

GST AMENDMENTS - COMPLETE

This Note contains **all RELEVANT AMENDMENTS** as notified by ICAI in its Statutory Updates applicable for CA Inter **Nov 2022 exams**.

All relevant Notifications/ Circulars **till April 30, 2022** is covered.

This Notes **Must Be Read with Our Amendment Lecture on YouTube** to Ensure Completeness.

All the best!!

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SUPPLY UNDER GST

1) **Activities/ transactions between a person, other than an individual, and its members/ constituents for consideration included in scope of supply [Sec 7 and Schedule II to CGST Act]**

As per schedule II, "Supply of goods by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration was treated as supply of Goods."

The said para has been omitted from Schedule II **retrospectively with effect from 01.07.2017** and a new clause (aa) has been inserted in section 7(1) **retrospectively with effect from 01.07.2017**.

This clause includes the following activities/ transactions within the scope of supply:

"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."

Further, for the purpose of this clause, the person and its members/ constituents shall be deemed to be **two separate persons** and the supply of activities/ transactions *inter se* shall be deemed to take place from one person to another.

A clarification is also inserted which provides for a non-obstante clause as it shall have an **overriding effect over anything contained in any other law for the time being in force or any judgment**, decree or order of any Court, tribunal or authority.

This explanation prevents the use of doctrine of mutuality by such person(s) to avoid GST liability.

Note: *The above amendment, in effect, overrules the judgment of the Hon'ble Supreme Court in State of West Bengal v. Calcutta Club Limited wherein it was held that the transactions between a Club and its members cannot be taxed owing to the doctrine of mutuality, i.e., a person cannot make a profit from himself.*

CHARGE UNDER GST

2) **Manufacturers of fly ash bricks/blocks, building bricks, bricks of fossil meals, earthen/roofing tiles, etc. Ineligible to opt for composition levy**

Earlier, manufacturer of

- a) Ice cream and other edible ice, whether or not containing cocoa
- b) Pan Masala
- c) Tobacco and manufactured tobacco substitutes

d) Aerated water

were not eligible to opt for composition levy u/s 10(1) and 10(2).

Now, **manufacturers of following items are also ineligible** to opt for composition levy u/s 10(1) & 10(2).

- a) Fly ash bricks or fly ash aggregate with 90% or more fly ash content; Fly ash blocks
- b) Bricks of fossil meals or similar siliceous earths
- c) Building bricks
- d) Earthen or roofing tiles

EXEMPTIONS FROM GST

Amendments in the services exempted from GST

3) Government Services

- 1) **Pure services** (excluding works contract service or other composite supplies involving supply of any goods) or **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 **to the**

- a) Central Government, State Government or Union territory or local authority or
- ~~b) a Governmental authority or a Government Entity~~

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.

- 2) Services provided to the Central Government, State Government, Union territory administration under any training programme for which
 - ~~100%~~ **75% or more of the total expenditure** is borne by the Central Government, State Government, Union territory administration.

4) Transportation Services to Passengers

Transport of passengers, with or without accompanied belongings, by

- a) 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; or
- c) metered cabs or auto rickshaws (including e-rickshaws)

is exempt.

However, nothing contained above shall apply to services supplied through an electronic commerce operator (ECO), and notified under section 9(5) of the CGST, 2017.

In such a case, the **tax on supplies of such services shall be paid by the ECO.**

In other words, in case where service of transport of Passengers by

- a) non-air conditioned contract carriage or by
- b) non-air conditioned stage carriage or by
- c) metered cabs or auto rickshaws (including e-rickshaws)

are supplied through ECO, such services are not exempt from GST.

Further, tax on such services shall be paid by ECO.

New exemption introduced

- 5) Services by way of granting National Permit to a goods carriage to operate through-out India/ contiguous States.

Withdrawal of existing exemption

- 6) ~~Services of leasing of assets (rolling stock assets including wagons, coaches, locos) by the Indian Railways Finance Corporation to Indian Railways.~~

INPUT TAX CREDIT

- 7) **ITC can be availed by the recipients only if the suppliers have uploaded the relevant invoices/debit notes in their GSTR-1/ IFF and such details have been communicated to the recipients in GSTR 2B [Section 16(2) and rule 36(4) amended]**

Input tax credit in respect of any supply of goods or services or both is available to a registered person

- only if **the details of the invoice/debit note in respect of said supply has been**
- **furnished by the supplier in the statement of outward supplies (GSTR-1 or IFF) and**
- **such details have been communicated to the recipient of such invoice/debit note** in Form GSTR-2B.

Thus, ITC can now be taken only for those invoices/debit notes whose details are reflected in Form GSTR-2B i.e only when the respective suppliers (vendors) have filed the details of such invoices in their Form GSTR-1.

Earlier, ITC, in respect of invoices/debit notes not uploaded by the suppliers in their Form GSTR-1s/IFF, could be availed **upto 5% of the eligible credit** available in respect of invoices/debit notes the details of which had been furnished by the suppliers in their Form GSTR-1s/ using IFF.

REGISTRATION

- 8) **Aadhaar authentication mandatory for existing registered person [New rule 10B]**

Section 25(6A) stipulates that every registered person shall undergo authentication, or furnish proof of possession of Aadhaar number, in the prescribed form, manner and time.

New Rule 10B prescribes the manner in which Aadhaar Authentication needs to be done by a registered person.

A registered person, who has been issued a certificate of registration under GST, shall undergo authentication of the Aadhaar number of:-

- a) Proprietor, in the case of proprietorship firm, Any partner, in the case of a partnership firm, Karta, in the case of a Hindu undivided family,
- b) Managing director or any whole-time director, in the case of a company,
- c) Any of the Members of the Managing Committee of an Association of persons or body of individuals or a Society, or
- d) Trustee in the Board of Trustees, in the case of a Trust; and of the Authorized Signatory,

in order to be eligible for the following purposes:

- ✓ **for filing of application for revocation of cancellation of registration [Rule 23]**
- ✓ **for filing of refund application in Form RFD-01 [Rule 89]**

✓ **for refund of the IGST paid on goods exported out of India [Rule 96]**

First proviso to section 25(6A) provides that if an Aadhaar number is not assigned to an existing registered person, such person shall be offered **alternate and viable means of identification in the prescribed manner.**

Such manner has been prescribed by rule 10B as follows:

If Aadhaar number has not been assigned to the person required to undergo authentication of the Aadhaar number, such person shall furnish the following identification documents, namely: –

- a) his/ her Aadhaar Enrolment ID slip; and
- b) (i) Bank passbook with photograph; or
(ii) Voter identity card issued by the Election Commission of India; or
(iii) Passport; or
(iv) Driving license issued by the Licensing Authority

However, once Aadhaar number is allotted to such person, he shall undergo the authentication of Aadhaar number within a period of 30 days of the allotment of the Aadhaar number.

The afore-said rule 10B shall not be applicable to persons notified under section 25(6D), i.e. to persons exempt from Aadhaar authentication.

9) Enhanced threshold limit of INR 40 lakh for registration available to persons exclusively engaged in making supplies of goods not applicable to suppliers of fly ash bricks/blocks, building bricks, bricks of fossil meals, earthen/roofing tiles, etc.

Notification No. 10/2019 CT dated 07.03.2019 exempts any person who is engaged exclusively in intra-State supply of goods and whose aggregate turnover in a financial year does not exceed INR 40 lakh, from obtaining the registration.

However, the persons engaged in making following supplies are not eligible for said exemption:

- a) Ice cream and other edible ice, whether or not containing cocoa
- b) Pan masala
- c) Tobacco and manufactured tobacco substitutes

Now, persons engaged in making supplies of following goods will also not be eligible to avail benefit of said exemption from registration even if they are engaged exclusively in intra-State supply of goods and their aggregate turnover in a financial year is upto INR 40 lakh:

- a) Fly ash bricks or fly ash aggregate with 90% or more fly ash content; Fly ash blocks
- b) Bricks of fossil meals or similar siliceous earths
- c) Building bricks
- d) Earthen or roofing tiles

10) Extension of time-limit for filing application for revocation of cancellation of registration by a registered person permitted beyond the stipulated time [Rule 23]

TAX INVOICE, CREDIT AND DEBIT
NOTES E-WAY BILL

11) E-invoicing mandatory for all registered businesses with aggregate turnover in any preceding financial year from 2017-18 onwards greater than INR 20 crore

e-invoicing has been made mandatory for all registered businesses with an aggregate turnover in any preceding financial year from 2017-18 onwards **greater than INR 50 crores 20 crores.**

12) E-invoicing not applicable to a Government Department and a local authority

Following entities are exempt from the mandatory requirement of e-invoicing:

- a) Special Economic Zone units
- b) Insurer or banking company or financial institution including NBFC
- c) GTA supplying services in relation to transportation of goods by road in a goods carriage
- d) Supplier of passenger transportation service
- e) Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens [Notification No. 13/2020 CT dated 21.03.2020 as amended].

Said notification has been amended to exempt **a Government Department and a local authority** also from the mandatory requirement of e-invoicing even if their aggregate turnover in any previous financial year from 2017-18 onwards exceeds 20 crore.

13) E-way bill generation facility to be blocked only in respect of outward movement of goods, by the defaulting registered person [Rule 138E]

Rule 138E of the CGST Rules contains provisions pertaining to blocking of e-way bill generation facility, i.e. disabling the generation of e-way bill.

Earlier, a user was not able to generate e-way bill for a GSTIN if the said GSTIN was not eligible for e-way bill generation in terms of rule 138E. It implies that the GSTINs of such blocked taxpayers could not be used to generate the e-way bills neither as supplier (consignor) nor as recipient (consignee).

Said rule has been amended to relax such restriction.

Blocking of GSTIN for e-way bill generation would

- only be for the defaulting supplier GSTIN and
- not for the defaulting Recipient or
- Transporter GSTIN.

Suspended GSTIN cannot generate e-way bill as supplier. However, the suspended GSTIN can get the e-way bill generated as recipient or as transporter.

In other words, e-way bill generation facility is blocked only in respect of any outward movement of goods of the registered person who is not eligible for e-way bill generation as per rule 138E.

E-way bills can be generated in respect of inward supplies of said registered person.

Example

Mr. A, a registered person paying tax under regular scheme in Delhi, has not filed Form GSTR-1 for last 2 months. Mr. B, Haryana, (a regular return filer) wants to generate an EWB for goods to be supplied to Mr. A.

As per earlier position of law, Mr. B would not have been able to generate e-way bill with Mr. A's GSTIN.

In terms of the amended position of law, there will be no more restriction in generating e-way bill as Mr. B who is making outward movement of goods is a regular return filer.

Mr. A wants to generate an e-way bill in respect of an outward supply of goods to Mr. H. E-way bill generation is blocked in this case as it's an outward movement of goods of Mr. A who has not filed GSTR-1 for past 2 months.

PAYMENT OF TAX

14) Guidelines for disallowing debit of electronic credit ledger under rule 86A

Rule 86A provides that in certain specified circumstances,

- Commissioner or an officer authorised by him, not below the rank of Assistant Commissioner,
- on the basis of **reasonable belief** that
- ITC available in the electronic credit ledger has been fraudulently availed or is ineligible,
- may not allow debit of an amount equivalent to such credit in electronic credit ledger.

CBIC has issued guidelines for disallowing debit of said amount from electronic credit ledger under rule 86A.

The reasons for such belief must be based on one or more following grounds:

- a) The credit is availed by the registered person on the invoices or debit notes issued by a supplier, who is found to be non-existent or is found not to be conducting any business from the place declared in registration.
- b) The credit is availed by the registered person on invoices or debit notes, without actually receiving any goods or services or both.
- c) The credit is availed by the registered person on invoices or debit notes, the tax in respect of which has not been paid to the Government.
- d) The registered person claiming the credit is found to be non-existent or is found not to be conducting any business from the place declared in registration.
- e) The credit is availed by the registered person without having any invoice or debit note or any other valid document for it.

RETURNS

15) Maximum late fees payable under section 47 for delayed filing of Forms GSTR-1, GSTR-3B and GSTR-4, rationalized

GSTR 1 u/s 37 or GSTR 3B u/s 39	
Nil outward supplies (GSTR 1) or Nil tax payable (GSTR 3B) in the tax period	Lower of a) ₹ 100 per day of delay or b) 250
Aggregate Turnover upto 1.5 crore in preceding FY	Lower of a) ₹ 100 per day of delay or b) 1,000
Aggregate Turnover exceeding 1.5 crore but upto 5 crores in preceding FY	Lower of a) ₹ 100 per day of delay or b) 2,500
Aggregate Turnover exceeding 5 crore in preceding FY	Lower of a) ₹ 100 per day of delay or b) 5,000
GSTR 4 u/s 39	

Total tax payable in GSTR 4 is Nil	Lower of a) ₹ 100 per day of delay or b) 250
Total tax payable in GSTR 4 is Not Nil	Lower of a) ₹ 100 per day of delay or b) 1,000
Other Cases	
GSTR 5 u/s 39 (NRTP) or GSTR 10 u/s 45 (Final Return)	Lower of a) ₹ 100 per day of delay or b) 5,000
GSTR 9 (Annual Return u/s 44)	Lower of a) ₹ 100 per day of delay or b) 0.25% of Turnover
Note: Further equal amount shall be payable under SGST/UTGST Act as well.	

16) Mandatory Requirement of submitting Reconciliation Statement audited by specified professional done away with [Sec 44 substituted]

Who is required to file Annual Return →	All registered person required to file GSTR 3B and GSTR 4
Due date →	Upto 31 st December of subsequent financial year
GST Return Form →	GSTR 9 GSTR 9A for composition dealer
Note: CTP and NRTP need not file GSTR-9.	

Self-Certified Reconciliation Statement reconciling the value of supplies declared in the Annual Return furnished for the financial year, with the audited annual Financial Statement needs to be filed along with Annual Return in the manner given below:

Aggregate Turnover	Annual Return	Reconciliation Statement in GSTR 9C
Upto 2 crore	Yes*	X
Exceeding 2 crore upto 5 crore	Yes	X
Exceeding 5 crore	Yes	Yes
Note: Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section.		
Note: Reconciliation Statement in GSTR 9C needs to be self-certified rather than mandatory certification by CA/CMA.		
Note: Govt. department of CG/SG/LA whose accounts is audited by CAG need not file annual return or reconciliation statement.		