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भारतीय कम्पनी सचिव संस्थान

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SUPPLEMENT EXECUTIVE PROGRAMME (OLD SYLLABUS)

for

June, 2021 Examination

TAX LAWS AND PRACTICE

(PART B – GOODS AND SERVICES TAX)

MODULE 1

PAPER 4

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

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

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Lesson 18

Central Goods and Services Tax Law “CGST”

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

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

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

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

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

Brief Analysis

Taxpayers can now file Nil return under section 39 in Form GSTR-3B or a Nil details of outward supplies under section 37 in Form GSTR-1, through an SMS, apart from filing it through online mode, on GST Portal.

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

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

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

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

1. (1) These rules may be called the Central Goods and Services Tax (Ninth Amendment) Rules, 2020.

(2) They shall come into force on the date of their publication in the Official Gazette.

Brief Analysis

The Central Government, on the recommendations of the Council has notified the CGST (Ninth Amendment) Rules, 2020. This Notification seeks to update the CGST Rules. Detailed scheme is provided to inform the substitution of Form GST INV – 01. Payee information has been made optional. A new format of e-invoice has been notified by CBIC adding more fields and removing some fields. Certain fields have undergone changes in character length as well.

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

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

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

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

1. Short Title and commencement.- (1) These rules may be called the Central Goods and Services Tax (Tenth Amendment) Rules, 2020.

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

2. In the Central Goods and Services Tax Rules, 2017, in rule 8, for sub-rule (4A), the following sub-rule shall be substituted with effect from April 01, 2020, namely: -

“(4A) Where an applicant, other than a person notified under sub-section (6D) of section 25, opts for authentication of Aadhaar number, he shall, while submitting the application under sub-rule (4), with effect from August 21, 2020, undergo authentication of Aadhaar number and the date of submission of the application in such cases shall be the date of authentication of the Aadhaar number, or fifteen days from the submission of the application in **Part B of FORM GST REG-01** under sub-rule (4), whichever is earlier.”.

Brief Analysis

CBIC has prescribed condition of Aadhaar authentication for registration. If a person do not go for Aadhaar authentication then he has to go for physical verification. While applying for registration, taxpayer has to opt to go for Aadhaar authentication or otherwise. If he opts for Aadhaar authentication, then application will be deemed to be filed from the date of authentication or 15 days of filing of application, whichever is earlier. If taxpayer does not opt for Aadhaar authentication, then physical verification will be conducted. However, one more option is given,

that if joint Commissioner permits then verification of documents can be done. The time limit has also been prescribed wherein deemed registration will be granted, if the officer failed to take action within time limit prescribed.

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

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

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

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

1. (1) These rules may be called the Central Goods and Services Tax (Eleventh Amendment) Rules, 2020.

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

2. In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), in rule 46, after clause (q), the following clause shall be inserted, namely:-

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

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

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

Brief Analysis

This Notification seeks to make the Eleventh amendment (2020) to the CGST Rules. The Commissioner may, on the recommendations of the Council, by notification, exempt a person or a class of registered persons from issuance of e-invoice under this sub-rule for a specified period and QR Code duly embedded with IRN can be produced for verification instead of physical copies, subject to such conditions and restrictions as may be specified in the said notification.

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

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

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

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

1. Short title and commencement. - (1) These rules may be called the Central Goods and Services Tax (Twelveth Amendment) Rules, 2020.

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

2. In the Central Goods and Services Tax Rules, 2017, in rule 46, for the first proviso, the following proviso shall be substituted, namely: -

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

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

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

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

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

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

Brief Analysis

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

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

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

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

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

1. Short title and commencement. - (1) These rules may be called the Central Goods and Services Tax (Thirteenth Amendment) Rules, 2020.

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

2. In the Central Goods and Services Tax Rules, 2017 (hereafter in this notification referred to as the said rules), for rule 59, the following rule shall be substituted with effect from the 1st day of January, 2021 namely: -

“59. Form and manner of furnishing details of outward supplies.- (1) Every registered person, other than a person referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), required to furnish the details of outward supplies of goods or services or both under section 37, shall furnish such details in **FORM GSTR-1** for the month or the quarter, as the case may be, electronically through the common portal, either directly or through a Facilitation Centre as may be notified by the Commissioner.

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

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

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

(a) invoice wise details of all -

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

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

(b) consolidated details of all -

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

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

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

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

-
- (a) invoice wise details of inter-State and intra-State supplies made to the registered persons;
- (b) debit and credit notes, if any, issued during the month for such invoices issued previously.”.

Brief Analysis

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

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

7. Notification to make Fourteenth amendment (2020) to CGST Rules

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

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

1. Short title and commencement. - (1) These rules may be called the Central Goods and Services Tax (Fourteenth Amendment) Rules, 2020.

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

2. In the Central Goods and Services Tax Rules, 2017, in rule 8, for sub-rule (4A), with effect from a date to be notified, the following sub-rule shall be substituted, namely: -

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

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

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

the application shall be deemed to be complete only after completion of the process laid down under this sub-rule.”.

Brief Analysis

Central Government, on the recommendations of the Council has notified the CGST (Fourteenth Amendment) Rules, 2020. The new Rule restricts the use of ITC for discharging the output tax liability. As per the notification in Rule 36(4), the limit is revised to 5% instead of earlier 10%. The CBIC has inserted Sub-rule 4A under Rule 8 which says that every application made under rule (4) shall be followed by biometric-based Aadhaar authentication and taking photograph or taking biometric information, photograph and verification of such other KYC documents, as notified, unless the applicant is exempted under sub-section (6D) of section 25 of CGST Act, 2017, if he has opted not to get Aadhaar authentication done. In case if the applicant is an individual or of such individuals in relation to the applicant as notified under sub-section (6C) of section 25 where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 at one of the Facilitation Centres notified by the Commissioner for the purpose of this sub-rule and the application shall be deemed to be complete only after completion of the process laid down under this sub- rule.

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

Lesson 20

Procedural Compliance under GST, Assessment, Offences and penalty

1. Notification to include export invoices in E - invoicing

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

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

In the said notification, in the first paragraph, -

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

Brief Analysis

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

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

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

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

The Central Government, hereby notifies the registered persons required to prepare the tax invoice in the manner specified under sub-rule (4) of rule 48 of the CGST Rules, 2017, who have prepared tax invoice in a manner other than the said manner, as the class of persons who shall, during the period from October 01, 2020 to October 31, 2020, follow the special procedure such that the said persons shall obtain an Invoice Reference Number (IRN) for such invoice by uploading specified particulars

in FORM GST INV-01 on the Common Goods and Services Tax Electronic Portal, within thirty days from the date of such invoice, failing which the same shall not be treated as an invoice.

Brief Analysis

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

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

3. Number of HSN digits required on tax invoice

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

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

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

Table

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

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

Brief Analysis

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

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

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

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

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

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

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

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

Brief Analysis

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

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

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

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

In exercise of the powers conferred by section 148 read with sub-section (7) of section 39 of the Central Goods and Services Tax Act, 2017 (12 of 2017), (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies the registered persons, notified

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

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

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

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

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

Brief Analysis

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

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