



GST CLIENT EDUCATION SERIES

**CHANGES IN GST EFFECTIVE FROM
1ST JANUARY 2022**

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SECTION 16 OF CGST ACT , 2017 :

NEW ELIGIBILITY AND CONDITION FOR TAKING INPUT TAX CREDIT

16(2)(aa): Additional condition of ITC :

Input Tax Credit is available only if the Invoices are reflected only in GSTR2B.

Important points:

- ITC will not be available on those invoices which are reflecting in 2A but not in 2B.
- The same is not applicable to the ITC of the supplier not registered under GST like Import of Goods & Services and tax payable on reverse charge.
- But if the tax on reverse charge is paid for supplier who is registered under GST then RCM ITC can be taken only when reflected in GSTR2B.

Example:

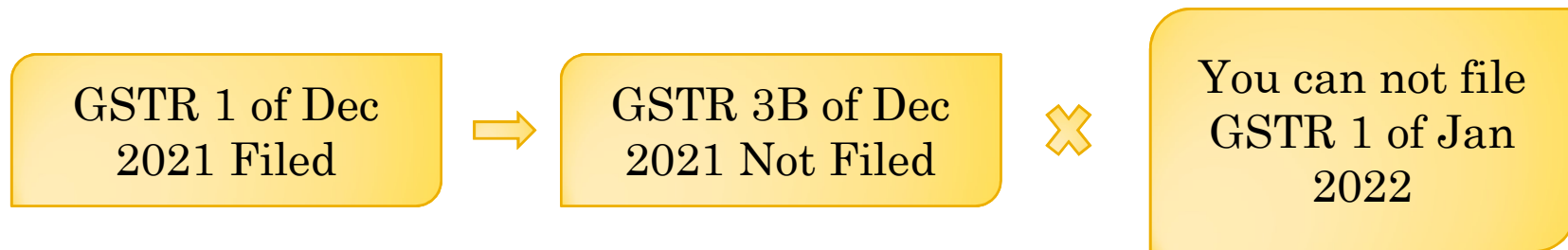
For example if Reverse charge is paid for transportation and the transporter is registered under GST then ITC of reverse charge paid will be available only when the transporter shows sale to you in his GSTR1. i.e. ITC can be taken only after it reflects in GSTR2B and there should be **'Yes'** in **'Supply Attract Reverse Charge'** column.

RULE 59(6) OF CGST RULES, 2017: BLOCKING OF FILING OF GSTR1

Registered persons will not be allowed to submit GSTR1 if GSTR3B is not filed for preceding month (Earlier it was preceding two months)

Example:

Registered persons will not be able to file GSTR1 of January 2022 if GSTR3B of December 2021 is not filed even if GSTR 1 of Dec 2021 is filed.



SEC 75(12) OF CGST ACT, 2017 : MORE STRINGENT RECOVERY PROCEEDINGS

Any tax declared in GSTR1 if not paid in GSTR3B then the difference will be treated as **‘self-assessed tax unpaid’** and recovery proceedings will be initiated.

This move will help curb fake billing whereby sellers would show higher sales in GSTR-1 to enable purchasers to claim an input tax credit (ITC), but report suppressed sales in GSTR-3B to lower GST liability.



GST RATE CHANGES FOR SPECIFIED COMPOSITE & PURE SUPPLY SERVICES

- The effect of the amendment is that ‘Governmental Authority’ or ‘Government Entity’ have been removed from the list of specified recipients when composite services are supplied at the concessional rate of 12%/5% under S. No. 3 (iii), (vi), (vii), (ix) and (x) of N . No. 11/2017 (CTR) dated 28.06.2017
- In other words, with effect from 1 January 2022, the concessional rate of 12% / 5% in case of the nature of services under these entries will be available only when the recipients are Central Government, State Government, Union territory or a local authority. Whenever the specified services are provided to a ‘Governmental Authority’ or ‘Government Entity’, on or after 1st January, 2022, the rate applicable to such supply of services shall be 18%.
- For a simple understanding of the old and new GST rates applicable to the different types of such specified composite/ pure supply of services as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017 and which will see a change w.e.f. 01.01.2022, the attached table shall serve well.

SEC 129 OF CGST ACT, 2017 :

REVISED PENALTIES ON DETENTION, SEIZURE AND RELEASE OF GOODS AND CONVEYANCES IN TRANSIT

Where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released after the below penalties are paid :

- **Where the owner of the goods comes forward for payment of such penalty**
Penalty = 200% of tax payable on such goods
Exempted goods = Pay amount equal to 2% of value of goods or Rs.25,000
(whichever is less)

- **Where the owner of the goods does not come forward for payment of such penalty**
Penalty = 50% of value of goods or 200% of tax payable on such goods
(whichever is higher)
Exempted goods = Pay amount equal to 5% of value of goods or Rs.25,000
(whichever is less)

TIME LIMIT FOR PAYMENT OF PENALTY:

It shall now be 15 days from the date of receipt of copy of the order levying penalty else the consignment will be disposed of.

- Transporter can either pay penalty or Rupees 1 Lakh whichever is less for release of goods.
- Order of penalty will be issued within 7 days of detention only after giving opportunity of being heard.

INSERTION IN SEC 7 OF CGST ACT,2017 : SUPPLY UNDER GST

Sec 7(aa) :

Activities or transactions, by a person, other than an individual, to its members or constituents or vice versa, for cash, deferred payment or other valuable consideration.

Implications:

- All clubs, Societies, Trade bodies & Associations etc. will now have to pay GST on any Goods or Services provided to its members from **01.07.2017**.
- If they are already charging GST then no need to pay again.
- No Judgment, decree or order of any court or Tribunal or any other authority stating otherwise will be applicable.

Calcutta Club Judgment which was not in favor of revenue will not be applicable.

AADHAAR AUTHENTICATION

It is mandatory for registration, revocation of cancellation of registration, claiming refund, and also claiming refund of IGST on exports from the customs.

Now every person Registered under GST and who has not authenticated his Aadhar has to authenticate his Aadhar card or else portal will not proceed further.



**AADHAAR
MANDATORY
FOR
GST REGISTRATION**

SHIFT OF LIABILITY TO PAY TAX ON E COMMERCE OPERATORS

Restaurant services through Ecommerce Operator [ECO]

These services are now included in section 9(5) of CGST Act. The section says that the intrastate tax will be paid by the electronic commerce operator if such services are supplied through them and all the provisions of act will be applicable to ECO as if he is the supplier liable for paying tax.

Till now if food was ordered through ECO, invoice was raised by the restaurant and tax also was paid by them.

The ECO has to have physical presence or any authorized person in taxable territory and get themselves registered as a regular 'Tax Payer' if not registered.

IMPLICATIONS:

- The Tax Invoices will be raised by the ECO and tax will be collected and paid by ECO.
- ECO's will not collect TCS u/s 52 from Restaurant service.
- ECO's can not avail ITC against the tax collected by consumers from the sale of Restaurant service.
- ECO has to pay tax from Electronic cash ledger.
- If sales are made by unregistered restaurants through ECO then also tax will be levied by ECO's.
- Supply by Restaurants through ECO's will be included in Aggregate turnover of Restaurant services.
- In GST Returns Restaurants will show their supply under nil rated or exempt supply.
- In GST Returns ECO's will show the transactions as Taxable supply.

SECTION 151 OF CGST ACT 2017 : POWER TO COLLECT STATISTICS

Earlier notification was supposed to be issued if they have to call for any statistics.

Now any person has to furnish the information called for in the order issued to him.

The Commissioner or an officer authorized by him may, by an order, direct any person to furnish information relating to any matter dealt with in connection with this Act, within such time, in such form, and in such manner, as may be specified **therein**.



GOKHALE ASSOCIATES
Chartered Accountants

Contact Number :- (022) 27812538/39

Address :- Office No. 401, The Affaires,
Plot No. 9, Sector 17,
Palm Beach Road, Sanpada,
Navi Mumbai - 400 705

Website:- www.gokhaleassociates.com