

Highlights of 46th GST Council Meeting

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GST Council decided to defer the rate hike on textiles that were to be implemented from 1st January 2022

The 46th GST Council was held on 31st December 2021 at Vigyan Bhavan, New Delhi. It was chaired by the Union Finance Minister Smt. Nirmala Sitaraman. The meeting was also attended by the Union Ministers of State for Finance Shri Pankaj Chowdhary and Dr. Bhagwat Kishanrao Karad, besides the finance ministers of the States and UTs and other senior officers of tax administration. This meeting was called under the emergency provisions with just two days notice to exclusively discuss the GST hike on textiles. The State of Gujarat requested to reconsider the 45th GST Council decision to correct inversion in the tax structure of the textiles sector which prompted the 46th GST Council to keep the GST hike on textiles from 5% to 12% on hold that were to take effect from 1st January 2022. Also, the Council informed the Group of Ministers to include the GST rate on textiles in their study and submit the report by February 2022. The Finance Minister clarified that the GST hike on footwear was not on the Council's agenda and it was not up for discussion. Hence, the new GST rate of 12% will apply to footwear from 1st January 2022.

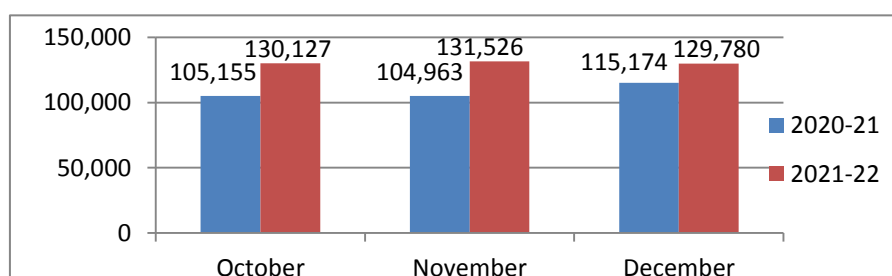
GST Revenue Performance for 3rd Quarter of FY 2021-22

The gross GST collection for the third quarter (October-December) of the current FY was Rs. 3,91,433 which is 17% higher than the revenue collected in the same period last year FY 2020-21. The average monthly gross GST collection for this third quarter has been Rs. 1.30 lakh crore against the average monthly collection of Rs. 1.10 lakh crore and Rs. 1.15 lakh crore in the first and second quarter, respectively. The gross GST revenue collected in the month of October was Rs. 130127, November was Rs. 131526 and December 2021 was Rs. 1,29,780 crore. This growth and consistency indicates that the economy is recovering gradually from the impact of second and third wave of Covid-19 pandemic. It is also the

result of various policy and administrative measures that have been taken in the past to improve compliance. A large number of initiatives undertaken in the last one year, like the enhancement of system capacity, nudging non-filers after last date of filing of returns, auto-population of returns, blocking of e-way bills and passing of input tax credit for non-filers etc has led to consistent improvement in the filing of returns over the last few months. Moreover, the CGST enforcement agencies, along with the State counterparts have detected large tax evasion cases, mainly cases relating to fake invoices, with the help of various IT tools developed by GSTN that use the return, invoice and e-way bill data to find suspicious taxpayers. The improvement in revenue has also been due to various rate rationalization measures undertaken by the Council to correct inverted duty structure. Considering all the above initiatives, it is expected that this positive trend in the revenues will continue in the last quarter as well.

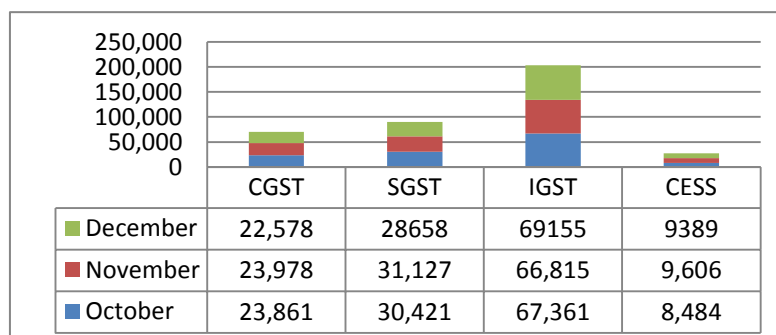
The two charts below show trends in monthly gross GST revenues during the third quarter of FY 2021-22 compared with the same period FY 2020-21:

Gross GST Collection for 3rdQuarter 2021-22 (Rs. Cr.)



Source: Compiled from various PIB Press Releases dated 1.11.2021, 1.12.2021&1.1.2022

GST Collection 3rd Quarter 2021-22(in Rs. Cr.)



Source: Compiled from various PIB Press Releases dated 1.11.2021, 1.12.2021&1.1.2022

The gross GST revenue collected in the month of December 2021 was Rs. 1,29,780 crore of which, CGST was Rs. 22,578 crore, SGST was Rs. 28,658 crore, IGST was Rs. 69,155 crore (including Rs. 37,527 crore collected on import of goods) and cess was Rs. 9,389 crore (including Rs. 614 crore collected on import of goods). The government has settled Rs. 25,568 crore to CGST and Rs. 21,102 crore to SGST from IGST as regular settlement. The total revenue of Centre and the States in the month of December 2021 after settlement was Rs. 48,146 crore for CGST and Rs. 49,760 crore for the SGST. The revenues for the month of December 2021 are 13% higher than the GST revenues in the same month last year and 26% higher than the GST revenues in December 2019. During the month, revenues from import of goods were 36% higher and the revenues from domestic transaction (including import of services) are 5% higher than the revenues from these sources during the same month last year. The GST collection in the month was close to Rs. 1.30 lakh crore despite reduction of 17% in the number of e-way bills generated in the month of November, 2021 (6.1 crore) as compared to the month of October, 2021 (7.4 crore) due to improved tax compliance and better tax administration by both Central and State Tax authorities.

In November 2021 the gross GST collection was Rs. 1,31,526 crore of which CGST was Rs. 23,978 crore, SGST was Rs. 31,127 crore, IGST was Rs. 66,815 crore (including Rs. 32,165 crore collected on import of goods) and Cess is Rs. 9,606 crore (including Rs. 653 crore collected on import of goods). The government has settled Rs. 27,273 crore to CGST and Rs. 22,655 crore to SGST from IGST as regular settlement. The total revenue of Centre and the States after regular settlements in the month of November 2021 was Rs. 51251 crore for CGST and Rs. 53,782 crore for the SGST. The revenues for the month of November 2021 are 25% higher than the GST revenues in the same month last year and 27% over 2019-20. During the month, revenues from import of goods were 43% 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.

Rs. 1,30,127 crore was collected in October 2021, of which CGST was Rs. 23,861 crore, SGST was Rs. 30,421 crore, IGST was Rs. 67,361 crore (including Rs. 32,998 crore collected on import of goods) and Cess was Rs. 8,484 crore (including Rs. 699 crore collected on import of goods). The government has settled Rs. 27,310 crore to CGST and Rs. 22,394 crore to SGST from IGST as regular settlement. The total revenue of Centre and the States after regular settlements in the month of October 2021 was Rs. 51171 crore for CGST and Rs.

52,815 crore for the SGST. The revenues for the month of October 2021 are 24% higher than the GST revenues in the same month last year and 36% over 2019-20. During the month, revenues from import of goods were 39% higher and the revenues from domestic transaction (including import of services) are 19% higher than the revenues from these sources during the same month last year.

State wise GST collected during third quarter of FY 2021-22

The State wise GST collection was Rs.96430 crore in October, Rs.98708 crore in November and Rs. 91639 crore in December 2021. When we look at the revenue performance of the states during this third quarter of 2021-22, total Rs. 286777 crore collected which is 13 % higher than the same period in the last financial year. It is important to note that in this period, the gross GST revenue collection has achieved 17% growth. It is clear from the given table that,almost all States has achieved positive growth except the State of Uttarakhand in this third quarter compared to the same period in last financial year.Around 14 States has achieved 13% or above growth rate. This shows that the States are slowly recovering from the second wave and third wave of Covid-19 pandemic. The State of Odisha shows the highest growth rate of 34%.

Table 1 below shows the state-wise details of monthly GST collected (in Rs. Cr.) in 3rd quarter of FY 2021-22 and its comparison with the same quarter in last FY 2020-21:

States/UTs	Oct.2021	Nov.2021	Dec.2021	(3 rd Qtr 2020-21)	(3 rd Qtr 2021-22)	Change (%)
J&K	648	383	320	1055	1351	22
Himachal Pradesh	689	762	662	2119	2113	0
Punjab	1595	1845	1573	4125	5013	18
Uttarakhand	1259	1263	1077	3804	3599	-5
Haryana	5606	6016	5873	17108	17495	3
Delhi	4045	4387	3754	10075	12186	18
Rajasthan	3423	3698	3058	9231	10179	10
Uttar Pradesh	6775	6636	6029	16936	19440	13
Bihar	1351	1030	963	3047	3344	9
Assam	1425	992	1015	2947	3432	15
West Bengal	4259	4083	3707	11599	12049	4
Jharkhand	2370	2337	2206	5828	6913	16
Odisha	3593	4136	4080	7807	11809	34
Chhattisgarh	2392	2454	2582	6477	7428	13
Madhya Pradesh	2666	2808	2533	7511	8007	7
Gujarat	8497	9569	7336	21822	25402	15
Maharashtra	19355	18656	19592	48499	57603	16
Karnataka	8259	9048	8335	21372	25642	17
Goa	317	518	592	952	1427	34
Kerala	1932	2129	1895	5009	5956	16
Tamil Nadu	7642	7795	6635	20890	22072	6
Telangana	3854	3931	3760	10101	11545	13
Andhra Pradesh	2879	2750	2532	7568	8161	8

Total (all States & UTs)	96430	98708	91639	250058	286777	13
<i>Source: Compiled from various PIB Press Releases dated 1.11.2021, 1.12.2021 & 1.1.2022</i>						

Kerala has collected Rs.5956 crore in the third quarter of FY 2021-22, which is 16% higher than the GST collection in the same period last year.

The State of Kerala has collected Rs.1932crore in October, Rs.2129crore in November and Rs. 1895 crore in December 2021. The total collection in this third quarter was Rs.5956 crore which is 16% higher compared to the same period in the last financial year. This amount includes the SGST collected by the States and share of IGST. Apart from this, the State has received Rs.5290.89 crore as GST compensation in three instalments in this period. The State can claim moderate growth in GST collection only if it includes the amount received on account of GST compensation.

GST Compensation released to States

The Govt. has estimated Rs. 2.59 lakh crore needs to pay to States/UTs in the current financial year as compensation. Out of this, only Rs. 1 lakh crore will be expected from compensation cess fund. The balance requirement of Rs. 1.59 lakh was already mobilised from market and disbursed among the States/UTs on a back to back basis.

So far in the financial year 2021-22, the government has released Rs. 2,19,000 crore to the states as GST Compensation. This amount includes Rs. 60,000 crore from Compensation cess fund and Rs.1.59 crore from loan from market. During this third quarter of FY 2021-22, a total of Rs. 1,01,000 crore has been released in three instalments, which are Rs. 40,000 crore on 7th October, Rs.44000 crore on 28th October and Rs.17000 crore on 3rd November 2021.

The Covid-19 pandemic has not only significantly affected the GST collection of the Centre, but has also created huge compensation requirements to States. Because of the lower economic activity during pandemic, the fund collected through the compensation cess was inadequate to meet the compensation requirements of States. In this context, the issue has been deliberated in the 41st and 42nd GST Council meetings. Accordingly, the Centre had borrowed Rs. 1.1 lakh crore under a special window loan and passed on to the States as back-to-back loan for FY 2020-21. It is estimated that Rs. 2.59 lakh crore will be required to pay as compensation to States/UTs in the FY 2021-22. Out of this only Rs. 1 lakh crore can be expected from compensation cess fund. Hence, 43rd GST Council meeting has also permitted to borrow Rs. 1.59 lakh crore from the market for managing compensation requirement of FY

2021-22. Subsequently, Rs. 75,000 crore has been released to States/UTs on 15 July 2021, which is almost 50% of the total shortfall. Then, a total of Rs. 1,01,000 crore has been released in three installments during the third quarter of the current financial year. The 45th GST Council decided to extend the Compensation cess till March 2026, exclusively to repay the back-to-back loan taken so far to manage the compensation requirements. It is also significant to note that there is no compensation to States beyond June 2022, which is the last date as per the GST Compensation to States Act 2016.

Table 2 below shows the details of GST compensation released to States/UTs during the third quarter of the FY 2021-22:

Table 2. The State/ UTs wise details of amount released in lieu of GST Compensation (Rs. Cr.)				
Sl. No.	Name of the State/ UTs	07.10.21	28.10.21	03.11.21
1.	Andhra Pradesh	823.17	905.59	542.99
2.	Assam	446.30	490.76	159.56
3.	Bihar	1714.76	1885.69	342.33
4.	Chhattisgarh	1249.09	1374.02	274.07
5.	Goa	213.09	234.28	163.38
6.	Gujarat	3280.58	3608.53	1428.41
7.	Haryana	1860.17	2045.79	518.12
8.	Himachal Pradesh	678.01	745.95	177.69
9.	Jharkhand	624.92	687.76	264.46
10.	Karnataka	4555.84	5010.90	1602.62
11.	Kerala	2198.55	2418.49	673.85
12.	Madhya Pradesh	1763.81	1940.20	542.15
13.	Maharashtra	3467.25	3814.00	3053.60
14.	Meghalaya	35.47	39.18	27.78
15.	Odisha	1617.65	1779.45	286.01
16.	Punjab	3052.15	3357.48	834.83
17.	Rajasthan	1828.48	2011.42	653.45
18.	Tamil Nadu	2036.53	2240.22	1314.43
19.	Telangana	1149.46	1264.78	279.19
20.	Tripura	100.88	111.34	16.93
21.	Uttar Pradesh	2047.85	2252.37	1417.18
22.	Uttarakhand	838.52	922.30	270.27
23.	West Bengal	1616.39	1778.16	771.82
24.	Delhi	1558.03	1713.34	1155.09
25.	J&K	967.32	1064.44	168.41
26.	Puducherry	273.73	303.56	61.08
	Total	40000.00	44000.00	17000.00

Source: PIB Press Release dated 15.07.2021, 07.10.2021, 28.10.2021 & 03.11.2021

Changes on Law and Procedure

The Government has issued four Central Tax notifications, ten Central Tax (Rate) notifications, ten IGST (Rate) notifications, ten UTGST (Rate) notifications and five Circulars during this third quarter of FY. 2021-22.

Notifications – Central Tax

1. Due date for GSTR-9 and GSTR-9C extended to 28th February 2022

The due date for furnishing annual return in FORM GSTR-9 & self-certified reconciliation statement in FORM GSTR-9C for the financial year 2020-21 has been extended from 31.12.2021 to 28.02.2022. The CBIC has also notified some amendments in GST Forms and CGST Rules.

Source: Notification No. 40/2021-CT dated 29.12.2021

2. Certain clauses of Finance Act, 2021 with effect from 1st January, 2022

The Union Budget 2021 has presented various amendments to the GST Law through Finance Act, 2021. However, the same were not notified at that time. Now, the CBIC has notifying the applicability of the majority of the amendments (sections 108, 109 & 113 to 122) with effect from 1st January, 2022. (Except Section 7(1)(aa) and Section 50 – which are retrospective from 1st July, 2017).

Source: Notification No. 39/2021-CT dated 21.12.2021

3. Mandatory Aadhaar authentication for registered person

The CBIC seeks to bring into force certain sub-rules of Rule 2 of the Central Goods and Services Tax (Eighth Amendment) Rules, 2021, introduced vide Notification No. 35/2021–Central Tax dated 24th September, 2021. The key changes to come into effect are as follows:

- Rule 10B of CGST Rules shall be inserted w.e.f 1st January, 2022 which prescribes compulsory Aadhaar authentication for registered person in order to be eligible for following purposes:

Filing of Revocation Application under Rule 23

Filing of Refund Application under Rule 89

Refund under Rule 96 on IGST paid exports

- Rule 23 has been amended to incorporate mandatory Aadhaar authentication for filing revocation application.

- Rule 89 has been amended to incorporate mandatory Aadhaar authentication for filing refund application
- Rule 96 has been amended to incorporate mandatory Aadhaar authentication for obtaining refund in case of duty paid exports.

Source: Notification No. 38/2021-CT dated 21.12.2021

4. Extended tenure of NAA & amends Form GST DRC-03

The Government has extended the tenure of National Anti-profiteering Authority (NAA) to 5 years and also amended FORM GST DRC-03. Pertinently, with the amendment of Rule 137 of CGST Rules 2017 the tenure of the National Anti-profiteering Authority has been extended to five years, the amendment comes into effect from 30 November 2021. Further, vide the said notification, a new cause of payment has been added in Form DRC-03 for payment of tax ascertained through Form GST DRC-01A.

Source: Notification No. 37/2021-CT dated 01.12.2021

Notifications – Central Tax (Rates)		
Sl.No.	Notification No.& date	Subject
1	Notification No. 22/2021-Central Tax (Rate) dated 31.12.2021	Amends notification related to CGST rate on Services w.e.f 01.01.2022 by supersede notification 15/2021- CT(R) dated 18.11.2021 and amend Notification No 11/2017- CT (Rate) dated 28.06.2017.
2	Notification No. 21/2021-Central Tax (Rate) dated 31.12.2021	CGST rate on footwear increased w.e.f 1 st January 2022 by supersede notification 14/2021- CT(R) dated 18.11.2021 and amend Notification No 1/2017- CT (Rate) dated 28.06.2017.
3	Notification No. 20/2021-Central Tax (Rate) dated 28.12.2021	Amends the concessional rate notification on specified handicraft items – Notification No. 21/2018 – Central Tax (Rate) dated July 26, 2018 in order to align the HSN mentioned therein with the new edition of HSN 2022.
4	Notification No. 19/2021-Central Tax (Rate) dated 28.12.2021	Amends the GST exemption notification for goods – Notification No. 2/2017 – Central Tax (Rate) dated June 28, 2017 in order to align the HSN mentioned therein with the new edition of HSN 2022.
5	Notification No. 18/2021-Central Tax (Rate) dated 28.12.2021	Amends the GST rate notification for goods – Notification No. 1/2017 – Central Tax (Rate) dated June 28, 2017 in order to align the HSN mentioned therein with the new edition of HSN 2022.
6	Notification No. 17/2021-Central Tax (Rate) dated 18.11.2021	The CBIC has notified that GST on intra-state and inter-state supplies of motorcycles, omnibus or any other motor vehicle shall be paid by electronic commerce operators. The same shall come into force w.e.f. 01.01.2022.
7	Notification No. 16/2021-Central Tax (Rate) dated 18.11.2021	The CBIC has notified that services provided as listed under article 243G/W to Governmental authority or a Government entity, would be liable to tax as they are excluded from

		exemption entries. The same shall come into force w.e.f. 01.01.2022.
8	Notification No. 15/2021-Central Tax (Rate) dated 18.11.2021	The CBIC has notified that certain services supplied by way of composite supply of works contract like construction of dams, canal, residential complex for self-use; civil structure other than for commerce and industry; involving earth work more than 75%, which are provided to Governmental Authority or a Government Entity, the same would be liable @18% as against 12%/5% at present. The same shall come into force w.e.f. 01.01.2022.
9	Notification No. 14/2021-Central Tax (Rate) dated 18.11.2021	The CBIC has augmented the GST Rate from 5% to 12% on fabrics, apparels and footwear with the objective to eradicate the problem of the inverted duty structure faced by the small segment of the textile value chain. The same shall come into force w.e.f. 01.01.2022.
10	Notification No. 13/2021-Central Tax (Rate) dated 27.10.2021	Increase in GST Rate on Information Technology software to 18% by amends Notification No 1/2017- Central Tax (Rate) dated 28.06.2017.
<i>Source: https://cbic-gst.gov.in/central-tax-notifications.html. Accessed on 31.12.2021</i>		

Compensation Cess (Rate)		
Sl.No.	Notification No. & date	Subject
1	Notification No. 2/2021-Compensation Cess (Rate) dated 28.12. 2021	Amends the compensation cess rate notification – Notification No. 1/2017 – Compensation Cess (Rate) dated June 28, 2017 on specified goods in order to align the HSN mentioned therein with the new edition of HSN 2022.
<i>Source: https://cbic-gst.gov.in/central-tax-notifications.html. Accessed on 31.12.2021</i>		

Notifications – Integrated Tax (Rate)		
Sl.No.	Notification No. & date	Subject
1	Notification No. 22/2021-Integrated Tax (Rate) dated 31.12.2021	Seeks to supersede notification 15/2021- Integrated Tax (Rate) dated 18.11.2021 and amend Notification No 8/2017- Integrated Tax (Rate) dated 28.06.2017.
2	Notification No. 21/2021-Integrated Tax (Rate) dated 31.12.2021	Seeks to supersede notification 14/2021- Integrated Tax (Rate) dated 18.11.2021 and amend Notification No 1/2017- Integrated Tax (Rate) dated 28.06.2017.
3	Notification No. 20/2021-Integrated Tax (Rate) dated 28.12.2021	Seeks to amend Notification No 22/2018- Integrated Tax (Rate) dated 26.07.2018
4	Notification No. 19/2021-Integrated Tax (Rate) dated 28.12.2021	Seeks to amend Notification No 02/2017- Integrated Tax (Rate) dated 28.06.2017.
5	Notification No. 18/2021-Integrated Tax (Rate) dated 28.12.2021	Seeks to amend Notification No 01/2017- Integrated Tax (Rate) dated 28.06.2017.
6	Notification No. 17/2021-Integrated Tax (Rate) dated 18.11.2021	Seeks to amend Notification No 14/2017- Integrated Tax (Rate) dated 28.06.2017.
7	Notification No. 16/2021-Integrated Tax	Seeks to amend Notification No 9/2017- Integrated Tax (Rate) dated 28.06.2017.

	(Rate) dated 18.11.2021	
8	Notification No. 15/2021-Integrated Tax (Rate) dated 18.11.2021	Seeks to amend Notification No 8/2017- Integrated Tax (Rate) dated 28.06.2017.
9	Notification No. 14/2021-Integrated Tax (Rate) dated 18.11.2021	Seeks to further amend Notification No 01/2021- Integrated Tax (Rate) dated 28.06.2017.
10	Notification No. 13/2021-Integrated Tax (Rate) dated 27.10.2021	Seeks to amend Notification No 1/2017- Integrated Tax (Rate) dated 28.06.2017.
<i>Source: https://cbic-gst.gov.in/central-tax-notifications.html. Accessed on 31.12.2021</i>		

Notifications – Union Territory Tax (Rate)		
Sl.No.	Notification No. & date	Subject
1	Notification No. 22/2021-Union Territory Tax (Rate) dated 31.12.2021	Seeks to supersede notification 15/2021- Union Territory Tax (Rate) and amend Notification No 1/2017- Union Territory Tax (Rate) dated 28.06.2017.
2	Notification No. 21/2021-Union Territory Tax (Rate) dated 31.12.2021	Seeks to supersede notification 14/2021- Union Territory Tax (Rate) and amend Notification No 1/2017- Union Territory Tax (Rate) dated 28.06.2017.
3	Notification No. 20/2021-Union Territory Tax (Rate) dated 28.12.2021	Seeks to amend Notification No 22/2018- Union Territory Tax (Rate) dated 26.07.2018
4	Notification No. 19/2021-Union Territory Tax (Rate) dated 28.12.2021	Seeks to amend Notification No 2/2017- Union Territory Tax (Rate) dated 28.06.2017
5	Notification No. 18/2021-Union Territory Tax (Rate) dated 28.12.2021	Seeks to amend Notification No 1/2017- Union Territory Tax (Rate) dated 28.06.2017
6	Notification No. 17/2021-Union Territory Tax (Rate) dated 28.11.2021	Seeks to amend Notification No 17/2017- Union territory Tax (Rate) dated 28.06.2017
7	Notification No. 16/2021-Union Territory Tax (Rate) dated 18.11.2021	Seeks to amend Notification No 12/2017- Union territory Tax (Rate) dated 28.06.2017.
8	Notification No. 15/2021-Union Territory Tax (Rate) dated 18.11.2021	Seeks to amend Notification No 11/2017- Union territory Tax (Rate) dated 28.06.2017.
9	Notification No. 14/2021-Union Territory Tax (Rate) dated 18.11.2021	Seeks to further amend Notification No 01/2021- Union territory Tax (Rate) dated 28.06.2017.
10	Notification No.	Seeks to amend Notification No 1/2017- Union territory Tax

13/2021-Union Territory Tax (Rate) dated 27.10.2021	(Rate) dated 28.06.2017.
Source: https://cbic-gst.gov.in/central-tax-notifications.html . Accessed on 31.12.2021	

Circular

1. Tax on supplies of restaurant services via E-Commerce Operators (ECOs)

The GST Council in its 45th meeting held on 17th September, 2021 recommended to notify, Restaurant Service' under section 9(5) of the CGST Act, 2017. Accordingly, the tax on supplies of restaurant service supplied through ECOs shall be paid by the ECOs. In this regard Central Tax (Rate) notification No. 17/2021 dated 18.11.2021 has been issued. This circular has issued clarifications in furtherance of certain representations that have been received by the Government requesting for clarification regarding modalities of compliance to the GST laws in respect of supply of restaurant service through ECOs.

As 'restaurant service' has been notified under section 9(5) of the CGST Act, 2017, the ECO shall be liable to pay GST on restaurant services provided, with effect from January 01, 2022, through ECOs. Accordingly, the ECOs will no longer be required to collect TCS and file GSTR 8 in respect of restaurant services on which it pays tax in terms of section 9(5). On other goods or services supplied through ECOs, which are not notified u/s 9(5), ECOs will continue to pay TCS in terms of section 52 of CGST Act, 2017 in the same manner at present.

Source: GST Circular 167/2021 dated 17.12.2021

2. Clarification on refund related issues

The CBIC has clarified various issues pertaining to the refund claim of GST. Some of the clarifications have been encapsulated below:

- (i) The provisions of section 54(1) of the CGST Act regarding time period, within which an application for refund can be filed, would not be applicable in cases of refund of excess balance in electronic 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 electronic cash ledger as unjust enrichment clause is not applicable in such cases.

- (iii) It is not mandatory for the registered person to utilize the TDS/TCS amount credited to his electronic cash ledger only for the purpose for discharging tax liability. Now, 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.
- (iv) 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.

Source: GST Circular 166/2021 dated 17.11.2021

3. Clarification in respect of applicability of QR Code on B2C invoices

The CBIC has issued clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020- Central Tax, dated 21.03. 2020:

Issue: In cases, where receiver of services is located outside India, and payment is being received by the supplier of services, through RBI approved modes of payment, but as per provisions of the IGST Act 2017, the place of supply of such services is in India, then such supply of services is not considered as export of services as per the IGST Act 2017; Whether in such cases, the Dynamic QR Code is required on the invoice issued, for such supply of services, to such recipient located outside India?

No, 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 convertible foreign exchange or in Indian Rupees wherever permitted by the RBI, 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.

Source: GST Circular 165/2021 dated 17.11.2021

4. Clarifications regarding applicable GST rates and exemptions on certain Services

The issues regarding applicable GST rates & exemptions on certain services have been examined by GST Council in the 45rd meeting of the Council held on 17th September, 2021.

The issue-wise clarifications are given below:

1. **Services by cloud kitchens/central kitchens:** Service provided by way of cooking and supply of food, by cloud kitchens/central kitchens are covered under 'restaurant service', as defined in notification No. 11/2017- Central Tax (Rate) and attract 5% GST without ITC.
2. **Supply of ice cream by ice cream parlors:** Ice cream parlors sell already manufactured ice- cream and do not cook/prepare ice-cream for consumption like a restaurant, it is supply of ice cream as goods and not as a service, even if the supply has certain ingredients of service. Accordingly, it is clarified that ice cream sold by a parlor or any similar outlet would attract GST at the rate of 18%.
3. **Coaching services supplied by coaching institutions and NGOs under the central sector scheme of 'Scholarships for students with Disabilities':** Where total expenditure is borne by the Government is covered under entry 72 of notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017 and hence exempt from GST.
4. **Satellite launch services provided by M/s New Space India Limited (NSIL):** It has been clarified vide Circular No. 2/1/2017-IGST dated 27.09.2017 that Place of Supply (PoS) of satellite launch services supplied by ANTRIX Corporation Ltd to customers located outside India is outside India and such supply which meets the requirements of section 2(6) of IGST Act, constitutes export of service and shall be zero rated. If the service recipient is located in India, the satellite launch services would be taxable. As the satellite launch services supplied by NSIL are similar to those supplied by ANTRIX Corporation Ltd, the said circular No. 2/1/2017-IGST dated 27.09.2017, is applicable to them.
5. **GST on overloading charges at toll plaza:** Overloading charges at toll plazas would get the same treatment as given to toll charges. Entry 23 of notification No. 12/2017- Central Tax (Rate) dated 28th June, 2017, exempts Service by way of access to a road or a bridge on payment of toll charges.
6. **Renting of vehicles to State Transport Undertakings and Local Authorities:** Services where the said vehicles are rented or given on hire to State Transport

Undertakings or Local Authorities are eligible for the exemption irrespective of whether such vehicles are run on routes, timings as decided by the State Transport Undertakings or Local Authorities and under effective control of State Transport Undertakings or Local Authorities which determines the rules of operation or plying of vehicles.

7. **Services by way of grant of mineral exploration and mining rights:** The service by way of grant of mining rights, during the period 1.7.2017 to 31.12.2018, it was taxable at 18% in view of principle laid down in the 14th meeting of the Council for residuary GST rate. Post, 1st January, 2019 no dispute remains as stated above.
8. **Admission to indoor amusement parks having rides etc.** 28% rate (entry 34 (iiia)) applies on admission to a place having casino or race club (even if it provides certain other activities) or admission to a sporting event like IPL. On the other hand, Entry 34 (iii), having a rate of 18%, covers all other cases of admission to amusement parks, or theme park etc or any place having joy rides, merry-go rounds, go-carting etc, whether indoor or outdoor, so long as no access is provided to a casino or race club. This clarification will also apply to Entries 34(iii) and 34(iiia) as they existed prior to their amendment w.e.f 01.10.2021.
9. **Services supplied by contract manufacturers to brand owners for manufacture of alcoholic liquor for human consumption:** The expression “food and food products” excludes alcoholic beverages for human consumption. As such, in common parlance also alcoholic liquor is not considered as food. Accordingly, services by way of job work in relation to manufacture of alcoholic liquor for human consumption are not eligible for the GST rate of 5% prescribed under the said entry. GST Council recommended that such job work would attract GST at the rate of 18%.

Source: GST Circular 164/2020/2021, dated 06.10.2021

5. Clarification regarding GST rates and classification on certain Goods

Based on the recommendations of the 45th GST Council meeting held on 17th September, 2021, at Lucknow, clarification, with reference to GST levy, related to the following are being issued through this circular:

- i. Fresh vs dried fruits and nuts;
- ii. Classification and applicable GST rates on Tamarind seeds;

- iii. Coconut vs Copra;
- iv. Classification and applicable GST rate on Pure henna powder and leaves, having no additives;
- v. Scented sweet supari and flavoured and coated illaichi;
- vi. Classification of Brewers' Spent Grain (BSG), Dried Distillers' Grains with Soluble (DDGS) and other such residues and applicable GST rate;
- vii. GST rates on goods (miscellaneous pharmaceutical products) falling under heading 3006; Circular No. 163/19/2021-GST Page 2 of 9
- viii. Applicability of GST rate of 12% on all laboratory reagents and other goods falling under heading 3822;
- ix. Requirement of original/import essentiality certificate, issued by the Directorate General of Hydrocarbons (DGH) on each inter-State stock transfer of goods imported at concessional GST rate for petroleum operations;
- x. External batteries sold along with UPS system/inverter;
- xi. Specified renewable energy projects;
- xii. Fiber drums, whether corrugated or non-corrugated.

Source: GST Circular 163/19/202, dated 06.10.2021

Important Portal Updates

1. Availability of Input Tax Credit (ITC) for FY 2020-21

As per Section 16(4) of CGST Act, 2017, no taxpayer shall take input tax credit in respect records (invoices and debit notes) for supply of goods or services (or both) for Financial Year 2020-21 after the due date of furnishing the return for the month of September 2021. The due date for the GSTR-3B for September 2021 is either 20th October 2021 for monthly filers and 22nd or 24th October 2021 depending on the State/UT of registration of the taxpayer. In view of the same, the following may kindly be noted:

- i. Records (invoice or debit notes) pertaining to Financial Year 2020-21 reported in GSTR-1 after due date of GSTR-3B of September 2021 will not reflect as "ITC Available" in GSTR-2B of the recipients. Such records will reflect in "ITC Not Available" section of GSTR-2B and such ITC shall in turn not be auto-populated in GSTR-3B.

- ii. ii.) Records (invoice or debit notes) pertaining to Financial Year 2020-21 reported in GSTR-1 after due date of GSTR-3B of September 2021 will also not reflect as “ITC as per GSTR-2A” in Table-8A of GSTR-9 of the recipients.

It is requested that the taxpayers may take note of the above and ensure that their records pertaining to Financial Year 2020-21 are reported on or before the due date of their GSTR-3B for the month September 2021, or for the quarter of July to September 2021 in case of quarterly GSTR-3B filers. Availment of ITC by the recipients contrary to the legal provisions in GST may entail action by the tax administrations in accordance with law.

Source: GSTN dated 17/10/2021

2. Resumption of Blocking of E-Way Bill (EWB) generation facility

The blocking of e-way bill generation facility had been temporarily suspended by Government on account of Covid pandemic. In terms of Rule 138 E (a) and (b) of the CGST Rules, 2017, the e-way bill generation facility of a person is liable to be restricted, in case the person fails to file their return in Form GSTR-3B / statement in CMP-08, for consecutive two tax periods or more, whether monthly or quarterly. The blocking of e-way bill generation facility has now resumed on the e-way bill portal for all the taxpayers. Going forward, from the tax period August, 2021 onwards, the System will periodically check the status of returns filed in Form GSTR-3B or the statements filed in Form GST CMP-08 as per the regular procedure followed before pandemic, and block the generation of e-way bills as per rule.

Source: GSTN dated 04/10/2021

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