



# Newsletter

December, 2022 – Volume 65

# GST



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





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## GST COLLECTION UPDATES

**₹1,49,507 crore GST Revenue collected for December 2022,  
record increase of 15% Year-on-Year**

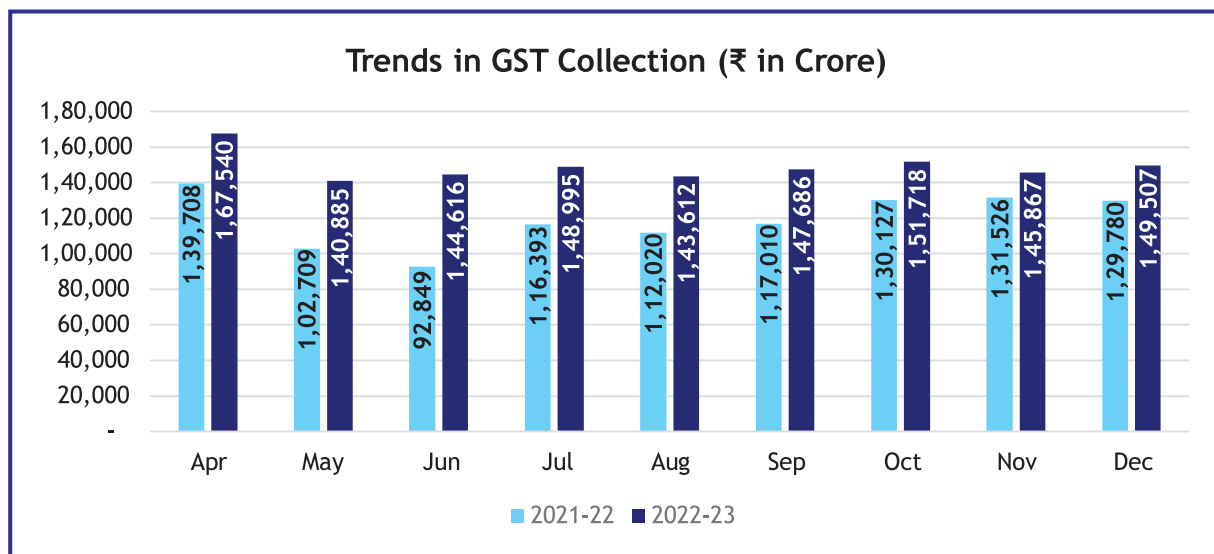
**Monthly GST revenues more than ₹1.4 lakh crore for 10 straight months in a row**

The gross GST revenue collected during December 2022 is **₹1,49,507 crore**, of which CGST is **₹26,711 crore**, SGST is **₹33,357 crore**, IGST is **₹78,434 crore** (including ₹40,263 crore collected on import of goods) and Cess is **₹11,005 crore** (including ₹850 crore collected on import of goods).

The Government has settled **₹36,669 crore** to CGST and **₹31,094 crore** to SGST from IGST as regular settlement. The total revenue of Centre and the States after regular settlements in the month of December 2022 is **₹63,380 crore** for CGST and **₹64,451 crore** for the SGST.

The revenues for the month of December 2022 are **15% higher** than the GST revenues in the same month last year. During the month, revenues from import of goods were **8% higher** and revenues from domestic transaction (including import of services) are **18% higher** than the revenues from these sources during the same month last year. During the month of November, 2022, 7.9 crore e-way bills were generated, which was significantly higher than 7.6 crore e-way bills generated in October, 2022.

The chart below shows trends in monthly gross GST revenues during the current financial year.

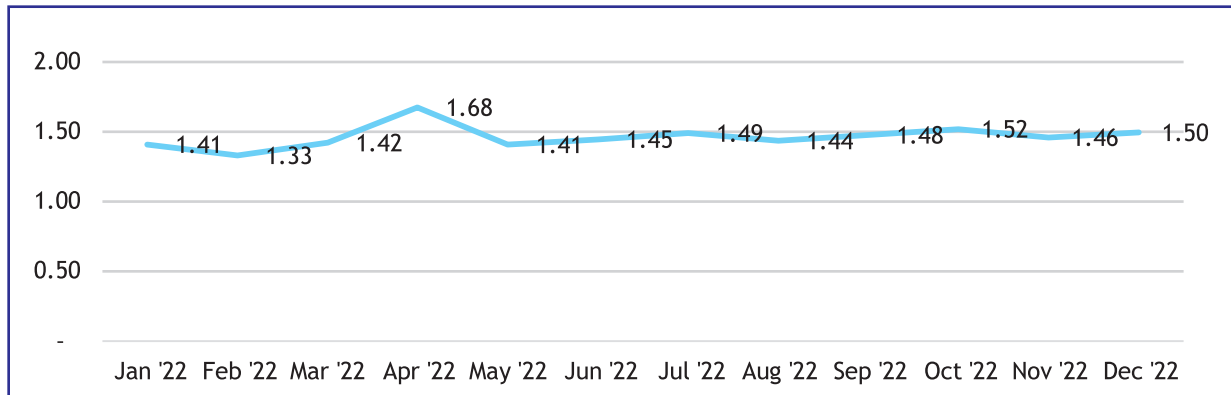


Source: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1887876>

## TRENDS IN GST COLLECTION AND E-WAY BILLS GENERATED

The chart below shows trends in monthly gross GST revenues during the last one year.

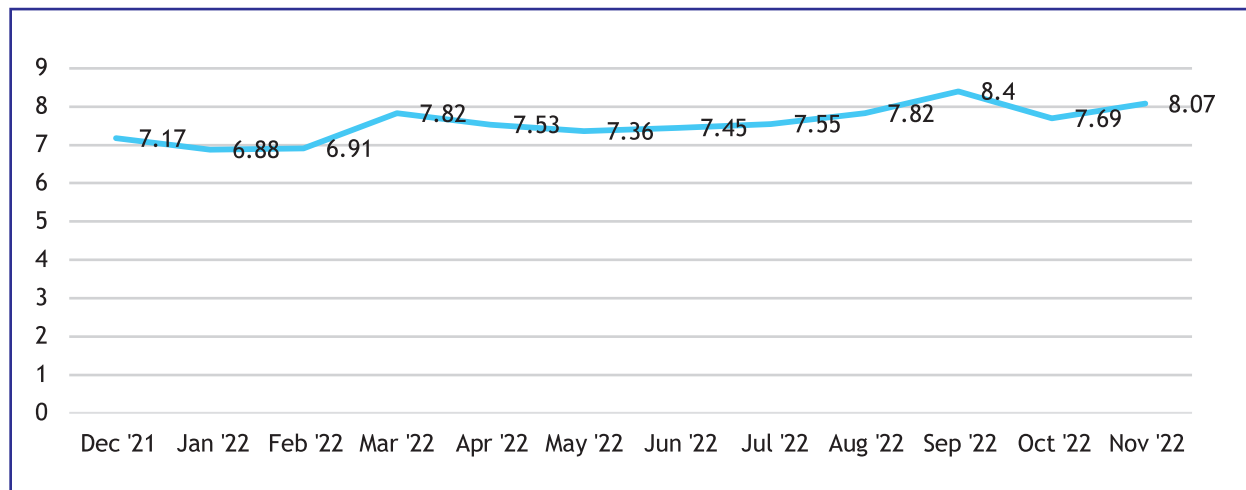
**GST COLLECTION (IN ₹ LAKH CRORE)**



*Source: Compiled from Press Releases issued by PIB*

The chart below shows E-way bills generated corresponding to the monthly GST collection.

**E-WAY BILL STATISTICS (IN CRORES)**



*Source: <https://gstn.org.in/>*

**Note:** The revenue collections in the current month pertains to the transactions conducted in the previous month. For example: revenue collections for the month of Jan '22 (as per PIB release) reflects the transactions conducted in Dec '21. Therefore, in the above charts e-way bills generated in Dec '21 is shown corresponding to the GST Revenue collection for Jan '22 and so on.

## STATE-WISE GROWTH IN GST REVENUES

*Amount in ₹ Crores*

State	Oct-Dec 2021	Oct-Dec 2022	Growth/ Decline
Jammu and Kashmir	1,351	1,265	-6%
Himachal Pradesh	2,113	2,164	2%
Punjab	5,013	5,163	3%
Chandigarh	502	596	19%
Uttarakhand	3,599	4,146	15%
Haryana	17,495	21,109	21%
Delhi	12,186	13,637	12%
Rajasthan	10,179	11,168	10%
Uttar Pradesh	19,440	22,271	15%
Bihar	3,344	3,970	19%
Sikkim	713	764	7%
Arunachal Pradesh	140	194	39%
Nagaland	102	121	19%
Manipur	147	146	-1%
Mizoram	75	71	-5%
Tripura	193	214	11%
Meghalaya	441	497	13%
Assam	3,432	3,474	1%
West Bengal	12,049	14,321	19%
Jharkhand	6,913	7,587	10%
Odisha	11,809	11,785	0%
Chhattisgarh	7,428	7,361	-1%

Madhya Pradesh	8,007	8,889	11%
Gujarat	25,402	28,040	10%
Daman and Diu	2	-	-100%
Dadra and Nagar Haveli	771	900	17%
Maharashtra	57,603	68,246	18%
Karnataka	25,642	31,295	22%
Goa	1,427	1,327	-7%
Lakshadweep	5	3	-40%
Kerala	5,956	6,764	14%
Tamil Nadu	22,072	26,415	20%
Puducherry	471	605	28%
Andaman and Nicobar Islands	76	67	-12%
Telangana	11,545	12,690	10%
Andhra Pradesh	8,161	9,895	21%
Ladakh	47	109	132%
Other Territory	372	660	77%
Center Jurisdiction	555	473	-15%
<b>Grand Total</b>	<b>286,778</b>	<b>328,402</b>	<b>15%</b>

*Notes:*

1. Above collections do not include GST on import of goods.
2. States having growth rate in GST collections more than 10% are highlighted.

*Source : Compiled from Press Releases issued by PIB*

# RECOMMENDATIONS OF 48<sup>TH</sup> GST COUNCIL MEETING

The 48<sup>th</sup> GST Council met under the Chairpersonship of Union Minister for Finance & Corporate Affairs Smt. Nirmala Sitharaman *via* virtual mode in New Delhi on December 17, 2022. The meeting was also attended by Union Minister of State for Finance, Shri Pankaj Choudhary besides Finance Ministers of States & UTs (with legislature) and Senior Officers of the Ministry of Finance and States/ UTs.

The GST Council has *inter-alia* made the following recommendations relating to changes in GST tax rates, measures for facilitation of trade and measures for streamlining compliances in GST:

## TAX RATES

S. No.	Description	From	To
Goods			
1.	Husk of pulses including chilka and concentrates including chuni/churi, khanda	5%	Nil
2.	Ethyl alcohol supplied to refineries for blending with motor spirit (petrol)	18%	5%

2. It was also decided to include supply of *Mentha arvensis* under reverse charge mechanism as has been done for Mentha Oil.
3. It was decided to clarify that:
  - Rab (rab-salawat) is classifiable under CTH 1702 which attracts GST at the rate of 18%.
  - 'Fryums manufactured using the process of extrusion' is specifically covered under CTH 19059030 and attracts GST at the rate of 18%.
  - The higher rate of compensation cess of 22% is applicable to motor vehicle fulfilling all four conditions, namely, it is popularly known as SUV, has engine capacity exceeding 1500 cc, length exceeding 4000 mm and a ground clearance of 170 mm or above.
  - Goods falling in lower rate category of 5% under Schedule-I of Notification No. 1/2017-CTR imported for petroleum operations will attract lower rate of 5% and the rate of 12% shall be applicable only if the general rate is more than 12%.
4. As a relief measure, the Council decided to regularise the intervening period starting from the date of issuance of Circular (3.8.2022) in respect of GST on 'husk of pulses including chilka and concentrates including chuni/churi, khanda' on "*as is basis*" on account of genuine doubts.

5. No GST is payable where the residential dwelling is rented to a registered person if it is rented in his/her personal capacity for use as his/her own residence and on his own account and not on account of his business.
6. Incentive paid to banks by Central Government under the scheme for promotion of RuPay Debit Cards and low value BHIM-UPI transactions are in the nature of subsidy and thus not taxable.

## Measures for Facilitation of Trade

1. **Decriminalization under GST:** The Council has recommended to -
  - raise the minimum threshold of tax amount for launching prosecution under GST from ₹1 Crore to ₹2 Crores, except for the offence of issuance of invoices without supply of goods or services or both;
  - reduce the compounding amount from the present range of 50% to 150% of tax amount to the range of 25% to 100%;
  - decriminalize certain offences specified under clause (g), (j) and (k) of sub-section (1) of section 132 of CGST Act, 2017, viz. -
    - obstruction or preventing any officer in discharge of his duties;
    - deliberate tampering of material evidence;
    - failure to supply the information.
2. **Refund to unregistered persons:** There is no procedure for claim of refund of tax borne by unregistered buyers in cases where the contract/ agreement for supply of services, like construction of flat/house and long-term insurance policy, is cancelled and the time period of issuance of credit note by the concerned supplier is over. The Council recommended amendment in CGST Rules, 2017, along with issuance of a circular, to prescribe the procedure for filing application of refund by the unregistered buyers in such cases.
3. **Facilitate e-commerce for micro enterprises:** GST Council in its 47<sup>th</sup> meeting had granted in-principle approval for allowing unregistered suppliers and composition taxpayers to make intra-state supply of goods through E-Commerce Operators (ECOs), subject to certain conditions. The Council approved the amendments in the GST Act and GST Rules, along with issuance of relevant notifications, to enable the same. Further, considering the time required for development of the requisite functionality on the portal as well as for providing sufficient time for preparedness by the ECOs, Council has recommended that the scheme may be implemented w.e.f. 01.10.2023.
4. Paras 7, 8(a) and 8(b) were inserted in Schedule III of CGST Act, 2017 with effect from 01.02.2019 to keep certain transactions/ activities, such as supplies of goods from a place outside the taxable territory to another place outside the taxable territory, high sea sales and supply of warehoused goods before their home clearance, outside the purview of GST. In order to remove the doubts and ambiguities regarding taxability of such transactions/ activities during the period 01.07.2017 to 31.01.2019, the Council has recommended to make the said



paras effective from 01.07.2017. However, no refund of tax paid shall be available in cases where any tax has already been paid in respect of such transactions/ activities during the period 01.07.2017 to 31.01.2019.

5. The Council has recommended to amend sub-rule (1) of rule 37 of CGST Rules, 2017 retrospectively with effect from 01.10.2022 to provide for reversal of input tax credit, in terms of second proviso to section 16 of CGST Act, only proportionate to the amount not paid to the supplier *vis a vis* the value of the supply, including tax payable.
6. The Council recommended to insert Rule 37A in CGST Rules, 2017 to prescribe the mechanism for reversal of input tax credit by a registered person in the event of non-payment of tax by the supplier by a specified date and mechanism for re-availment of such credit, if the supplier pays tax subsequently. This would ease the process for complying with the condition for availment of input tax credit under section 16(2)(c) of CGST Act, 2017.
7. Sub-rule (3) of rule 108 and rule 109 of the CGST Rules, 2017 to be amended to provide clarity on the requirement of submission of certified copy of the order appealed against and the issuance of final acknowledgment by the appellate authority. This would facilitate timely processing of appeals and ease the compliance burden for the appellants.
8. Rule 109C and FORM GST APL-01/03 W to be inserted in the CGST Rules, 2017 to provide the facility for withdrawal of an application of appeal up to certain specified stage. This would help in reducing litigations at the level of appellate authorities.
9. Circular to be issued to clarify that No Claim Bonus offered by the insurance companies to the insured is an admissible deduction for valuation of insurance services.
10. Circular to be issued for clarifying the issue of treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalised under Insolvency and Bankruptcy Code, 2016. Rule 161 of CGST Rules, 2017 and FORM GST DRC-25 also to be amended for facilitating the same.
11. Sub-rule (3) of rule 12 of CGST Rules, 2017 to be amended to provide for facility to the registered persons, who are required to collect tax at source under section 52 or deduct tax at source under section 51 of CGST Act, 2017-, for cancellation of their registration on their request.
12. Circular to be issued for clarifying the issues pertaining to the place of supply of services of transportation of goods in terms of the proviso to sub-section (8) of section 12 of the IGST Act, 2017 and availability of input tax credit to the recipient of such supply. It has also been recommended that proviso to sub-section (8) of section 12 of the IGST Act, 2017 may be omitted.
13. Issuance of the following circulars in order to remove ambiguity and legal disputes on various issues, thus benefiting taxpayers at large:
  - a. Procedure for verification of input tax credit in cases involving difference in input tax credit availed in FORM GSTR-3B *vis a vis* that available as per FORM GSTR-2A during FY 2017-18 and 2018-19.

- b. Clarifying the manner of re-determination of demand in terms of sub-section (2) of section 75 of CGST Act, 2017.
- c. Clarification in respect of applicability of e-invoicing with respect to an entity.

### **Measures for Streamlining Compliances in GST**

1. Proposal to conduct a pilot in State of Gujarat for Biometric-based Aadhaar authentication and risk-based physical verification of registration applicants. Amendment in rule 8 and rule 9 of CGST Rules, 2017 to be made to facilitate the same. This will help in tackling the menace of fake and fraudulent registrations.
2. PAN-linked mobile number and e-mail address (fetched from CBDT database) to be captured and recorded in FORM GST REG-01 and OTP-based verification to be conducted at the time of registration on such PAN-linked mobile number and email address to restrict misuse of PAN of a person by unscrupulous elements without knowledge of the said PAN-holder.
3. Section 37, 39, 44 and 52 of CGST Act, 2017 to be amended to restrict filing of returns/statements to a maximum period of three years from the due date of filing of the relevant return / statement.
4. FORM GSTR-1 to be amended to provide for reporting of details of supplies made through ECOs, covered under section 52 and section 9(5) of CGST Act, 2017, by the supplier and reporting by the ECO in respect of supplies made under section 9(5) of CGST Act, 2017.
5. Rule 88C and FORM GST DRC-01B to be inserted in CGST Rules, 2017 for intimation to the taxpayer, by the common portal, about the difference between liability reported by the taxpayer in FORM GSTR-1 and in FORM GSTR-3B for a tax period, where such difference exceeds a specified amount and/ or percentage, for enabling the taxpayer to either pay the differential liability or explain the difference. Further, clause (d) to be inserted in sub-rule (6) of rule 59 of CGST Rules, 2017 to restrict furnishing of FORM GSTR-1 for a subsequent tax period if the taxpayer has neither deposited the amount specified in the intimation nor has furnished a reply explaining the reasons for the amount remaining unpaid. This would facilitate taxpayers to pay/ explain the reason for the difference in such liabilities reported by them, without intervention of the tax officers.
6. Amendment in definition of “non-taxable online recipient” under section 2(16) of IGST Act, 2017 and definition of “Online Information and Database Access or Retrieval Services (OIDAR)” under section 2(17) of IGST Act, 2017 so as to reduce interpretation issues and litigation on taxation of OIDAR Services.

*Source: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1884399>*

# NOTIFICATIONS AND CIRCULARS

## NOTIFICATION NO. 26/2022 -CENTRAL TAX DATED 26<sup>TH</sup> DECEMBER, 2022

This notification seeks to make amendments to the CGST Rules, 2017

### **Rule 8: Application for Registration**

PAN-linked mobile number and e-mail address (fetched from CBDT database) to be captured and recorded in FORM GST REG-01 and OTP-based verification to be conducted at the time of registration on such PAN-linked mobile number and email address to restrict misuse of PAN of a person by unscrupulous elements without knowledge of the said PAN-holder.

Every registration application by a person other than a person notified under section 25(6D) who has opted for authentication of Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, shall be followed by biometric-based Aadhaar authentication and taking photograph of the applicant where the applicant is an individual or of such individuals in relation to the applicant as notified under section 25(6C) 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. *[Vide Notification No. 27/2022-Central Tax dated 26<sup>th</sup> December, 2022 it has been specified that these provisions shall not apply in all the States and Union territories except the State of Gujarat]*

### **Rule 9: Verification of the application and approval**

Application for Registration will be approved only after physical verification of the premises even after Aadhaar authentication, if the said person is identified on the common portal based on data analysis and risk parameters for carrying out physical verification of places of business.

### **Rule 37A: Reversal of input tax credit in the case of non-payment of tax by the supplier and re-availment thereof**

Rule 37A has been inserted in CGST Rules, 2017 to prescribe the mechanism for reversal of input tax credit by a registered person in the event of non-payment of tax by the supplier by a specified date and mechanism for re-availment of such credit, if the supplier pays tax subsequently to ease the process for complying with the condition for availment of input tax credit under section 16(2)(c) of CGST Act, 2017.

### **Rule 46: Tax Invoice**

A proviso has been inserted in Rule 46(f) to provide that where any taxable service is supplied by or through an electronic commerce operator (ECO) or by a supplier of online information and database access or retrieval services (OIDAR) to a recipient who is un-registered, irrespective of the value of such supply, a tax invoice issued by the registered person shall contain the name and address of the recipient along with its PIN code and the name of the State and the said address shall be deemed to be the address on record of the recipient.

### **Rule 59: Form and manner of furnishing details of outward supplies**

Clause (d) has been inserted in rule 59 of CGST Rules, 2017 to restrict furnishing of FORM GSTR-1/ invoice furnishing facility (IFF) for a subsequent tax period if the taxpayer has neither deposited the amount specified in the intimation issued on the common portal under the provisions of rule 88C(1) nor has furnished a reply explaining the reasons for the amount remaining unpaid. This would facilitate taxpayers to pay/ explain the reason for the difference in such liabilities reported by them, without intervention of the tax officers.

### **Rule 87: Electronic Cash Ledger**

A proviso has been inserted in rule 87(8) to provide that where the bank fails to communicate details of Challan Identification Number (CIN) to the Common Portal, the Electronic Cash Ledger may be updated on the basis of e-Scroll of the Reserve Bank of India in cases where the details of the said e-Scroll are in conformity with the details in challan generated in FORM GST PMT-06 on the Common Portal.

### **Rule 88C: Manner of dealing with difference in liability reported in statement of outward supplies and that reported in return**

Rule 88C has been inserted in CGST Rules, 2017 for intimation to the taxpayer, by the common portal, about the difference between liability reported by the taxpayer in FORM GSTR-1 and in FORM GSTR-3B for a tax period, where such difference exceeds a specified amount and/ or percentage, for enabling the taxpayer to either pay the differential liability or explain the difference.

Where any amount specified in the intimation remains unpaid within the period specified and where no explanation or reason is furnished by the registered person in default or where the explanation or reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be recoverable in accordance with the provisions of section 79 (Recovery of tax).

### **Rule 89: Application for refund of tax, interest, penalty, fees or any other amount**

New clauses have been inserted under rule 89(2) to provide the documents required to be furnished by unregistered persons along with the application for refund where the contract/agreement for supply of services has been cancelled or terminated.

### **Rule 108(3) and 109: Appeal/ Application to the Appellate Authority**

Rule 108(3) and rule 109 of the CGST Rules, 2017 have been amended to provide clarity on the requirement of submission of certified copy of the order appealed against and the issuance of final acknowledgment by the appellate authority to facilitate timely processing of appeals and ease the compliance burden for the appellants.

### **Rule 109C: Withdrawal of Appeal**

Rule 109C has been inserted in the CGST Rules, 2017 to provide the facility for withdrawal of an application of appeal up to certain specified stage to reduce litigations at the level of appellate authorities.

*For more details please visit*

<https://taxinformation.cbic.gov.in/view-pdf/1009584/ENG/Notifications>

## **NOTIFICATION NO. 12/2022 AND NOTIFICATION NO. 13/2022, CENTRAL TAX (RATE) DATED DECEMBER 30, 2022**

These notifications seek to amend Notification No. 01/2017-CT(R) dated 28.06.2017 and Notification No. 02/2017-CT(R) dated 28.06.2017 to give effect to the changes in rate of goods as recommended in the 48<sup>th</sup> GST Council Meeting.

- a) Ethyl alcohol supplied to petroleum refineries for blending with motor spirit (petrol) [9% CGST to 2.5% CGST]
- b) Husk of pulses including Chilka, Concentrates including chuni or churi, khanda [2.5% CGST to Nil CGST]

*Source: <https://taxinformation.cbic.gov.in/view-pdf/1009592/ENG/Notifications>*

*<https://taxinformation.cbic.gov.in/view-pdf/1009593/ENG/Notifications>*

*Similar notifications have also been issued under Integrated Tax (Rate).*

## **NOTIFICATION NO. 14/2022- CENTRAL TAX (RATE) DATED DECEMBER 30, 2022**

This notification seeks to amend reverse charge Notification No. 04/2017-Central Tax (Rate) dated 28.06.2017 to include supply of Mentha arvensis under reverse charge mechanism as has been done for Mentha Oil.

*Source: <https://taxinformation.cbic.gov.in/view-pdf/1009594/ENG/Notifications>*

*Similar notification has also been issued under Integrated Tax (Rate).*

## **NOTIFICATION NO. 15/2022- CENTRAL TAX (RATE) DATED DECEMBER 30, 2022**

This notification seeks to amend Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 to

- a) clarify that ‘services by way of renting of residential dwelling’ shall be exempt where the registered person is proprietor of a proprietorship concern and he rents the residential dwelling in his personal capacity for use as his own residence and such renting is on his own account and not that of the proprietorship concern.
- b) omit entry 23A exempting service by way of access to a road or a bridge on payment of annuity.

*Source: <https://taxinformation.cbic.gov.in/view-pdf/1009595/ENG/Notifications>*

*Similar notification has also been issued under Integrated Tax (Rate).*

## CIRCULAR NO. 183/15/2022-GST DATED 27<sup>TH</sup> DECEMBER, 2022

*Clarification to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for FY 2017-18 and 2018-19*

S. No.	Scenario	Clarification
1.	Where the supplier has failed to file FORM GSTR-1 for a tax period but has filed the return in FORM GSTR-3B for said tax period, due to which the supplies made in the said tax period do not get reflected in FORM GSTR-2A of the recipients.	In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided below.
2.	Where the supplier has filed FORM GSTR-1 as well as return in FORM GSTR-3B for a tax period, but has failed to report a particular supply in FORM GSTR-1, due to which the said supply does not get reflected in FORM GSTR-2A of the recipient.	In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided below.
3.	Where supplies were made to a registered person and invoice is issued as per Rule 46 of CGST Rules containing GSTIN of the recipient, but supplier has wrongly reported the said supply as B2C supply, instead of B2B supply, in his FORM GSTR-1, due to which the said supply does not get reflected in FORM GSTR-2A of the said registered person.	In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided below.
4.	Where the supplier has filed FORM GSTR-1 as well as return in FORM GSTR-3B for a tax period, but he has declared the supply with wrong GSTIN of the recipient in FORM GSTR-1.	In such cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A may be handled by following the procedure provided below.  In addition, the proper officer of the actual recipient shall intimate the concerned jurisdictional tax authority of the registered person, whose GSTIN has been mentioned wrongly, that ITC on those transactions is required to be disallowed, if claimed by such recipients in their FORM GSTR-3B. However, allowance of ITC to the actual recipient shall not depend on the completion of the action by the tax authority of such registered person, whose GSTIN has been mentioned wrongly, and such action will be pursued as an independent action.

## Procedure to deal with different scenarios mentioned above:

The proper officer shall first seek details from the registered person regarding all the invoices on which ITC has been availed by the registered person in his FORM GSTR-3B but which are not reflecting in his FORM GSTR-2A. He shall then ascertain fulfillment of the following conditions of Section 16 of CGST Act in respect of the input tax credit availed on such invoices by the said registered person:

- i. that he is in possession of a tax invoice or debit note issued by the supplier or such other tax paying documents;
- ii. that he has received the goods or services or both;
- iii. that he has made payment for the amount towards the value of supply, along with tax payable thereon, to the supplier.

Besides, the Proper Officer shall also check whether any reversal of input tax credit is required to be made in accordance with section 17 or section 18 of CGST Act and also whether the said input tax credit has been availed within the time period specified under sub-section (4) of section 16 of CGST Act.

In order to verify the condition of clause (c) of sub-section (2) of Section 16 of CGST Act that tax on the said supply has been paid by the supplier, the following action may be taken by the Proper Officer:

- In case, where difference between the ITC claimed in FORM GSTR-3B and that available in FORM GSTR-2A of the registered person in respect of a supplier for the said financial year exceeds ₹5 lakh, the Proper Officer shall ask the registered person to produce a certificate for the concerned supplier from the Chartered Accountant (CA) or the Cost Accountant (CMA), certifying that supplies in respect of the said invoices of supplier have actually been made by the supplier to the said registered person and the tax on such supplies has been paid by the said supplier in his return in FORM GSTR-3B. Certificate issued by CA or CMA shall contain UDIN.
- In cases, where difference between the ITC claimed in FORM GSTR-3B and that available in FORM GSTR-2A of the registered person in respect of a supplier for the said financial year is upto ₹5 lakh, the Proper Officer shall ask the claimant to produce a certificate from the concerned supplier to the effect that said supplies have actually been made by him to the said registered person and the tax on said supplies has been paid by the said supplier in his return in FORM GSTR-3B.
- However, it may be noted that for the period FY 2017-18, as per proviso to section 16(4) of CGST Act, the aforesaid relaxations shall not be applicable to the claim of ITC made in the FORM GSTR-3B return filed after the due date of furnishing return for the month of September, 2018 till the due date of furnishing return for March, 2019, if supplier had not furnished details of the said supply in his FORM GSTR-1 till the due date of furnishing FORM GSTR-1 for the month of March, 2019.

*For more details please visit*

<https://taxinformation.cbic.gov.in/view-pdf/1003135/ENG/Circulars>

## **CIRCULAR NO. 184/16/2022-GST DATED 27<sup>TH</sup> DECEMBER, 2022**

*Clarification on the entitlement of input tax credit (ITC) where the place of supply is determined in terms of the proviso to sub-section (8) of section 12 of the IGST Act, 2017*

In case of supply of services by way of transportation of goods, including by mail or courier, where the transportation of goods is to a place outside India, and where the supplier and recipient of the said supply of services are located in India, the place of supply is the concerned foreign destination where the goods are being transported, in accordance with the proviso to the sub-section (8) of section 12 of IGST Act, which was inserted *vide* the IGST (Amendment) Act, 2018 w.e.f. 01.02.2019.

The aforesaid supply of services would be considered as inter-State supply in terms of sub-section (5) of section 7 of the IGST Act since the location of the supplier is in India and the place of supply is outside India. Therefore, IGST would be chargeable on the said supply of services.

The recipient of service of transportation of goods shall be eligible to avail ITC in respect of the IGST so charged by the supplier, subject to the fulfilment of other conditions laid down in section 16 and 17 of the CGST Act.

The supplier of service shall report place of supply of such service by selecting State code as '96-Foreign Country' from the list of codes in the drop-down menu available on the portal in FORM GSTR-1.

*For more details please visit*

<https://taxinformation.cbic.gov.in/view-pdf/1003136/ENG/Circulars>

## **CIRCULAR NO. 185/17/2022-GST DATED 27<sup>TH</sup> DECEMBER, 2022**

*Clarification with regard to applicability of provisions of section 75(2) of CGST Act, 2017 and its effect on limitation*

Where any direction is issued by the appellate authority or appellate tribunal or the court to re-determine the amount of tax payable by the noticee by deeming the notice to have been issued under sub-section (1) of section 73 of CGST Act in accordance with the provisions of sub-section (2) of section 75 of the said Act, the Proper Officer is required to issue the order of redetermination of tax, interest and penalty payable within the time limit as specified in under sub-section (3) of section 75 of the said Act, i.e. within a period of two years from the date of communication of the said direction by appellate authority or appellate tribunal or the court, as the case may be.

Where the amount of tax, interest and penalty payable by the noticee is required to be re-determined by the Proper Officer in terms of sub-section (2) of section 75 of CGST Act, the demand would have to be re-determined keeping in consideration the provisions of sub-section (2) of section 73, read with sub-section (10) of section 73 of CGST Act.

*For more details please visit*

<https://taxinformation.cbic.gov.in/view-pdf/1003137/ENG/Circulars>



## CIRCULAR NO. 186/18/2022-GST DATED 27<sup>TH</sup> DECEMBER, 2022

### *Clarification on taxability of No Claim Bonus (NCB) offered by Insurance companies*

As per practice prevailing in the insurance sector, the insurance companies deduct 'No Claim Bonus' from the gross insurance premium amount, when no claim is made by the insured person during the previous insurance period(s). The customer/ insured procures insurance policy to indemnify himself from any loss/ injury as per the terms of the policy, and is not under any contractual obligation not to claim insurance claim during any period covered under the policy, in lieu of NCB.

Therefore, there is no supply provided by the insured to the insurance company in form of agreeing to the obligation to refrain from the act of lodging insurance claim during the previous year(s) and NCB cannot be taken as a consideration for any supply provided by the insured to the insurance company.

The insurance companies make the disclosure of the fact of availability of discount in form of NCB, subject to certain conditions, to the insured in the insurance policy document itself and also provide the details of the NCB in the invoices also. The pre-disclosure of NCB amount in the policy documents and specific mention of the discount in form of NCB in the invoice is in consonance with the conditions laid down for deduction of discount from the value of supply under clause (a) of sub-section (3) of section 15 of the CGST Act.

Therefore, NCB is a permissible deduction under clause (a) of sub-section (3) of section 15 of the CGST Act for the purpose of calculation of value of supply of the insurance services provided by the insurance company to the insured. Accordingly, where the deduction on account of NCB is provided in the invoice issued by the insurer to the insured, GST shall be leviable on actual insurance premium amount, payable by the policy holders to the insurer, after deduction of NCB mentioned on the invoice.

### *Clarification on applicability of e-invoicing w.r.t. an entity*

In terms of Notification No. 13/2020-Central Tax dated 21<sup>st</sup> March, 2020, as amended, certain entities/ sectors have been exempted from mandatory generation of e-invoices as per sub-rule (4) of rule 48 of CGST Rules, 2017. The said exemption from generation of e-invoices is for the entity as a whole and is not restricted by the nature of supply being made by the said entity.

*Illustration: A Banking Company providing banking services, may also be involved in making supply of some goods, including bullion. The said banking company is exempted from mandatory issuance of e-invoice in terms of Notification No. 13/2020-Central Tax, dated 21<sup>st</sup> March, 2020, as amended, for all supplies of goods and services and thus, will not be required to issue e-invoice with respect to any supply made by it.*

*For more details please visit*

<https://taxinformation.cbic.gov.in/view-pdf/1003138/ENG/Circulars>

## CIRCULAR NO. 187/19/2022-GST DATED 27<sup>TH</sup> DECEMBER, 2022

*Clarification regarding the treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalised under Insolvency and Bankruptcy Code (IBC), 2016*

It was clarified vide Circular No.134/04/2020-GST dated 23<sup>rd</sup> March, 2020, that no coercive action can be

taken against the corporate debtor with respect to the dues of the period prior to the commencement of Corporate Insolvency Resolution Process (CIRP). Such dues will be treated as ‘operational debt’ and the claims may be filed by the proper officer before the NCLT in accordance with the provisions of the IBC.

As per Section 84 of CGST Act, if the government dues against any person under CGST Act are reduced as a result of any appeal, revision or other proceedings in respect of such government dues, then an intimation for such reduction of government dues has to be given by the Commissioner to such person and to the appropriate authority with whom the recovery proceedings are pending. Further, recovery proceedings can be continued in relation to such reduced amount of government dues.

The word ‘other proceedings’ is not defined in CGST Act. It is to be mentioned that the adjudicating authorities and appellate authorities under IBC are quasi-judicial authorities constituted to deal with civil disputes pertaining to insolvency and bankruptcy. As the proceedings conducted under IBC also adjudicate the government dues pending under the CGST Act or under existing laws against the corporate debtor, the same appear to be covered under the term ‘other proceedings’ in Section 84 of CGST Act.

Rule 161 of CGST Rules, 2017 prescribes FORM GST DRC-25 for issuing intimation for such reduction of demand specified under section 84 of CGST Act. Therefore, in cases where a confirmed demand for recovery has been issued by the tax authorities for which a summary has been issued in FORM GST DRC-07/DRC-07A against the corporate debtor, and where the proceedings have been finalized against the corporate debtor under IBC reducing the amount of statutory dues payable by the corporate debtor to the government under CGST Act or under existing laws, the jurisdictional Commissioner shall issue an intimation in FORM GST DRC-25 reducing such demand, to the taxable person or any other person as well as the appropriate authority with whom recovery proceedings are pending.

*For more details please visit*

<https://taxinformation.cbic.gov.in/view-pdf/1003139/ENG/Circulars>

### **CIRCULAR NO. 188/20/2022-GST DATED 27<sup>TH</sup> DECEMBER, 2022**

*Prescribing manner of filing an application for refund by unregistered persons*

A new functionality has been made available on the common portal which allows unregistered persons to take a temporary registration and apply for refund under the category ‘Refund for Unregistered person’ in cases where the contract/agreement for supply of services of construction of flat/ building has been cancelled or where long-term insurance policy has been terminated.

Further, sub-rule (2) of rule 89 of CGST Rules, 2017 has been amended and statement 8 has been inserted in FORM GST RFD-01 *vide* Notification No. 26/2022-Central Tax dated 26.12.2022 to provide for the documents required to be furnished along with the application of refund by the unregistered persons and the statement to be uploaded along with the said refund application.

Separate applications for refund have to be filed in respect of invoices issued by different suppliers. Further, where the suppliers, in respect of whose invoices refund is to be claimed, are registered in

different States/UTs, the applicant shall obtain temporary registration in the each of the concerned States/UTs where the said supplier are registered.

Where the time period for issuance of credit note under section 34 of the CGST Act has not expired at the time of cancellation/termination of agreement/contract for supply of services, the concerned suppliers can issue credit note to the unregistered person. In such cases, the supplier would be in a position to also pay back the amount of tax collected by him from the unregistered person and therefore, there will be no need for filing refund claim by the unregistered persons in these cases. Accordingly, the refund claim can be filed by the unregistered persons only in those cases where at the time of cancellation/termination of agreement/contract for supply of services, the time period for issuance of credit note under section 34 of the CGST Act has already expired.

### **Relevant date for filing of refund**

As per sub-section (1) of section 54 of the CGST Act, time period of two years from the relevant date has been specified for filing an application of refund. Further, the relevant date in respect of cases of refund by a person other than supplier is the date of receipt of goods or services or both by such person in terms of provisions of clause (g) in Explanation (2) under section 54 of the CGST Act. However, in respect of cases where the supplier and the unregistered person (recipient) have entered into a long-term contract/ agreement for the supply, with the provision of making payment in advance or in instalments, for example-construction of flats or long-term insurance policies, if the contract is cancelled/ terminated before completion of service for any reason, there may be no date of receipt of service, to the extent supply has not been made/ rendered. Therefore, in such type of cases, it has been decided that for the purpose of determining relevant date in terms of clause (g) of Explanation (2) under section 54 of the CGST Act, date of issuance of letter of cancellation of the contract/ agreement for supply by the supplier will be considered as the date of receipt of the services by the applicant.

*For more details please visit*

<https://taxinformation.cbic.gov.in/view-pdf/1003140/ENG/Circulars>



## GST IN NEWS

### 5% GST for Covid vaccine at hospitals, rules AAAR

The GST Authority for Advance Rulings (AAR), in March 2022 had held that administration of the Covid vaccine by hospitals is a 'composite supply', where principal supply is the sale of vaccine and auxiliary supply is the service of administering the vaccine. Thus, the total transaction would be taxable at the rate applicable to the principal supply, which is 5%.

This led to the hospital chain filing an appeal with the Appellate Authority for Advance Rulings (AAAR). It contended that the AAR bench had erred in interpreting the basic fact of the case that an individual is visiting the hospital not to buy the vaccine but to get 'served' through vaccination.

The AAAR pointed to a clarification issued by the department of health and family welfare. The price of the vaccine, the GST component on the vaccine, the service charge that can be collected per dose by the vaccination centre were also specified by the government.

Given the above, the AAAR bench in their order stated, "The vaccine is the 'goods' component in the entire transaction, accompanied by administration of the vaccine as the 'service' component."

The AAAR upheld an original ruling, against which an appeal had been filed and reconfirmed GST applicability at 5%.

*Source: <https://timesofindia.indiatimes.com/india/5-gst-for-covid-vax-at-hospitals-rules-aaar/articleshow/96842012.cms>*

### GST registration applicants' details will be taken from IT database: CBIC

Persons applying for GST registration need not give their mobile phone number and email address. Instead, their PAN will be verified through a separate one time password to be sent to the mobile number and e-mail address linked to it. PAN is issued by the Income Tax department.

The amended GST registration form will auto-populate the contact details of the applicant from the Income Tax database as linked with the PAN of the applicant, CBIC said.

This helps to ensure that one uses the same PAN under direct and indirect taxes. Increasingly, both CBIC and the CBDT have been exchanging data and information to better profile taxpayers and capture economic activities so tax compliance improves.

Central and State governments are taking steps to make their IT and reporting systems fool-proof in order to widen the tax base. That is crucial to protect the buoyancy in tax collection when economic growth rate normalises further after a bounce back from the pandemic.

*Source: <https://www.livemint.com/economy/gst-registration-applicants-details-will-be-taken-from-it-database-cbic-11673086416685.html>*

## Food-beverages prepared in a restaurant to attract 5% GST, rules Gujarat AAR

Gujarat's Authority for Advanced Ruling (GAAR) has ruled that food & beverages prepared in a restaurant will attract GST at the rate of 5% whether consumed inside the restaurant or part of takeaway.

However, an item or beverage not prepared in restaurant but served over the counter will not be treated as part of restaurant service and attract GST of individual items. For example, ice-cream served will attract a GST rate of 18%.

*Source: <https://www.thehindubusinessline.com/economy/food-beverages-prepared-in-a-restaurant-to-attract-5-gst-rules-gujarat-aar/article66330047.ece>*

## No proposal before govt to lower threshold for generating e-invoice: CBIC

“There is no proposal before the Government, at present, to reduce this threshold limit to ₹5 crore with effect from 01.01.2023, as no such recommendation has been made by GST Council as yet,” the CBIC tweeted.

The tweet came after media reports in some quarters said that though GST Council has recommended reducing the threshold for the generation of e-invoices to ₹5 crore with effect from January 1, 2023, the government has yet to issue a notification on the matter.

Under GST law, e-invoicing for business-to-business (B2B) transactions was made mandatory for companies with a turnover of over ₹500 crore from October 1, 2020, which was then extended to those with a turnover of over ₹100 crore, effective January 1, 2021.

From April 1, 2021, companies with turnover of over ₹50 crore were generating B2B e-invoices, and the threshold was brought down to ₹20 crore beginning April 1, 2022. From October 1, 2022, the level was further lowered to ₹10 crore.

*Source: [https://www.business-standard.com/article/companies/no-proposal-before-govt-to-lower-threshold-for-generating-e-invoice-cbic-122122600935\\_1.html](https://www.business-standard.com/article/companies/no-proposal-before-govt-to-lower-threshold-for-generating-e-invoice-cbic-122122600935_1.html)*



## COMPLIANCE CALENDAR

Forms	Period	Due Date	Remarks
GSTR-1	Dec, 2022	Jan 11, 2023	Turnover exceeding ₹5 Crore or opted to file <b>monthly</b> return
GSTR-1	Oct-Dec, 2022	Jan 13, 2023	Opted for <b>quarterly</b> filing as per QRMP scheme
IFF (Optional)	Dec, 2022	NA	IFF is a facility where quarterly GSTR-1 filers can choose to upload their B2B invoices every month, currently under the QRMP Scheme
GSTR-3B*	Dec, 2022	Jan 20, 2023	Turnover exceeding ₹5 Crore or opted to file <b>monthly</b> return
GSTR-3B#	Oct-Dec, 2022	Jan 22/ 24, 2023	Opted for <b>quarterly</b> filing as per QRMP scheme.
CMP-08	Oct-Dec, 2022	Jan 18, 2023	<b>Quarterly</b> statement-cum-challan to make tax payment by taxpayers registered under the composition scheme
GSTR-5	Dec, 2022	Jan 13, 2023	<b>Monthly</b> return for Non-resident taxable persons
GSTR-5A	Dec, 2022	Jan 20, 2023	<b>Monthly</b> return for Non-resident OIDAR services providers
GSTR-6	Dec, 2022	Jan 13, 2023	<b>Monthly</b> return for Input Service Distributors
GSTR-7	Dec, 2022	Jan 10, 2023	<b>Monthly</b> return for authorities liable to deduct tax at source (TDS)
GSTR-8	Dec, 2022	Jan 10, 2023	<b>Monthly</b> return for e-Commerce Operators liable to collect tax at source (TCS)

### \*GSTR-3B

20<sup>th</sup> of next month for taxpayers with an aggregate turnover in the previous financial year more than ₹5 crore or otherwise eligible but still opting out of the QRMP scheme.

## #GSTR-3B

For the taxpayers with aggregate turnover equal to or below ₹5 crore, eligible and remaining opted into the QRMP scheme, 22<sup>nd</sup> of month next to the quarter for taxpayers in category X States/UTs and 24<sup>th</sup> of month next to the quarter for taxpayers in category Y States/UTs

- **Category X:** Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana and Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep.
- **Category Y:** Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand and Odisha, the Union Territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi.

Source: <https://www.gst.gov.in/>



## GST QUIZ



1. Which of the following persons are exempted from the requirement of generation of e-invoice?
  - a) Insurance Company
  - b) Goods Transport Agency
  - c) SEZ Unit
  - d) All of the above.
  
2. Rule 37A of CGST Rules, 2017 pertains to \_\_\_\_\_
  - a) Documentary requirements and conditions for claiming ITC
  - b) Reversal of input-tax credit in the case of non-payment of consideration
  - c) Reversal of input-tax credit in the case of non-payment of tax by the supplier and re-availment thereof
  - d) None of the above.
  
3. The place of supply of services by way of transportation of goods to a place outside India where the supplier and recipient of the said supply of services are located in India is the \_\_\_\_\_
  - a) Concerned foreign destination
  - b) Location of the recipient
  - c) Location of the supplier
  - d) None of the above.
  
4. Rule 88C of the CGST Rules, 2017 pertains to \_\_\_\_\_
  - a) Order of utilization of ITC
  - b) Manner of calculating interest on delayed payment of tax
  - c) Manner of dealing with difference in liability reported in statement of outward supplies and that reported in return
  - d) None of the above.

Answers: 1(d), 2(c), 3(a), 4(c)



## Motto

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