

GOODS & SERVICES TAX / IDT UPDATE-144

1. 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 that where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under 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 DRC 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).

2. 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**](#)

3. 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

Circular No. 168/24/2021 – GST dt. 31st December, 2021 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. The following procedure has been prescribed in respect of the taxpayers, registered in the erstwhile UT of Daman & Diu and who are unable to file refund claim, due to merger of UT of Dadra & Nagar Haveli and UT of Daman & Diu, to enable such taxpayers to file refund claim for the period prior to merger:

- i. The application for refund shall be filed under ‘Any other’ category on the GST portal using their new GSTIN. In the Remarks column of the application, the applicant needs to enter the category in which the refund application otherwise would have been filed.
- ii. The application shall be accompanied by all the supporting documents which otherwise are required to be submitted with the refund claim.
- iii. Upon scrutiny of the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the applicant, in writing to debit the said amount from the electronic credit ledger through **FORM GST DRC-03**. Once the proof of such debit is received, he shall proceed to issue the refund order in **FORM GST RFD-06** and the payment order in **FORM GST RFD-05**.
- iv. No refund claim, requiring debit from the electronic credit ledger or where the refund would result in re-credit of the amount sanctioned in the electronic credit ledger, shall be filed using old GSTIN.

The complete Circular can be accessed at [**Circular No. 168/24/2021 – GST dt. 31st December, 2021**](#)

4. 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.

5. 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](#)

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