

Significant Notifications and Circulars issued in GST from 16th December, 2021 to 15th January, 2022

GST

1. Insertion of Rule 10B (Mandatory Aadhar Authentication).

Rule 10B inserted vide [Notification No. 35/2021 – Central Tax dt. 24.09.2021](#) making Aadhaar authentication mandatory for registered persons filing application for revocation of cancellation of registration and refund application has been made applicable from 01.01.2022.

Consequent amendments made in rule 23 (revocation of cancellation of registration), rule 89 (application for refund of tax, interest, penalty, fees or any other amount) and rule 96 (refund of integrated tax paid on goods or services exported out of India) has also been made effective from the same date.

[Notification No. 38/2021 – Central Tax dt. 21.12.2021](#)

2. Amendments made vide the Finance Act, 2021 made effective from 01.01.2022.

The Central Government vide [Notification No. 39/2021-Central Tax dated 21st December 2021](#) has appointed 1st day of January, 2022, as the date on which the provisions of sections 108, 109, 113, 114, 115, 116, 117, 118, 119, 120, 121 and 122 of the Finance Act, 2021 shall come into force. Out of which, section 108 i.e., section 7(1)(aa) of the CGST Act shall be effective retrospectively from 01.07.2017.

3. Due date for furnishing Form GSTR-9 and 9C for FY 2020-21 extended to 28th February 2022

A new sub-rule (1A) has been inserted in Rule 80 (Annual Return) to provide that the annual return in GSTR-9 for the financial year 2020-2021 can be furnished on or before 28.02.2022. Also, sub-rule (3A) has been inserted to provide that self-certified reconciliation statement in Form GSTR-9C can be furnished along with the said annual return on or before 28.02.2022.

[Notification No. 40/2021 – Central Tax dt. 29.12.2021](#)

4. Amendments in CGST Rules, 2017

The following amendments have been made in the CGST Rules, 2017 vide [Notification No. 40/2021 – Central Tax dt. 29th December, 2021](#)

- i. Rule 36(4) has been substituted to provide that with effect from 01.01.2022, a registered person shall be able to avail ITC in respect of only those invoices or debit notes which have been furnished by the supplier in the statement of outward supplies in **FORM GSTR-1** or using the invoice furnishing facility and the details of such invoices or debit notes have been communicated to him in **FORM GSTR-2B** under sub-rule (7) of rule 60.
- ii. A proviso has been inserted in sub-rule (3) of rule 95 (**Refund of tax in certain cases**) retrospectively with effect from 01.04.2021, to bring forth that where Unique Identity Number of the applicant is not mentioned in a tax invoice, the refund of tax paid by

the applicant on such invoice shall be available only if the copy of the invoice, duly attested by the authorized representative of the applicant, is submitted along with the refund application in **FORM GST RFD-10**.

iii. Rule 142(3) lays down that if the amount referred to in section 129(1) of the CGST Act, 2017 is paid within fourteen days of detention or seizure of the goods and conveyance, the proceedings in respect of the notice shall be concluded. The said sub-rule has been amended to provide that if the amount referred to in section 129(1) of the CGST Act, 2017 is paid within *seven days of the notice issued under sub-section (3) of section 129 but before the issuance of order under the said sub-section (3)*, the proceedings in respect of the notice shall be concluded. Further, in sub-rule (5), the words “the person chargeable to tax” have been substituted with the words “the person concerned”.

iv. A new rule 144A (**Recovery of penalty by sale of goods or conveyance detained or seized in transit**) has been inserted with effect from 01.01.2022. The new rule lays down that where the person transporting any goods or the owner of such goods fails to pay the amount of penalty section 129(1) within fifteen days from the date of receipt of the copy of the order passed under section 129(3), the proper officer shall proceed for sale or disposal of the goods or conveyance so detained or seized by preparing an inventory and estimating the market value of such goods or conveyance.

If the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer. The said goods or conveyance shall be sold through a process of auction, including e-auction.

v. Rule 154 (**Disposal of proceeds of sale of goods or conveyance and movable or immovable property**) has been substituted with effect from the 01.01.2022 to provide that such proceeds shall now be appropriated against the amount to be recovered or to the payment of the penalty payable section 129(3), as the case may be, after being appropriated against administrative cost of the recovery process. Further, balance amount, if any, instead of paying directly to the defaulter, shall now be credited to the electronic cash ledger of the owner of the goods or conveyance in case the person is registered or else shall be credited to his bank account. However, where the balance of sale proceeds cannot be so paid within a period of six months from the date of sale of such goods or conveyance or such further period as the proper officer may allow, such balance of sale proceeds shall be deposited with the Fund.

vi. Rule 159 (**Provisional attachment of property**) has been amended to provide that the Commissioner shall send the order of attachment in Form GST DRC-22 and a copy of such order shall also be sent to the person whose property is being attached under section 83. Other amendments have also been made in this rule to incorporate the changes made in section 83 vide the Finance Act, 2021 providing for attachment of property of a person other than the taxable person i.e., any person specified in sub-section (1A) of section 122. Further, any objection to the order of provisional attachment of property shall be filed in **Form DRC-22A** whose format has also been notified.

vii. Forms GST DRC-10 and GST DRC-22 have been substituted with new Forms with effect from 01.01.2022.

viii. In Form GST DRC-11 (Notice to successful bidder), rule 144A has been included in addition to existing rules 144(5) and 147(12). Further, the word conveyance has also been included in addition to goods with effect from 01.01.2022 implying that now the possession of the goods as well as conveyance shall be transferred to the successful bidder after making full payment of the bid amount. Similar changes have also been made in **FORM GST DRC-12 (Sale Certificate)**.

ix. In Form GST DRC-11 (Restoration of provisionally attached property / bank account under section 83), the words '*Regional Transport Authority/Other Relevant Authority*' have been added in addition to existing '*Immovable property registering authority*', with effect from 01.01.2022.

x. A new table has been substituted under clause (a) of entry no. 15 in **FORM APL-01** with effect from 01.01.2022.

xi. A new Form GST DRC-22A (Application for filing objection against provisional attachment of property) has been introduced with effect from 01.01.2022 under rule 159(5).

5. Amendments in rate notifications pertaining to goods

The following rate notifications have been issued to align the rate notification of goods with the new Harmonised System of Nomenclature (HSN) implemented from January 1, 2022:

- i. [Notification No. 18/2021-CT \(Rate\) dt. 28.12.2021](#) to amend [Notification No. 1/2017- Central Tax \(Rate\) dated 28.06.2017](#) thereby making changes in the rate of certain goods.
- ii. [Notification No. 19/2021-CT \(Rate\) dt. 28.12.2021](#) which seeks to amend exemption [Notification No. 2/2017- CT \(Rate\) dated 28.06.2017](#) in respect of goods.
- iii. [Notification No. 20/2021-CT \(Rate\) dt. 28.12.2021](#) seeks to amend [Notification No. 21/2018- CT \(Rate\) dated 26.07.2018](#) which prescribes concessional CGST rate on specified handicraft items.

6. Clarification on applicability of GST on service supplied by restaurants through e-commerce operators

CBIC has issued [Circular No. 167 / 23 /2021 - GST dt. 17th Dec, 2021](#) to clarify that with effect from 01.01.2022, an electronic commerce operator (ECO) shall be liable to pay GST on 'restaurant services' provided through it as 'restaurant service' has been notified under section 9(5) of the CGST Act, 2017. Thus, they shall no longer be required to collect TCS on restaurant services and file GSTR-8 in respect of restaurant services on which it pays tax in terms of section 9(5). There is no requirement for the ECOs to take separate registration for this purpose. Other relevant and practical issues related to such service have been dealt with in the Circular.

7. Mechanism for filing of refund claim by the taxpayers registered in erstwhile Union Territory of Daman & Diu for period prior to merger with U.T. of Dadra & Nagar Haveli

A Circular has been issued to explain the mechanism for filing of refund claim by the taxpayers registered in erstwhile Union Territory of Daman & Diu for period prior to merger with U.T. of Dadra & Nagar Haveli has been issued.

[*Circular No. 168 /24/ 2021 – GST dt. 31st December, 2021*](#)

8. Guidelines for management and administration of Consumer Welfare Fund provided to Board under rule 97(7A) of the CGST Rules, 2017

CBIC has issued guidelines for management and administration of Consumer Welfare Fund made available to the Board under rule 97(7A) of the CGST Rules, 2017. The provisions governing the manner of utilization of the Fund are prescribed in rule 97 of the CGST Rules, 2017. Sub-rule (7A) of rule 97 provides that the Committee, constituted under sub-rule (4), shall make available to the CBIC 50% of the amount credited to the Fund each year, for publicity or consumer awareness on GST, provided the availability of funds for consumer welfare activities of the Department of Consumer Affairs is not less than 25 crore rupees p.a.

The detailed Guidelines can be accessed at the following link:

[*Guidelines for CWF provided to Board under rule 97\(7A\) of CGST Rules, 2017*](#)

9. Recommendation of 46th GST Council Meeting

The GST Council in its 46th meeting held on 31.12.2021 has recommended to defer the decision to change the rates in textiles sector recommended in the 45th GST Council meeting. Consequently, the existing GST rates in textile sector would continue beyond 1st January, 2022.

[*Press release*](#)

10. Guidelines for recovery under section 79 for cases covered under explanation to section 75(12) of the CGST Act, 2017

The CBIC vide [*Instruction No. 01/2022-GST dt. 07.01.2022*](#) has issued the guidelines for recovery proceedings under the provisions of section 79 of the CGST Act, 2017 in cases covered under explanation to sub-section (12) of section 75 of the Act namely, where the tax payable in respect of details of outward supplies furnished by the registered person in GSTR-1, has not been paid through GSTR-3B return, either wholly or partly, or any amount of interest payable on such tax remains unpaid.

CUSTOMS

1. Amendment in Sea Cargo Manifest and Transhipment Regulations, 2018

The Sea Cargo Manifest and Transhipment (Ninth Amendment) Regulations, 2021 has been introduced to amend Sea Cargo Manifest and Transhipment Regulations, 2018 to provide that the authorized sea carrier shall continue to deliver the cargo declaration in Form III of the Import Manifest (Vessels) Regulations, 1971 and Form I of the Export Manifest (Vessels) Regulations, 1976, in the manner as was applicable before the commencement of these regulations, till **30th June 2022** instead of earlier 31st December 2021.