.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009637/ENG/Notifications>

12. Custom notification for amendment in HSN code 8908 00 00 vide

(Notification No. 13/2023- Customs, New Delhi, February 23, 2023)

The Central Government, on being satisfied that it is necessary in the public interest so to do, hereby makes further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No. 50/2017-Customs, dated the 30th June, 2017 in relation to HSN code 8908 00 00. This notification came into force with effect from February 24, 2023.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009641/ENG/Notifications>

13. Notification regarding change in Tariff value of Crude oil, Crude Palmolein, Brass Scrap, Gold, Silver, and Areca nuts etc.

(Notification No. 11/2023-Customs (N.T.) New Delhi, February 28, 2023)

The Central Board of Indirect Taxes & Customs, being satisfied that it is necessary and expedient to do so, hereby makes the amendments in the notification No. 36/2001-Customs (N.T.), dated the August, 3rd, 2001, regarding change in Tariff value of Crude oil, Crude Palmolein, Brass Scrap, Gold, Silver, Medallions and silver coins, Gold bars, and Areca nuts. This notification came into force with effect from March 01, 2023.

Brief Analysis

By the said notification the Central Government, hereby brings changes in Tariff Value (US \$) of certain goods like Edible Oils, Brass Scrap, Areca Nut, Gold and Silver etc. in TABLE-1, TABLE-2, and TABLE-3. This change will be effective from March 01, 2023.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009656/ENG/Notifications>

14. Custom exemption notification regarding tag, tracking device or data logger

(Notification No. 14/2023-Customs, New Delhi, the February 28, 2023)

The Central Government, makes the further amendments in the notification No. 104/94-Customs. As In the said notification, after the Second proviso, an Explanation shall be inserted, regarding a device such as tag, tracking device or data logger already affixed on the container at the time of import shall also be eligible for exemption from the duty of customs and the integrated tax.

Brief Analysis

As per this notification of the Central Government, a device such as tag, tracking device or data logger already affixed on the container at the time of import shall also be eligible for exemption from the duty of customs and the integrated tax.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009655/ENG/Notifications>

15. Customs Notification for Fixation of Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold and Silver

(Notification No. 34/2023-New Delhi, dated May 15, 2023)

The Central Government, on being satisfied that it is necessary and expedient to do so, make the amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the August 03, 2001, published in the Gazette of India, with respect of Crude Palm Oil, RBD Palm Oil, Brass Scrap (all grades), Gold and Silver & Areca nuts etc. for fixation of Tariff value. This notification shall come into force from the 16th of May, 2023.

Brief Analysis

By the said notification the Central Government, hereby brings changes in Tariff Value (US \$) of certain goods like Edible Oils, Brass Scrap, Areca Nut, Gold and Silver etc. in TABLE-1, TABLE-2, and TABLE-3. This change will be effective from May 16, 2023.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009734/ENG/Notifications>

16. Customs Notification for Fixation of Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold and Silver

(Notification No. 38/2023, dated May 31, 2023)

The Central Government, on being satisfied that it is necessary and expedient to do so, hereby make the amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3rd August, 2001, published in the Gazette of India, Extraordinary with respect of Crude Palm Oil, RBD Palm Oil, Brass Scrap (all grades), Gold and Silver & Areca nuts etc. for fixation of Tariff value. This notification shall come into force from the 1st of June, 2023

Brief Analysis

By the said notification the Central Government, hereby brings changes in Tariff Value (US \$) of certain goods like Edible Oils, Brass Scrap, Areca Nut, Gold and Silver etc. in TABLE-1, TABLE-2, and TABLE-3. This change will be effective from June 1, 2023.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009743/ENG/Notifications>

17. Customs Notification for Fixation of Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold and Silver

(Notification No. 47/2023-New Delhi, dated June 30, 2023)

The Central Government, on being satisfied that it is necessary and expedient to do so, make the amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the August 03, 2001, published in the Gazette of India, with respect of Crude Palm Oil, RBD Palm Oil, Brass Scrap (all grades), Gold and Silver & Areca nuts etc. for fixation of Tariff value. This notification shall come into force from the 1st of July, 2023.

Brief Analysis

By the said notification the Central Government, hereby brings changes in Tariff Value (US \$) of certain goods like Edible Oils, Brass Scrap, Areca Nut, Gold and Silver etc. in TABLE-1, TABLE-2, and TABLE-3.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009758/ENG/Notifications>

18. Customs Notification - Customs (ADD)-Seeks to impose Anti-Dumping Duty (ADD) on Dispersion Unshifted Single Mode Optical Fiber (SMOF)

(Notification No. 07/2023-August 03, 2023)

Whereas in the matter of ‘Dispersion Unshifted Single –Mode Optical Fiber’ falling under chapter heading 9001 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) originating in, or exported and imported into India, the designated authority in its final finding has come to the conclusion that—

- (i) the subject goods have been exported to India from the subject countries below normal values;
- (ii) the domestic industry has suffered material injury on account of subject imports from subject countries;

- (iii) the material injury has been caused by the dumped imports of subject goods from the subject countries, and has recommended imposition of an anti-dumping duty on the imports of subject goods, originating in, or exported from the subject countries and imported into India, in order to remove injury to the domestic industry.

Brief Analysis

In this Notification it has recommended to impose of an Anti-Dumping Duty (ADD) on the imports of subject goods, originating in, or exported from the subject countries and imported into India, in order to remove injury to the domestic industry.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009817/ENG/Notifications>

19. Customs Notification - Customs (ADD)-Seeks to impose Anti-Dumping Duty (ADD) pursuant to 1st SSR on Fishing Net (Notification No. 08/2023-August 29, 2023)

Whereas in the matter of anti-dumping duty on imports of “Fishing Net” falling under tariff item 5608 11 10 of the First Schedule to the Customs Tariff Act, the designated authority in its final finding has come to the conclusion that— (i) there is continued dumping of the subject goods both directly from the subject country and indirectly through Malaysia despite the anti-dumping duties in force; (ii) the fact that Chinese-origin dumped imports continued through Malaysia after the imposition of duties shows a strong likelihood that if the duties were to be revoked the volume of subject imports will increase at a much higher rate and at much lower prices; (iii) there is a likelihood of continuance or recurrence of dumping and injury if the existing anti-dumping duties are allowed to cease, and has recommended continued imposition of the anti-dumping duty on imports of the subject goods, originating in or exported from the subject country, in order to remove injury to the domestic industry.

Brief Analysis

In this Notification it has recommended to continue the imposition of the Anti-Dumping Duty (ADD) on imports of the subject goods, originating in or exported from the subject country, in order to remove injury to the domestic industry.

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009840/ENG/Notifications>

20. Customs Notification - Deferred Payment of Import Duty (Amendment) Rules, 2023 (Notification No. 58/2023-August 03, 2023)

The Central Government hereby makes the following rules further to amend the Deferred Payment of Import Duty Rules, 2016. In the Rule 4, the following proviso shall be inserted, namely:

“Provided that, where the Central Government considers it necessary and expedient, it may, under exceptional circumstances, and for reasons to be recorded in writing, allow payment to be made on a different due date.”

For further details please visit: <https://taxinformation.cbic.gov.in/view-pdf/1009816/ENG/Notifications>