

GST Update

Weekly Update
02.10.2021

Background

- This Presentation covers the GST changes / observations/ press releases released by CBEC since the last update on 04.09.2021. It supplements the earlier GST Updates.
- This presentation is based on CGST Act/Rules/ Notifications, except the provisions related solely to SGST provisions. Similar parallel provisions in State Laws may be referred to as required

- **PIB Press release dated 1st October 2021.**
- The gross GST revenue collected in September 2021 is ₹ **1,17,010 crore** of which CGST is ₹ **20,578 crore**, SGST is ₹ **26,767 crore**, IGST is ₹ **60,911 crore** (including ₹ 29,555 crore collected on import of goods) and Cess is ₹ **8,754 crore**.
- The government has settled ₹ 28,812 crore to CGST and ₹ 24,140 crore to SGST from IGST as regular settlement. The total revenue of Centre and the States after regular settlements in the month of September 2021 is ₹ 49,390 crore for CGST and ₹ 50,907 crore for the SGST.
- The revenues for the month of September **2021 are 23% higher** than the GST revenues in the same month last year. During the month, revenues from import of goods was **30%** higher and the revenues from domestic transaction (including import of services) are **20%** higher than the revenues from these sources during the same month last year.

Recommendations of 45th GST Council Meeting

[Press Release dated 17th September 2021; Notifications No. 6 to 12- Central Tax (Rate); Notification No. 35, 36- Central tax; Circulars No. 159 to 162- Central Tax]

Rate changes in Services

- **Notification No. 06 /2021- Central Tax (Rate) dated 30th September 2021 [Amends Notification No. 11/2017-CT(R)]**
- S. No. 17- Heading 9973 - Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right
 - Rate for both IT software and other goods streamlined from 12/18% to 18%
- S. No. 27, Heading 9989- Other manufacturing services; publishing, printing and reproduction services; material recovery services
 - GST on printing Services of News paper, Books having 12% of 5% GST as well as other printing services, from 12%/18% – made uniform at 18%

- **Notification No. 06 /2021- Central Tax (Rate) dated 30th September 2021 [Amends Notification No. 11/2017-CT(R)]**
- S. No. 26- Heading 9988 - (ica) Services by way of job work in relation to manufacture of alcoholic liquor for human consumption
 - New Entry inserted for 18% GST on Job work wrt Liquor for human consumption
- S. No. 34, Heading 9996- Recreational, cultural and sporting services
 - Clarificatory changes to the Entry made
 - Admission to amusement parks having rides, go-carting etc. attracts GST rate of 18%. The GST rate of 28% applies only to admission to such facilities that have casinos, race clubs and sporting events like IPL.

Exemptions in services

- Notification No. 07/2021 - Central Tax (Rate) dated 30th September 2021 [Amends Notification No. 12/2021-CT(R)]
- S.No. 19A, 19B; Heading 9965- Services by way of transportation of goods by an aircraft/ vessel from customs station of clearance in India to a place outside India
 - Nil GST Rate
 - Existing exemption of Export Freight extended from Sept 2021 to Sept 2022
- S.No. 61A; Heading 9991- Services by way of granting National Permit to a goods carriage to operate through-out India / contiguous States
 - Nil GST rate

- Notification No. 07/2021 - Central Tax (Rate) dated 30th September 2021 [Amends Notification No. 12/2021-CT(R)]
- **AFC Women's Asia Cup 2022 to be hosted in India**
- S.No. 9AB; Chapter 99 - Services provided by and to Asian Football Confederation (AFC) and its subsidiaries directly or indirectly related to any of the events under AFC Women's Asia Cup 2022 to be hosted in India.
 - Nil GST Rate
 - Subject to Certification by Director (Sports), Ministry of Youth Affairs and Sports
- S. No. 82B, Heading 9996- Services by way of right to admission to the events organised under AFC Women's Asia Cup 2022
 - Nil GST Rate

Rate Changes in Goods

- Notification No. 8/2021-Central Tax (Rate) dated 30th September 2021 [Amends Notn 01/2017-CT(R)]
- Renewable Energy Devices
 - Rate enhanced from 5% (Sch I -234) to 12% (Sch II-201A)
- Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres; box files, letter trays, and similar articles, of paper or paperboard of a kind used in offices, shops or the like.
 - Rate enhanced from 12% (Sch. II-122) to 18% (Sch. III-153A)
 - Same rate- 18% made applicable for all types of packing containers made of paper & paperboards, corrugated as well as noncorrugated boxes, cartons etc.

Rate Changes in Goods (Contd)

- GST rates enhanced from 12% to 18% on following items in Ch. 49
 - Plans and drawings, & carbon copies (Heading 4906)
 - Unused postage, revenue or similar stamps, stamp-impressed paper; banknotes; cheque forms; stock, share or bond certificates and similar documents of title (other than Duty Credit Scrips) (Heading 4907)
 - Transfers (decalcomanias) (Heading 4908)
 - Printed or illustrated postcards; printed cards (Heading 4909)
 - Calendars of any kind, printed, including calendar blocks(Heading 4910)
 - Other printed matter, including printed pictures and photographs (Heading 4911)

Rate Changes in Goods (Contd)

- Waste, parings or scrap, of plastics (3915)
 - Rate increased from 5% (Sch I-187A) to 18% (Sch III-101A)
- Ball point pens; felt tipped and other porous-tipped pens and markers; fountain pens; stylograph pens and other pens; duplicating stylos; pen holders, pencil holders and similar holders; parts (including caps and clips) of the foregoing articles, other than those of heading 9609 (Schedule III-447; Heading 9608)
 - GST Rate -18%
 - Description in the Entry amended; matched with Custom Tariff Heading description. Parts also now included. Earlier heading was “Fountain pens, stylograph pens and other pens”

Rate Changes in Goods (Contd)

- GST rates on supplies of goods in railway industry of Heading 8601 to 8608 enhanced from 12%(Sch. II -205A to F) to 18% (Sch.398A to F)
 - Rail locomotives, Other rail locomotives;
 - Self-propelled railway or tramway coaches, vans and trucks
 - Railway or tramway maintenance or service vehicles
 - Railway or tramway passenger coaches, not self-propelled; luggage vans
 - Railway or tramway goods vans and wagons, not self-propelled
 - Parts

Rate Changes in Goods (Contd)

- Carbonated Beverages of Fruit Drink or Carbonated Beverages with Fruit Juice. (Heading 2202)
 - GST Rate enhanced from 12 % to 28%
 - Specific entry inserted for carbonated beverages of fruit drinks
- Ores(Iron, Manganese, Copper, Nickel, Cobalt, Aluminium, Lead, zinc, Tin, chromium) and their concentrates (Headings 2601 to 2610)
 - GST rate enhanced from 5%(Sch I 139 to 148) to 18% (Sch.III 26C to L)
- Bio-diesel supplied to Oil Marketing Companies for blending with High Speed Diesel
 - GST Rate reduced from 12% to 5%

Seeds, fruit and spores, of a kind used for sowing

- **Notification No. 9/2021-Central Tax (Rate) dated 30th September 2021 [Amends Notn No.2/2017-Central Tax (Rate) dated 28th June 2017]**
- Comes into force w.e.f 1st October 2021; Exemption clarified
- S.No. 86; Heading 1209- Seeds, fruit and spores, of a kind used for sowing
- **Explanation: This entry does not cover seeds meant for any use other than sowing**

Supply of goods under reverse charge

- **Notification No. 10/2021-Central Tax (Rate) dated 30th September 2021 [Amends RCM Notn No. 04/2017- Central Tax (Rate) dated 28th June 2017]**
- Comes into force w.e.f 1st October 2021
- S. No. 3A; HSN- 33012400, 33012510, 33012520, 33012530, 33012540; Following essential oils other than those of citrus fruit namely: -
 - a) Of peppermint (Menthapiperita);
 - b) Of other mints : Spearmint oil (exmenthaspicata), Water mint-oil (exmentha aquatic), Horsemint oil (exmenthasylvestries), Bergament oil (ex-mentha citrate).
- Brought under reverse charge mechanism (RCM), wherever, the recipient is registered, and the supplier is unregistered

GST Rate on Rice Kernel (Premix) supply for ICDS or similar scheme

- **Notification No. 11/2021-Central Tax (Rate) dated 30th September 2021 [Amends No. 39/2017-Central Tax (Rate), dated the 18th October 2017]**
- Comes into force w.e.f 1st October 2021; 5% GST rate
- (a) Food preparations put up in unit containers and intended for free distribution to economically weaker sections of the society under a programme duly approved by the Central Government or any State Government;
- (b) **Fortified Rice Kernel (Premix) supply for ICDS or similar scheme duly approved by the Central Government or any State Government**

COVID-19 relief measures in form of GST rate concessions

- **Notification No. 12/2021-Central Tax (Rate) dated 30th September 2021**
- Extension of existing concessional GST rates (currently valid till 30th September 2021) on following Covid-19 treatment drugs, up to 31st December 2021, namely
 - Amphotericin B; Tocilizumab – nil
 - Remdesivir, Favipiravir – 5%
 - Anti-coagulants like Heparin – 5%
 - Itolizumab, Posaconazole, Infliximab, 2-Deoxy-D-Glucose, Casirivimab & Imdevimab, Bamlanivimab & Etesevimab – 5%

Aadhar Authentication for registered persons

- **Notification No 35/2021-Central Tax dated 24th September 2021 [Amends CGST Rules 2017];**
- Rule 10B inserted in the CGST Rules 2017
- Aadhaar authentication of registration made mandatory for being eligible for filing refund claim and application for revocation of cancellation of registration.
- Aadhaar number of the proprietor, in the case of proprietorship firm, or of any partner, in the case of a partnership firm, or of the karta, in the case of a Hindu undivided family, or of the Managing Director or any whole time Director, in the case of a company, or of any of the Members of the Managing Committee of an Association of persons or body of individuals or a Society, or of the Trustee in the Board of Trustees, in the case of a Trust and of the authorized signatory.

Aadhar Authentication for registered persons (Contd)

- **Notification No 35/2021-Central Tax dated 24th September 2021 [Amends CGST Rules 2017];**
- Rule 96 (1) (b) of the CGST Rules 2017 on IGST refunds amended
 - IGST refund shall be given only if the applicant has undergone Aadhaar authentication in the manner provided in rule 10B
- Bank Account for credit of refund- Rule 96C inserted in the CGST Rules 2017
- For the purposes of rule 91(3), 92(4) and 94(Payment of refund in GST RFD-05), “bank account” shall mean such bank account of the applicant which is in the name of applicant and obtained on his Permanent Account Number.
- In case of a proprietorship concern, the Permanent Account Number of the proprietor shall also be linked with his Aadhaar number.

Aadhar Authentication for registered persons (Contd)



- **Notification No 36/2021-Central Tax dated 24th September 2021 [Amends Notn No. 03/2021-Central Tax, dated 23rd February 2021]**
- Provisions of 25(6A) of CGST Act (Requirement of authentication of Aadhar) shall not apply to following persons -
 - A person who is not a citizen of India
 - A Department or establishment of the Central Government or State Government
 - A local authority
 - A statutory body
 - A Public Sector Undertaking
 - A person applying for registration under the provisions of section 25(9) of the said Act. (UINs)

- Requirement of filing FORM GST ITC-04 under rule 45 (3) of the CGST Rules, 2017
- Rule 45(3) of CGST Rules 2017 (Amended vide Notn No. 35/2021-Central Tax dated 24th September 2021)
 - Taxpayers whose annual aggregate turnover in preceding financial year is above Rs. 5 crores shall furnish ITC-04 once in six months-commencing on the 1st April and the 1st October
 - Taxpayers whose annual aggregate turnover in preceding financial year is up to Rs. 5 crores shall furnish ITC-04 once in a financial year.

Restrictions on filing GSTR-1 for non filing of GSTR-3B

- **Restriction on filing GSTR-1 for not furnishing GSTR-3B**
- Rule 59(6) of the CGST Rules amended with effect from 01.01.2022 vide Notn No. 35/2021-Central Tax dated 24th September 2021
- A registered person shall not be allowed to furnish **FORM GSTR-1**, if he has not furnished the return in **FORM GSTR-3B** for the preceding month

- **Circular No. 160/16/2021-GST dated 20th September 2021**
- **Availment of ITC on Debit Notes**
- 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 the provisions of section 16(4), as it existed before the said amendment on 01.01.2021.

Clarifications in GST related issues (Contd)

- **Circular No. 160/16/2021-GST dated 20th September 2021**
- **Physical copy of invoice**
- 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.

Clarifications in GST related issues (Contd)

- **Circular No. 160/16/2021-GST dated 20th September 2021**
- **Restrictions imposed under section 54(3)**
- 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.
- 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.

Clarification on condition (v) of section 2(6) of IGST Act

- **Circular No. 161/17/2021-GST dated 20th September 2021**
- **Condition (V) of section 2(6) of IGST Act**
 - *(v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;*
- It is clarified that a company incorporated in India and a body corporate incorporated by or under the laws of a country outside India, which is also referred to as foreign company under Companies Act, are separate persons under CGST Act, and thus are separate legal entities. Accordingly, these two separate persons would not be considered as “merely establishments of a distinct person in accordance with Explanation 1 in section 8

Clarification on condition (v) of section 2(6) of IGST Act (Contd)

- **Circular No. 161/17/2021-GST dated 20th September 2021**
- Therefore, supply of services by a subsidiary/ sister concern/ group concern, etc. of a foreign company, which is incorporated in India under the Companies Act, 2013 (and thus qualifies as a ‘company’ in India as per Companies Act), to the establishments of the said foreign company located outside India (incorporated outside India), would not be barred by the condition (v) of the sub-section (6) of the section 2 of the IGST Act 2017 for being considered as export of services, as it would not be treated as supply between merely establishments of distinct persons under Explanation 1 of section 8 of IGST Act 2017. Similarly, the supply from a company incorporated in India to its related establishments outside India, which are incorporated under the laws outside India, would not be treated as supply to merely establishments of distinct person under Explanation 1 of section 8 of IGST Act 2017. Such supplies, therefore, would qualify as ‘export of services’, subject to fulfilment of other conditions as provided under sub-section (6) of section 2 of IGST Act

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 25th September 2021**
- Refund of tax paid on an intra-state/ inter-state supply subsequently held to be inter-state/ intra-state supply
- Interpretation of the term “subsequently held”
- It is clarified that the term “subsequently held” covers both cases where the inter-State or intra-State supply made by a taxpayer, is either subsequently found by taxpayer himself as intra-State or inter-State respectively or where the inter-State or intra-State supply made by a taxpayer is subsequently found/ held as intra-State or inter-State respectively by the tax officer in any proceeding. Accordingly, refund claim under the said sections can be claimed by the taxpayer in both the above mentioned situations, provided the taxpayer pays the required amount of tax in the correct head.

Refund of tax specified in section 77(1) of the CGST Act and section 19(1) of the IGST Act (Contd)

- **Relevant date for claiming refund**
- Sub-rule 1A inserted in rule 89(1) of CGST Rules (Notification No. 35/2021-Central Tax dated 24.09.2021)
- *“(1A) Any person, claiming refund under section 77 of the Act of any tax paid by him, in respect of a transaction considered by him to be an intra-State supply, which is subsequently held to be an inter-State supply, may, before the expiry of a period of two years from the date of payment of the tax on the inter-State supply, file an application electronically in FORM GST RFD-01 through the common portal, either directly or through a Facilitation Centre notified by the Commissioner: Provided that the said application may, as regard to any payment of tax on inter-State supply before coming into force of this sub-rule, be filed before the expiry of a period of two years from the date on which this sub-rule comes into force.”*

Refund of tax specified in section 77(1) of the CGST Act and section 19(1) of the IGST Act (Contd)

- **Relevant date for claiming refund**
- Thus, 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
- Any refund applications filed, whether pending or disposed off, before issuance of notification No.35/2021-Central Tax, dated 24.09.2021, would also be dealt in accordance with the provisions of rule 89 (1A) of the CGST Rules, 2017.
- Refund under section 77 of the CGST Act / section 19 of the IGST Act would not be available where the taxpayer has made tax adjustment through issuance of credit note under section 34 of the CGST Act in respect of the said transaction.

- **Circular No. 159/15/2021-GST dated 20th September 2021**
- **Primary Requirements for intermediary services**
- Minimum of Three Parties: 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.

Scope of Intermediary services (Contd)

- **Primary Requirements for intermediary services**
- Two distinct supplies: There are two distinct supplies in case of provision of intermediary services;
 - Main supply, between the two principals, which can be a supply of goods or services or securities;
 - 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.
- A person involved in supply of main supply on principal-to-principal basis to another person cannot be considered as supplier of intermediary service

Scope of Intermediary services (Contd)

- **Primary Requirements for intermediary services**
- Intermediary service provider to have the character of an agent, broker or any other similar person: The definition of “intermediary” itself provides that intermediary service provider means a broker, an agent or any other person, by whatever name called....”.
- This part of the definition is not inclusive but uses the expression “means” and does not expand the definition by any known expression of expansion such as “and includes”. The use of the expression “arranges or facilitates” in the definition of “intermediary” suggests a subsidiary role for the intermediary. It must arrange or facilitate some other supply, which is the main supply, and does not himself provides the main supply. Thus, the role of intermediary is only supportive.

Scope of Intermediary services (Contd)

- **Primary Requirements for intermediary services**
- Does not include a person who supplies such goods or services or both or securities on his own account: 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”.

Scope of Intermediary services (Contd)

- **Primary Requirements for intermediary services**
- Sub-contracting for a service is not an intermediary service: The supplier of main service may decide to outsource the supply of the main service, either fully or partly, to one or more sub-contractors. Such sub-contractor provides the main supply, either fully or a part thereof, and does not merely arrange or facilitate the main supply between the principal supplier and his customers, and therefore, clearly is not an intermediary.
- The specific provision of place of supply of ‘intermediary services’ under section 13 of the IGST Act shall be invoked only when either the location of supplier of intermediary services or location of the recipient of intermediary services is outside India.

GST Portal Updates

(www.gst.gov.in)

On demand fetching of Bill of Entry details from ICEGATE Portal

- A self-service functionality has been made available on the GST Portal that can be used to search Bill of Entry details, which did not auto-populate in GSTR-2A, in GST System, and fetch the missing records from ICEGATE.
- It usually takes 2 days (after reference date - either Out of charge date, Duty payment date, or amendment date - whichever is later) for BE details to get updated on GST Portal from ICEGATE. This functionality should, therefore, be used if data is not available after this period.

Taxpayers can follow the below steps to fetch the requisite details:

- a. Login to GST Portal
- b. Navigate to **Services > User Services > Search BoE**
- c. Enter the Port Code, Bill of Entry Number, Bill of Entry Date and Reference Date and click the **SEARCH** button.
Note: The reference date would be either Out of charge date, Duty payment date, or amendment date - whichever is later.
- d. If the BoE details do not appear in the Search results, click on the **QUERY ICEGATE** button, at the bottom of the screen, to trigger a query to ICEGATE.
- e. History of fetched BoE details from ICEGATE along with status of query are displayed after 30 minutes from the time of triggering the query.

Generation of EWB

- **Generation of EWB bill for movement of those goods where their principle supply is classifiable as a service:** The taxpayers are advised as below:
- In cases where the principal supply is purely a supply of service and involving no movement of goods, the e-way bill is not required to be generated.
- However, in cases where along with the principal supply of service, movement of some goods is also involved, e-way bill may be generated. Such situations may arise in cases of supply of services like printing services, works contract services, catering services, pandal or shamiana services, etc. In such cases, e-way bill may be generated by entering the details of HSN code of the goods, along with SAC (Service Accounting Code) of services involved.



THANK YOU