

GOODS & SERVICES TAX / IDT UPDATE-140

1. Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices

[Circular No. 165/21/2021-GST dt. 17.11.2021](#) has amended [Circular No. 156/12/2021-GST dt. 21.06.2021](#) issued to provide clarifications in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of *Notification 14/2020 CT dt. 21.03.2020*.

S. No. 4 of *Circular No. 156/12/2021* clarified that wherever an invoice is issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of IGST Act, 2017, and the payment is received by the supplier **in foreign currency**, through RBI approved mediums, such invoice may be issued without having a Dynamic QR Code, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier

The wordings of S. No. 4 of *Circular No. 156/12/2021* created doubt as to whether the relaxation from the requirement of dynamic QR code on the invoices would be available to such supplier, who receives payments from the recipient located outside India through RBI approved modes of payment, but **not** in foreign exchange. It has been clarified vide *Circular No. 165/21/2021* that the intention of clarification as per S. No. 4 in the said circular was not to deny relaxation in those cases, where the payment is received by the supplier as per any RBI approved mode, other than foreign exchange.

S. No. 4 of *Circular No. 156/12/2021* has been substituted vide *Circular No. 165/21/2021* to clarify that dynamic QR code is not required on the invoice issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of IGST Act, 2017, and the payment is received by the supplier, in convertible foreign exchange **or in Indian Rupees, wherever permitted by the RBI**. This is so because such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier.

[Circular No. 165/21/2021-GST dt. 17.11.2021](#)

2. Clarification on certain refund related issues

Following clarifications have been issued in regard to refund:

- (i) The time period within which an application for refund can be made shall not be applicable in cases of refund of excess balance in e-cash ledger.
- (ii) Furnishing of certification/ declaration under rule 89(2)(l) or 89(2)(m) of the CGST Rules, 2017 for not passing the incidence of tax to any other person is not required in cases of refund of excess balance in e-cash ledger as unjust enrichment clause is not applicable in such case.
- (iii) The amount deducted/collected as TDS/TCS under the provisions of section 51/ 52 of the CGST Act, as the case may be, and credited to e-cash ledger of the registered person, is equivalent to cash deposited in electronic cash ledger. It is not mandatory for the registered person to utilize such TDS/TCS amount only for

the purpose of discharging tax liability. The registered person is at full liberty to discharge his tax liability in respect of the supplies made by him during a tax period, either through debit in electronic credit ledger or through debit in electronic cash ledger, as per his choice and availability of balance in the said ledgers. Any amount, which remains unutilized in electronic cash ledger, after discharge of tax dues and other dues payable under CGST Act, 2017 and rules made thereunder, can be refunded to the registered person as excess balance in electronic cash ledger in accordance with the proviso to sub-section (1) of section 54, read with sub-section (6) of section 49 of CGST Act, 2017.

- (iv) Clause (b) of Explanation (2) under section 54 of the CGST Act, 2017 is applicable for determining relevant date in respect of refund of amount of tax paid on the supply of goods regarded as deemed exports irrespective of the fact whether the refund claim is filed by the supplier or by the recipient. Further, as the tax on the supply of goods, regarded as deemed export, would be paid by the supplier in his return, therefore, the relevant date for purpose of filing of refund claim for refund of tax paid on such supplies would be the date of filing of return, related to such supplies, by the supplier.

[Circular No. 166/22/2021-GST dt. 17.11.2021](#)

3. Amendments in relation to services notified under section 9(5) of the CGST Act, 2017, the tax on which is payable by the electronic commerce operator

[Notification No. 17/2017-CT \(R\) dt. 28.06.2017](#), issued under section 9(5) of the CGST Act, 2017, enlists services, the tax on which is required to be paid by the electronic commerce operator. The said notification has been amended as under:

- (i) Hitherto, services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle were included in clause (i) of the notification. The said clause (i) has been amended to the effect that services by way of transportation of passengers by an omnibus or any other motor vehicle have also been included therein.
- (ii) A new clause (iii) has been inserted in the notification to include supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises, within the list of services, the tax on which is payable by the electronic commerce operator. Here, specified premises would mean premises providing hotel accommodation service having declared tariff of any unit of accommodation above Rs. 7,500 per unit per day or equivalent.

Parallel amendments have been made in **[Notification No. 14/2017-IT \(R\) dt. 28.06.2017](#)** issued under section 5(5) of the IGST Act, 2017. **All the above amendments shall be effective from January 1, 2022.**

[Notification No. 17/2021-CT \(R\) dt. 18.11.2021 & Notification No. 17/2021-IT \(R\) dt. 18.11.2021](#)

4. Amendments in relation to rate of tax applicable on services

[Notification No. 11/2017-CT\(R\) dt. 28.06.2017](#) which prescribes the rate of CGST for services has been amended as under:

- (i) Composite supply of works contract services provided for certain specific purposes to Central Government, State Government, Union territory, a local

authority, a governmental authority or a government entity is liable to CGST @ 6% (effective rate 12%) or 2.5% (effective rate 5%), as the case may be. With effect from January 1, 2022, such services when provided to a governmental authority or a government entity shall be charged to CGST @ 9% (effective rate 18%). Thus, the lower rate of tax viz., 12%/5% shall be applicable only when such services are provided to Central Government, State Government, Union territory or a local authority.

- (ii) With effect from January 1, 2022, job work services of dyeing or printing of textile and textile products shall not be liable to CGST @ 2.5% (effective rate 5%). The same shall be liable to CGST @ 6% (effective rate 12% when undertaken for registered principal) or 9% (effective rate 18%) when undertaken for un-registered principal.

Parallel amendments have been made in rate [Notification No. 8/2017-IT \(R\) dt. 28.06.2017](#) issued under the IGST Act, 2017. **All the above amendments shall be effective from January 1, 2022.**

[Notification No. 15/2021-CT \(R\) dt. 18.11.2021 & Notification No. 15/2021-IT \(R\) dt. 18.11.2021](#)

5. Amendments in relation to exemption available on services

[Notification No 12/2017- CT\(R\) dt. 28.06.2017](#) providing exemption for services has been amended as under:

- (i) Exemption available on supply of pure services (excluding works contract service or other composite supplies involving supply of any goods) and composite supply of goods and services in which the value of supply of goods constitutes not more than 25% of the **value** of the said composite supply provided by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution **to a Governmental Authority or a Government Entity, has been withdrawn.**
- (ii) The exemption on services of transport of passengers, with or without accompanied belongings,
 - a. by non-air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire, or
 - b. stage carriage other than air conditioned stage carriage;shall not be available if such services are supplied through an electronic commerce operator, and are notified under sub-section (5) of section 9 of the CGST Act, 2017.
- (iii) The exemption on service of transportation of passengers, with or without accompanied belongings, by metered cabs or auto-rickshaws (including e-rickshaws) shall not be available if such services are supplied through an electronic commerce operator, and are notified under sub-section (5) of section 9 of the CGST Act, 2017.

Parallel amendments have been made in exemption [Notification No. 9/2017-IT \(R\) dt. 28.06.2017](#) issued under the IGST Act, 2017. All the above amendments shall be effective from January 1, 2022.

[Notification No. 16/2021-CT \(R\) dt. 18.11.2021 & Notification No. 16/2021-IT \(R\) dt. 18.11.2021](#)

6. Correction of inverted duty structure in textiles and footwear sector

The GST Council at its 45th meeting had made a recommendation for making GST rate changes to correct inverted duty structure in footwear and textiles sector. To give effect to the said recommendation, [Notification No. 1/2017-CT\(R\) dt. 28.06.2017](#) prescribing CGST rates for goods has been amended to provide a uniform CGST rate of 6% (effective rate 12%) on manmade fibre, manmade fibre yarn, manmade fibre fabrics and apparel. At present, CGST rates on manmade fibre, manmade fabric yarn and manmade fabric are 9%, 6% and 2.5% respectively.

For footwear, a uniform CGST rate of 6% (effective rate 12%) has been notified and the price differential has been done away with. At present, CGST @ 2.5% (effective rate 5%) is applicable on footwear up to Rs 1,000.

Parallel amendments have been made in rate [Notification No. 1/2017-IT \(R\) dt. 28.06.2017](#) issued under the IGST Act, 2017. All the above amendments shall be effective from January 1, 2022.

[Notification No. 14/2021-CT\(R\) dt. 18.11.2021 & Notification No. 14/2021-IT\(R\) dt. 18.11.2021](#)

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