

CA- INTERMEDIATE

GOODS & SERVICES TAX

AMENDMENTS

applicable for

Nov 2022 ATTEMPT

By :- CA SANCHIT GROVER

(Only faculty with more than 4.5 years

of experience in tax consultancy at Big 4)



AVJ CA FOUNDATION
ACADEMY INTER/FINAL

9310824912/9310824712



Note for my Dear Students – CA Sanchit Grover

- These notes are useful for Students who have studied GST law relevant for CA Intermediate exams, amended up to 31st October 2021. Since Nov 2022 attempt of CA Intermediate exams shall cover amendments made up to 30th April 2022, this documents shall contain all relevant updates for the period 1st November 2021 to 30th April 2022.
- This amendment booklet shall be a complete reference for CA Inter students in respect of all amendments **during 1st November 2021 to 30th April 2022** that are relevant Nov 2022 examinations of CA Intermediate
- Separate amendment video has been uploaded on our YouTube channel “CA Knowledge Portal” discussing these amendments in detail. The link to this amendment video has also been sent to virtual classes students. All Students are advised to refer to this video lecture while studying these notes for conceptual clarity
- Although 12 amendments have been covered in this booklet, but all these amendments do not carry equal importance level. Certain amendments that are very important from examination purpose, have been highlighted in the Index section. Students are advised to study those amendments in great detail for Nov 2022 exams.
- There may be cases where a provision of law has undergone multiple amendments during 1st November 2021 to 30th April 2022. In such case, as per ICAI guidelines, the law prevailing on 30th April 2022 (after all such amendments) shall be applicable for exam purpose. This point has been ensured while drafting this amendment booklet.
- The author would like to acknowledge that since these notes are primarily meant for CA Intermediate Students preparing for Nov 2022 examination, we have borrowed certain illustrations and interpretations from latest ICAI Study Material and Statutory Update released by ICAI.
- Since Revision Test Paper (RTP) relevant for Nov 22 exams was already released by ICAI at the time of preparation of this document, any questions related to these amendments that are released by ICAI in RTP, have been incorporated in this amendment booklet
- In case any reader of these notes has any doubt or need any clarification, you can contact me at Instagram ID given below. Students who have been taking our live or virtual classes must already have my whatsapp number for queries purpose.
- While we have tried to ensure that these notes remain error free, any inadvertent error that may have been there in these notes may be brought to the knowledge of the author. Your contribution to make our notes error free shall be highly acknowledged in the future editions.

All the Best my dear Students...!!!

Regards,
CA Sanchit Grover

Summary of all Amendments

(for last day revision)

Sr. No.	Summary of the amendment	Relevant Provision	Page No.
Category A:- Amendments relating to Concept of Supply			
1.	Any activity or transaction (<i>whether of goods or services</i>) between a person (other than individual) to its members of constituents or vice versa , shall be treated as 'supply', notwithstanding anything contained in any provisions of GST law or any other law or any judgment – Clarificatory amendment	Sec 7(1)(aa) of CGST Act	
Category B:- Amendments relating to Registration and Composition Scheme			
2.	Any person supplying following goods shall not be eligible for Rs. 40L threshold limit under NN 10/2019:- “Fly ash bricks or Fly ash aggregate (with 90% or more fly ash content), Fly ash blocks, Bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles” Similarly, manufacturers of above goods are not allowed to avail Composition Scheme u/s 10.	NN 10/2019 and Sec 10	
3.	Important for Exams New Rule 10B provides that existing GST registered persons are required to mandatorily undergo Aadhar Authentication (AA) in order to be eligible for the following purposes:- 1) For filing of application for revocation of cancellation of registration in Form GST REG-21 under Rule 23 2) ;For filing of refund application in Form RFD-01 under Rule 89 3) For refund under Rule 96 of IGST on goods exported out of India However, persons notified under Sec 25(6D) shall be exempted from the above requirement of undergoing Aadhar authentication.	Sec 25(6A) r/w Rule 10B	
Category C:- Amendments relating to Exemptions under GST			
4.	Pure Services or Composite Supply of Goods/Services (<i>in which value of supply of goods constitutes not more than 25% of value of composite supply</i>) provided to Governmental Authority or a Government Entity , by of any activity in relation to Constitutional functions (prescribed under article 243G or 243W), shall now be taxable	Sec 11 r/w NN 12/2017	
5.	Services of Transportation of passengers by non-air conditioned stage carriage or by non-air conditioned contract carriage (other than for tourism purpose) or by metered cab or autorickshaw (including e-rickshaw) shall not be exempt if they are provided through an Electronic Commerce Operator (ECO). In such cases, ECO shall be liable to pay GST u/s 9(5) and won't be eligible for exemption	Sec 11 r/w NN 12/2017	
6.	Services provided to the CG, SG UT administration under any training programme for which 75% or more of the total expenditure is borne by the CG, SG, Union territory administration” are exempt. Earlier, limit prescribed was 100% of such expenditure	Sec 11 r/w NN 12/2017	
7.	a) New Exemption entry inserted in respect of Services by way of granting	Sec 11 r/w	

	<p>National Permit to a goods carriage to operate through-out India/ contiguous States</p> <p>b) New exemption entries inserted in respect of AFC Women’s Asia Cup, 2022</p>	NN 12/2017																												
Category D:- Amendments relating to Input Tax Credit																														
8.	<p>Important for Exams ITC to be availed by recipient shall be restricted only to the amount of ITC reflected in GSTR-2B (<i>Earlier limit of ITC in respect of unreported supplies being restricted to 5% of ITC in respect of Reported Supplies, has been deleted now</i>)</p>	Sec 16(2)(aa) r/w Rule 36(4)																												
Category E:- Amendments relating to Documentation under GST																														
9.	<p>Important for Exams Any registered person, whose aggregate turnover in any preceding FY from FY 2017-18 onwards, exceeds 20 Crore, is required to issue e-invoice as per the prescribed procedure (Earlier this limit was Rs. 50 Cr.)</p>	Rule 48(4) of CGST Rules																												
10.	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.	Rule 138E of CGST Rules																												
Category F:- Amendments relating to ‘Returns under GST’																														
11.	<p>Following amendments with regard to filing of annual return & GST audit:-</p> <p>a) No mandatory requirement to file annual return for taxpayers whose ATO during FY 2020-21 is upto Rs. 2 Crore</p> <p>b) The concept of GST Audit u/s 35(5) has been discontinued</p> <p>c) In respect of registered persons whose ATO exceeds Rs. 5 Crore during relevant FY, there is requirement to file Self-certified reconciliation statement</p>	Sec 35(5) & Sec 44 r/w Rule 80	17																											
12.	<p>Important for Exams Maximum Late fees u/s 47 for delay in filing of various returns has been rationalized. Max late fees in different cases is as under:-</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: center;">For delay in GSTR-1 & GSTR-3B (Normal Taxpayers)</th> </tr> <tr> <th style="width: 50%;">Category</th> <th style="width: 50%;">Max Late Fees (<i>Total CGST & SGST combined</i>)</th> </tr> </thead> <tbody> <tr> <td>If Nil Outward supplies or Nil Tax liability</td> <td>Rs. 500</td> </tr> <tr> <td>If Tax liability not Nil but ATO ≤ 1.5Cr.</td> <td>Rs. 2,000</td> </tr> <tr> <td>If Tax liability not Nil but ATO > 1.5Cr. but ≤ 5Cr.</td> <td>Rs. 5,000</td> </tr> <tr> <td>If Tax liability not Nil but ATO > 5Cr.</td> <td>Rs. 10,000</td> </tr> <tr> <th colspan="2" style="text-align: center;">For delay in filing of GSTR-4 (Composition Dealers)</th> </tr> <tr> <td>If Tax liability of such composition dealer is Nil</td> <td>Rs. 500</td> </tr> <tr> <td>In other cases</td> <td>Rs. 2,000</td> </tr> <tr> <th colspan="2" style="text-align: center;">For delay in filing GSTR-9 (annual return)</th> </tr> <tr> <td>If annual return filed beyond 31st of next FY</td> <td>0.5% of Turnover in such State</td> </tr> <tr> <th colspan="2" style="text-align: center;">For delay in filing GSTR-5 or GSTR-10</th> </tr> <tr> <td>- If NRTP files GSTR-5 after due date</td> <td rowspan="2">Rs. 10,000</td> </tr> <tr> <td>- If Final return in GSTR-10 (to be filed after cancellation of registration) is filed after due date</td> </tr> </tbody> </table> <p>So Late fees in all above cases shall be Rs. 200/day (Rs. 100 each in CGST & SGST) for every day during which default continues or above limits, w.e.v. is lower</p>	For delay in GSTR-1 & GSTR-3B (Normal Taxpayers)		Category	Max Late Fees (<i>Total CGST & SGST combined</i>)	If Nil Outward supplies or Nil Tax liability	Rs. 500	If Tax liability not Nil but ATO ≤ 1.5Cr.	Rs. 2,000	If Tax liability not Nil but ATO > 1.5Cr. but ≤ 5Cr.	Rs. 5,000	If Tax liability not Nil but ATO > 5Cr.	Rs. 10,000	For delay in filing of GSTR-4 (Composition Dealers)		If Tax liability of such composition dealer is Nil	Rs. 500	In other cases	Rs. 2,000	For delay in filing GSTR-9 (annual return)		If annual return filed beyond 31 st of next FY	0.5% of Turnover in such State	For delay in filing GSTR-5 or GSTR-10		- If NRTP files GSTR-5 after due date	Rs. 10,000	- If Final return in GSTR-10 (to be filed after cancellation of registration) is filed after due date	Sec 47 of CGST Act	18
For delay in GSTR-1 & GSTR-3B (Normal Taxpayers)																														
Category	Max Late Fees (<i>Total CGST & SGST combined</i>)																													
If Nil Outward supplies or Nil Tax liability	Rs. 500																													
If Tax liability not Nil but ATO ≤ 1.5Cr.	Rs. 2,000																													
If Tax liability not Nil but ATO > 1.5Cr. but ≤ 5Cr.	Rs. 5,000																													
If Tax liability not Nil but ATO > 5Cr.	Rs. 10,000																													
For delay in filing of GSTR-4 (Composition Dealers)																														
If Tax liability of such composition dealer is Nil	Rs. 500																													
In other cases	Rs. 2,000																													
For delay in filing GSTR-9 (annual return)																														
If annual return filed beyond 31 st of next FY	0.5% of Turnover in such State																													
For delay in filing GSTR-5 or GSTR-10																														
- If NRTP files GSTR-5 after due date	Rs. 10,000																													
- If Final return in GSTR-10 (to be filed after cancellation of registration) is filed after due date																														

GST
Amendments
in
Detail

GST Amendments for CA Inter (Nov 2022)**Category A: - Amendments relating to “Concept of Supply”**

Amendment No. 1:- Taxability of Goods or Services provided by Unincorporated AOP or BOI to its members & vice versa – Deletion of Entry 7 in Schedule II & insertion of Sec 7(1)(aa)
Relevant Chapter; - Concept of Supply under GST

What is the legal issue	<p>For any supply to take place, there has to be two distinct taxable persons. There are various clubs or associations of person (like workers union or residential welfare societies or associations of traders etc.) that are not registered as a separate entity under any law. These are called unincorporated association of persons (AOP) or body of individuals (BOI). Hence legally speaking, such associations are not legal persons distinct from their members.</p> <p>;</p> <p><i>Applying this logic, it was held by Supreme Court in many judgements that AOP can't be treated as a distinct legal person from its members and hence any transaction taking place between them can't be subjected to tax. This is commonly referred to as principal of mutuality (A person cannot transact with himself)</i></p>
What was provision in GST prior to amendment	<p>Prior to FA 2021, In order to overcome the effect of such judgments, following provisions are made under GST law</p> <ul style="list-style-type: none"> ▪ An AOP/BOI, whether incorporated or not, in India or outside India is a 'person' under GST – <i>Sec 2(84) of CGST Act</i> ▪ Further, provisions by club, association, society or any such body (for a subscription or any other consideration) of the facilities or benefits to the members have been specifically covered in the definition of 'business' – <i>Sec 2(17) of CGST Act</i> ▪ Section 7(1A) r/w Schedule II provided that Supply of goods by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration, shall be treated as 'Supply of goods' <p>From the above provisions, the intention of GST law was clear that it wishes to create deeming fiction by treating unincorporated AOP/BOI as legally distinct person from their members and hence seek to levy GST on supplies made between them. However, there were some limitations in the way law was drafted:-</p> <ul style="list-style-type: none"> ➤ Deeming fiction to specifically provide that supply of goods from unincorporated AOP/BOI to members shall be treated as 'supply of goods' was provided in Schedule II which is read with Sec 7(1A). As is clear from language of Sec 7(1A), Schedule II can only clarify whether a transaction is 'supply of goods' or 'supply of services' only after such transaction becomes a 'supply' as per Sec 7(1). However, there was no specific reference of this transaction in Sec 7(1) ➤ Schedule II entry only talked about supply of goods by unincorporated AOP/BOI to members. There was no mention of services between unincorporated AOP/BOI and its members <p>Schedule II was silent about supply made by members to unincorporated AOP/BOP (<i>the word 'vice versa' was missing ...!!</i>)</p>
Recent SC Judgment	<p>Hon'ble Supreme Court in its judgment in the case of Calcutta Club Ltd (Civil Appeal No. 4184 of 2009) recently held that the club / association and its members are not distinct persons and that there would be no levability of service tax on any services provided by the club to its persons following the concept of mutuality. Although this judgment was for Service tax law (and not current GST law), but it could have created disputes under GST law as well</p>
Amendment	<p>1) Through insertion of a new clause (aa), it has been provided in Sec 7(1) itself that any</p>

by Finance Act 2021	<p>activity or transaction (<i>whether of goods or services</i>) between a person (other than individual) to its members of constituents or vice versa, shall be treated as ‘supply’ whether such transaction is for cash, deferred payment or other valuable consideration</p> <p>2) Schedule II entry which talked about Supply of goods from unincorporated AOP/BOI to members has been deleted</p> <p>Further, <i>Explanation to Sec 7(1)(aa) has further emphasized that the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;</i>. The above position of the law is overriding all the provisions of GST and any other law and even the judgments of any Court, Tribunal or any other authority.</p>
---------------------	--

Final Tax position clarified after above amendment

Transaction	Taxability under GST law
1) Supply of goods by any unincorporated AOP/BOI like club etc. to its members	To be treated as Supply of goods. GST to be paid by such AOP or BOI
2) Supply of goods by members of an unincorporated AOP/BOI to such AOP/BOI	To be treated as Supply of goods. GST to be paid by members
3) Supply of services by any in incorporated AOP/BOI like RWA, trade union etc. to its members	To be treated as Supply of services. GST to be paid by such AOP or BOI
4) Supply of services by members of an unincorporated AOP/BOI to such AOP/BOI	To be treated as Supply of services. GST to be paid by members

Category B:- Amendments relating to Registration & related procedures & Composition Scheme

Amendment No. 2:- Persons ineligible for Rs. 40L threshold limit under NN 10/2019 and Persons ineligible for Composition Scheme u/s 10
Relevant Chapter; - Registration under GST & Composition Scheme

What is the existing provision	<p>NN 10/2019 issued u/s 23 provides threshold limit of Rs. 40L in respect of persons exclusively engaged in supply of goods, subject to certain conditions. One of the conditions for such increased limit of Rs. 40L is that person should not be engaged in the supply of any of the following goods:-</p> <p>a) Ice cream and edible ice</p> <p>b) Pan Masala</p>
--------------------------------	---

	<p>c) Tobacco and Tobacco products</p> <p>Further, Sec 10 provides that manufacturers of the following goods shall not be eligible for composition scheme :-</p> <ol style="list-style-type: none"> Ice cream and edible ice Pan Masala Tobacco and Tobacco products Aerated Waters
What is the amendment	<p>In respect of both above provisions, following goods have also been notified:-</p> <p>“Fly ash bricks or Fly ash aggregate (with 90% or more fly ash content), Fly ash blocks, Bricks of fossil meals or similar siliceous earths, building bricks, earthen or roofing tiles”</p> <p>Thus, Persons engaged in supply of above goods are not eligible for Rs. 40L threshold limit under NN 10/2019. Further, manufacturers of these goods shall not be eligible for composition scheme u/s 10.</p>

Amendment No. 3:- Aadhar Authentication mandatory for existing registered person – Rule 10B

Relevant Chapter; - Registration under GST

What we already know	<p>Sec 25(6B) & 25(6C) provides for mandatory aadhar authentication of any person who applies for registration under GST (in case aadhar authentication is not opted or gets failed, registration is granted only after physical verification is done by PO). Further, Sec 25(6D) provides that following persons are not required to undergo any aadhar authentication:-</p> <ul style="list-style-type: none"> ➤ A person who is not a citizen of India ➤ Department or establishment of State Government or Central Government ➤ Local authority ➤ Statutory body ➤ Public Sector Undertaking ➤ A person applying for Unique Identity Number <p>Further, Sec 25(6A) provided for mandatory aadhar authentication of existing registered persons (i.e. those who had already registered prior to 2020). However, no method was prescribed for aadhar authentication of such existing registered persons.</p>										
What is the amendment	<p>Rule 10B provides that any registered person who has been issued certificate of registration (REG-06) shall have to undergo Aadhar authentication (AA) of specified persons in order to be eligible for the following purposes:-</p> <ol style="list-style-type: none"> For filing of application for revocation of cancellation of registration in Form GST REG-21 under Rule 23 For filing of refund application in Form RFD-01 under Rule 89 For refund under Rule 96 of IGST on goods exported out of India <p>Meaning of Specified Persons</p> <table border="1"> <thead> <tr> <th>Type of Registered Person</th> <th>Specified Person whose AA needs to be done</th> </tr> </thead> <tbody> <tr> <td>Sole Proprietorship Firm</td> <td>Sole Proprietor + Authorized Signatory</td> </tr> <tr> <td>Partnership Firm</td> <td>Any Partner of the firm + Authorized Signatory</td> </tr> <tr> <td>Hindu Undivided Family</td> <td>Karta of HUF + Authorized Signatory</td> </tr> <tr> <td>Company</td> <td>Managing Director or any Whole Time Director + Authorized Signatory</td> </tr> </tbody> </table>	Type of Registered Person	Specified Person whose AA needs to be done	Sole Proprietorship Firm	Sole Proprietor + Authorized Signatory	Partnership Firm	Any Partner of the firm + Authorized Signatory	Hindu Undivided Family	Karta of HUF + Authorized Signatory	Company	Managing Director or any Whole Time Director + Authorized Signatory
Type of Registered Person	Specified Person whose AA needs to be done										
Sole Proprietorship Firm	Sole Proprietor + Authorized Signatory										
Partnership Firm	Any Partner of the firm + Authorized Signatory										
Hindu Undivided Family	Karta of HUF + Authorized Signatory										
Company	Managing Director or any Whole Time Director + Authorized Signatory										

	AOP or BOI or Society	Any of the members of Managing Committee + Authorized Signatory
	Trust	Any Trustee in the Board of Trustees + Authorized Signatory
Are there any exceptions to requirement under Rule 10B	<p>Following Persons notified under Sec 25(6D) are not required to undergo Aadhar authentication under this Rule:-</p> <ul style="list-style-type: none"> ➤ A person who is not a citizen of India ➤ Department or establishment of State Government or Central Government ➤ Local authority ➤ Statutory body ➤ Public Sector Undertaking ➤ A person applying for Unique Identity Number 	
What if Aadhar number not assigned to Specified person	<p>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: -</p> <p>(a) her/his Aadhaar Enrolment ID slip; and</p> <p>(b) (i) Bank passbook with photograph; or</p> <p>(ii) Voter identity card issued by the Election Commission of India; or</p> <p>(iii) Passport; or</p> <p>(iv) Driving license issued by the Licensing Authority under the Motor Vehicles Act, 1988 (59 of 1988):</p> <p><i>Such person is required to undergo the authentication of Aadhaar number within a period of thirty days of the allotment of the Aadhaar number."</i></p>	
<p>Illustration from ICAI RTP for Nov 2022</p> <p>Aadhaar authentication is not required for persons who are already registered under GST." Examine and discuss the correctness of the statement. You are required to elaborate the relevant provisions.</p> <p>Solution) The given answer is incorrect. Mention the provisions to Sec 25(6A) & Rule 10B above to substantiate the answer</p>		

Category C:- Amendments relating to Exemptions under GST

Amendment No. 4:- Deletion of Exemption in relation to Services provided to Government authority & Government Entity

Relevant Chapter: - Exemptions under GST

What is the Old provision	What is the New Provision
<p>Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to Central Government or State Government or Union Territory or Local Authority or Governmental Authority or a Government Entity by way of any activity:</p> <p>✓ in relation to any function entrusted to a</p>	<p>Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to Central Government or State Government or Union Territory or Local Authority or Governmental Authority or a Government Entity by way of any activity:</p> <p>✓ in relation to any function entrusted to a</p>

<p>Panchayat under article 243G of the Constitution or</p> <ul style="list-style-type: none"> ✓ in relation to any function entrusted to a Municipality under article 243W of the Constitution 	<p>Panchayat under article 243G of the Constitution or</p> <ul style="list-style-type: none"> ✓ in relation to any function entrusted to a Municipality under article 243W of the Constitution
<p>Composite supply of goods and services in which the <i>value of supply of goods constitutes not more than 25% of the value of the said composite supply</i> provided to Central Government or State Government or Union Territory or Local Authority or Governmental Authority or a Government Entity by way of any activity</p> <ul style="list-style-type: none"> ✓ 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 	<p>Composite supply of goods and services in which the <i>value of supply of goods constitutes not more than 25% of the value of the said composite supply</i> provided to Central Government or State Government or Union Territory or Local Authority or Governmental Authority or a Government Entity by way of any activity</p> <ul style="list-style-type: none"> ✓ 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

Impact of above amendment

When the above services are provided to Governmental Authority or a Government Entity, the same shall be taxable w.e.f. 1st January 2022

Meaning of “Governmental Authority or a Government Entity” for above purposes

The term ‘**Government authority**’ means an authority or a board or any other body—

- (i) set up by an Act of Parliament or a State Legislature; or
- (ii) established by any Government,

with 90% or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution or to a Panchayat under article 243G of the Constitution

The term ‘**Government Entity**’ means an authority or a board or any other body (including a society, trust, corporation),

- (i) set up by an Act of Parliament or State Legislature; or
- (ii) established by any Government,

with 90%, or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority

Amendment No. 5:- Removal of certain exemptions relating to Transportation Sector when provided through Electronic Commerce Operator (ECO)
Relevant Chapter; - Exemptions under GST

<p>What we already know</p>	<p>Following services relating to Transportation of Passengers through road have been exempt under NN 12/2017:-</p> <ul style="list-style-type: none"> a) Transport of passengers, with or without accompanied belongings, by non-air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire b) Transport of passengers, with or without accompanied belongings, by stage carriage other than air-conditioned stage carriage c) Transport of passengers, with or without accompanied belongings, by metered cabs or auto-rickshaws (including e-rickshaws) <p>Further, as per Section 9(5), in respect of following notified services supplied through ECO (Electronic Commerce Operator) by any supplier (whether registered or unregistered), ECO shall be liable to pay GST on such services</p>
------------------------------------	---

	<i>“Services by way of transportation of passengers by a radio-taxi, motorcab, maxi cab, motor cycle, omnibus or any other motor vehicle”</i>
What is the amendment	With effect from 1 st Jan 2022, the above exemptions in respect of stage carriage, contract carriage, metered cab & auto-rickshaw shall not be available when such services are supplied through ECO. In other words, in such cases, ECO shall still be liable to pay GST u/s 9(5) and will not be eligible to claim exemption under NN 12/2017

Amendment No. 6:- Training Services provided to Government exempt if at least 75% expenditure borne by Government
Relevant Chapter; - Exemptions under GST

Old Entry	Sec 11 read with NN 12/2017 provides that any Services provided to CG, SG, UT Administration under any training programme for which total expenditure is borne by CG, SG, UT Administration shall be exempt
What is the amendment	The above entry has been amended to provide as under:- “Services provided to the CG, SG UT administration under any training programme for which 75% or more of the total expenditure is borne by the CG, SG, Union territory administration”
Impact of above amendment	The above amendment has expanded the scope of this exemption entry. Even in case of those training programmes where Government bears 3/4 th of total expenditure & not 100% of the expenditure, exemption shall be applicable now.

Illustration from ICAI RTP for May 2022

Gita Services Limited, registered under GST, is engaged in providing various services to Government. The company provides the following information in respect of services provided during the month of April

S No.	Description of Services Provided
(i)	Supply of manpower for cleanliness of roads not involving any supply of goods.
(ii)	Service provided by Fair Price Shops owned by Gita Services Limited by way of sale of sugar under Public Distribution System against consideration in the form of commission.
(iii)	Service of maintenance of street lights in a Municipal area involving replacement of defunct lights and other spares along with maintenance. Generally replacement of defunct lights and other spares constitutes 35% of the supply of service.
(iv)	Service of brochure distribution provided under a training programme for which 70% of the total expenditure is borne by the Government.

Comment on the taxability or otherwise of the above transactions under GST law. Also state the correct legal provisions for the same.

Solution) Taxability in the various cases discussed above shall be as under:-

S No.	Particulars & Reason	Taxability
(i)	Supply of manpower for cleanliness of roads not involving any supply of goods <i>Reason:- [Pure labour services provided by any person to Government for the performance of any constitutional functions are exempt]</i>	Exempt
(ii)	Service provided by Fair Price Shops by way of sale of sugar under Public Distribution System <i>Reason:- [Service provided by Fair Price Shops to Government by way of sale of sugar under Public Distribution System against consideration in the form of</i>	Exempt

	<i>commission is exempt.]</i>	
(iii)	<p>Service of maintenance of street lights in a Municipal area involving replacement of defunct lights and other spares constituting 35% of the supply of service</p> <p>Reason:- Composite supply of goods and services to Government in which the value of supply of goods constitutes not more than 25% of the value of the said composite supply is exempt. Since, in this case value of supply of goods constitutes 35% of the supply of composite service, same is taxable</p>	Taxable
(iv)	<p>Service of brochure distribution provided under a training programme.</p> <p>Reason:- Services provided to the Government under any training programme for which 75% or more of the total expenditure is borne by the Government is exempt. Since in the given case, 70% of the total expenditure is borne by the Government, it is taxable.]</p>	Taxable

Amendment No. 7:— New exemption entries added in NN 12/2017

Relevant Chapter:- Exemptions under GST

Which new entries have been added	1) Services by way of granting National Permit to a goods carriage to operate through-out India/ contiguous States
	2) Services provided by and to Asian Football Confederation (AFC) and its subsidiaries directly or indirectly related to any of the events under AFC Women’s Asia Cup, 2022 to be hosted in India.
	Condition to be satisfied:- Exemption is available if Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under AFC Women’s Asia Cup, 2022.
	3) Services by way of right to admission to the events organized under AFC Women’s Asia Cup 2022

Category D:- Amendments relating to Input Tax Credit

Amendment No. 8:- ITC to be availed by recipient shall be restricted only to the amount of ITC reflected in GSTR-2B – Sec 16(2)(aa) and amendment in Rule 36(4)

Relevant Chapter;- Input Tax Credit

What we already know	Rule 36(4) was inserted w.e.f. 9 th Oct 2019 which provided that Eligible ITC in the books of accounts of recipient during any month should be matched with GSTR-2B and ITC should be classified into following 2 categories:-	
	Category 1:- Reported Supplies ((let’s say its amount is Rs. X) Eligible ITC pertaining to those inward supplies in respect of which invoices/debit notes have been uploaded by supplier in his GSTR-1	Full ITC can be claimed by recipient in his GSTR-3B
	Category 2:- Unreported supplies (let’s say its amount is Rs. Y) Eligible ITC pertaining to those inward supplies in respect of which invoices/debit notes have not been uploaded by	ITC in this case shall be restricted to 10% of reported supplies (i.e. 0.1x)

	supplier in his GSTR-1
	In the above case, recipient could claim ITC of 1.05X amount (In other words, Y cannot exceed .05X). ITC of unreported supplies cannot exceed 5% of ITC of reported supplies
What is the amendment	<p>Apart from the 4 conditions specified under section 16(2), a new sub clause (aa) has been inserted by Finance Act 2021 (effective from 1st Jan 2022) that provides the following mandatory condition for availing ITC:-</p> <p><i>"(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;"</i></p> <p>Accordingly, language of Rule 36(4) has also been changed. The amended Rule 36(4) provides as under:-</p> <p>No input tax credit shall be availed by a registered person in respect of invoices or debit notes the details of which are required to be furnished under subsection (1) of section 37 unless,-</p> <p>(a) the details of such invoices or debit notes have been furnished by the supplier in the statement of outward supplies in FORM GSTR-1 or using the invoice furnishing facility; and</p> <p>(b) the details of such invoices or debit notes have been communicated to the registered person in FORM GSTR-2B under sub-rule (7) of rule 60.";</p>

Impact of the Amendment

Eligible ITC in the books of accounts of recipient during any month/quarter (as the case may be) should be matched with GSTR-2B and ITC should be classified into following 2 categories:-

<u>Category 1:- Reported Supplies</u> (let's say its amount is Rs. X) Eligible ITC pertaining to those inward supplies in respect of which invoices/debit notes have been furnished by supplier in his GSTR-1 or through IFF	Full ITC can be claimed by recipient in his GSTR-3B
<u>Category 2:- Unreported supplies</u> (let's say its amount is Rs. Y) Eligible ITC pertaining to those inward supplies in respect of which invoices/debit notes have not been furnished by supplier in his GSTR-1 or through IFF	No ITC shall be allowed in respect of such unreported supplies

Thus, With effect from 1st Jan 2022, ITC in respect of inward supplies that are not reflected in GSTR-2B of recipient are not allowed at all (even the limit of 5% has been removed now)

Updated Illustrations

In the illustrations, say a taxpayer "R" receives 100 invoices (for inward supply of goods or services) involving ITC of Rs. **10 lakhs**, from various suppliers during the month of January, 2022 and has to claim ITC in his FORM GSTR-3B of January 2022, to be filed by 20th Feb, 2022.

	Details of suppliers' invoices for which recipient is eligible to take ITC	Eligible ITC to be taken in GSTR-3B to be filed by 20th Feb
Case 1	Suppliers have furnished in FORM GSTR-1 80 invoices involving ITC of Rs. 6 lakhs as on the due date of furnishing of the details of outward supplies by the suppliers.	Rs. 6,00,000 (i.e. amount of eligible ITC available, as per details uploaded by the suppliers). No ITC shall be allowed in respect of 20 invoices involving input tax of Rs. 4 L since they are not reflected in GSTR-2B of Jan 2022
Case 2	Suppliers have furnished in FORM GSTR-1 80 invoices involving ITC of Rs. 7 lakhs as	Rs 7,00,000

	on the due date of furnishing of the details of outward supplies by the suppliers.	
Case 3	Suppliers have furnished in FORM GSTR-1 75 invoices having ITC of Rs. 9.7 lakhs as on the due date of furnishing of the details of outward supplies by the suppliers	Rs. 9,70,000

Crux :- In order to avail full amount of ITC (Rs. 10,00,000), minimum number of reported supplies should be 10,00,000 only

When will remaining ITC available

- In respect of the ITC restricted under Rule 36(4), recipient can claim ITC as and when details of the corresponding invoices are uploaded by the suppliers

Case 1	"R" may avail balance ITC of Rs. 4,00,000 in case suppliers upload details of all 20 invoices for the tax period involving ITC of Rs. 4,00,000. [As and when, invoices start getting reflected in GSTR-2B of recipient, he can keep claiming ITC to that extent in the month in whose GSTR-2B invoices get reflected]
Case 2	"R" may avail balance ITC of Rs. 3,00,000 in case suppliers upload details of all 20 invoices for the tax period involving ITC of Rs. 3,00,000. [As and when, invoices start getting reflected in GSTR-2B of recipient, he can keep claiming ITC to that extent in the month in whose GSTR-2B invoices get reflected]
Case 3	"R" may avail balance ITC of Rs. 30,000 in case suppliers upload details of all 25 invoices for the tax period involving ITC of Rs. 30,000. [As and when, invoices start getting reflected in GSTR-2B of recipient, he can keep claiming ITC to that extent in the month in whose GSTR-2B invoices get reflected]

Illustration from ICAI RTP for Nov 2022

Rimjhim Sales, a registered supplier, receives 100 invoices (for inward supply of goods/ services) involving GST of Rs. 10 lakh, from various suppliers during the month of January, 2022. Out of 100 invoices, details of 80 invoices involving GST of Rs. 6 lakh have been furnished by the suppliers in their respective GSTR-1s filed on the prescribed due date therefor and such details have also been duly communicated to the recipients of such invoices in Form GSTR-2B.

Compute the ITC that can be claimed by Rimjhim Sales in its GSTR-3B for the month of January, 2022 to be filed by 20th February assuming that GST of Rs. 10 lakh is otherwise eligible for ITC

Solution) ITC to be claimed by Rimjhim Sales in its GSTR-3B for the month of January to be filed by 20th February will be computed as under-

Invoices	Amount of ITC involved in the invoices	Amount of ITC that can be availed
80 invoices furnished in GSTR-1	6 lakhs	6 lakhs (<i>Refer Note-1</i>)
20 invoices not furnished in GSTR-1	4 lakhs	Nil (<i>Refer Note-2</i>)
Total	10 lakhs	6 lakhs

Notes:

- (1) 100% ITC can be availed on invoices furnished by the suppliers in their GSTR-1.
- (2) Input tax credit in respect of any supply of goods or services or both is available to a registered person only, inter alia, 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) and such details have been communicated to the recipient of such invoice/debit note in the manner specified under section 37. Thus, in respect of 20 invoices not furnished in GSTR-1s, no ITC is available.

Category E:- Amendments relating to Documentation under GST**Amendment No. 9:- Threshold limit for applicability of E-invoicing under Rule 48(4) of CGST Rules reduced to Rs. 20 Crore****Relevant Chapter:- Documentation under GST**

What we already know	<p>Rule 48 provides that there shall be <u>certain notified class of registered taxpayers</u> who shall issue invoice in prescribed <u>format GST INV-01</u> after obtaining <u>Invoice Reference number</u> by uploading information on <u>Common Goods and Services Tax Electronic Portal</u> (known as IRP or Invoice registration portal in common language) in the prescribed manner</p> <p>Persons notified under Rule 48(4) Any registered person, <u>whose aggregate turnover in any preceding FY from FY 2017-18 onwards, exceeds 50 Crore</u>, is required to issue e-invoice as per the prescribed procedure</p> <p>Exceptions:- Following category of persons do not have to follow this method (even if their ATO exceeds 50 cr.):-</p> <ul style="list-style-type: none"> ▪ Units in Special Economic Zone (<i>only SEZ units, not SEZ developers</i>) ▪ Banking Company or a Financial Institution (including NBFC) or Insurer ▪ GTA engaged in supplying services of transportation of goods by road in a goods carriage ▪ Suppliers of passenger transportation service ▪ Suppliers of service by way of admission to exhibition of cinematograph films in multiplex screens ▪ Government Department ▪ Local Authority
What is the amendment	The above threshold limit of Rs. 50 Cr. has now been reduced to Rs. 20 Cr. Accordingly, With effect from 1 st April 2022, e-invoicing has been made mandatory for all registered businesses with ATO in any preceding FY from 2017-18 onwards greater than Rs. 20 Cr.

Illustration from ICAI RTP for Nov 2022

(a) Fashion Queen Ltd., registered under GST and dealing in baby products has an aggregate turnover of Rs. 40 crore in the preceding financial year. The tax consultant of Fashion Queen Ltd. advised it to issue e-invoices mandatorily. However, Fashion Queen Ltd. is of the view that since it's aggregate turnover is less than the threshold limit applicable for e-invoicing, it is not required to issue e-invoices. You are required to comment upon the validity of the advice given by Tax consultant.

(b) Ministry of Communications and Information Technology, a Government Department registered under GST has an aggregate turnover of Rs. 52 crore in the preceding financial year. You are required to comment whether Ministry of Communications and Information Technology is required to issue e-invoices in the current financial year?

Solution) (a) With effect from 01.04.2022, e-invoicing has been made mandatory for all registered businesses (except specified class of persons) with an aggregate turnover in any preceding financial year from 2017-18 onwards greater than Rs. 20 crore, in respect of B2B supplies (supply of goods or services or both to a registered person) or for exports. Thus, the advice given by tax consultant of Fashion Queen Ltd. for issuance of e-invoices mandatorily in the current financial year is valid in law as the aggregate turnover of Fashion Queen Ltd. has exceeded the threshold limit i.e. Rs. 20 crore in the preceding financial year

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

- Special Economic Zone units
- Insurer or banking company or financial institution including NBFC
- GTA supplying services in relation to transportation of goods by road in a goods carriage
- Supplier of passenger transportation service
- Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens
- Government Department and a local authority

Thus, above mentioned entities are not required to issue e-invoices even if their turnover exceeds Rs. 20 crore in the preceding financial year from 2017-18 onwards.

Thus, Ministry of Communications and Information Technology, being a Government Department is not required to issue e-invoices in the current financial year even if it's aggregate turnover has exceeded Rs. 20 crore

Amendment No. 10:- Blocking of EWB Facility to be applicable only in case of outward supplies made by Defaulting Registered Person & not inward supplies by such person– Rule 138E

Relevant Chapter :- Documentation under GST

What is the existing provision	Rule 138E provides that <i>no person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall be allowed to furnish the information in PART A of FORM GST EWB-01 in respect of following registered person, whether as supplier or recipient.</i>	
	Category of Persons	Default leading to Blockage of E-waybills
	Case 1:- If such person is a composition dealer (whether under section 10(1) & 10(2) or under Sec 10(2A)]	He has not furnished statement in GST CMP-08 <u>for two consecutive quarters</u>
Case 2:- If such person is normal registered person	a) He has not furnished returns in GSTR-3B <u>for a consecutive period of 2 tax periods</u> OR b) He has not furnished the Statement of outward supplies (GSTR-1) <u>for any two month or quarters</u> , as the case may be	
Besides where GST registration of any registered person is suspended for any reason mentioned under Rule 21A , during the period of suspension of GST registration, E-waybill facility shall be blocked for such GSTIN pending the completion of proceedings of cancellation of registration.		
Practical problem with the above provision	As per earlier provision, 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)	
Thus, in such a case, for the mistake of the recipient, the supplier's business is made to suffer. (e.g., if such supplier has already arranged for goods for supply to such recipient, now due to blocking of EWB i.r.o. such recipient, he will not be able to supply goods and consequently will not be able to realize payment)		

What is the amendment

Language of Rule 138E has been amended to relax the above 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.

Illustration 1 (From ICAI Statutory Update)

A shopkeeper sells a pen for Rs. 100 to the buyer. After the sale, the pen belongs to the buyer and shopkeeper does not have any right on the pen. This is a transaction of sale. 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 e-way bill 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

Illustration 2 (From ICAI RTP for May 2022)

Mr. Shambhu, a trader registered under GST in Delhi is engaged in wholesale business of toys for kids. Mr. Nandi registered under GST in Patiala, a regular return filer supplies toys in bulk to Mr. Shambhu for selling to end consumers.

Mr. Shambhu paying tax in regular scheme in Delhi, has not filed GSTR-3B for last 2 months. Mr. Nandi wants to generate e-way bill for toys amounting to Rs. 5,00,000 to be supplied to Mr. Shambhu. Also Mr. Narayan from Jammu approached Mr. Shambhu for purchasing toys amounting to ` 75,000 for the purpose of return gift on his son's first birthday party. Shambhu wants to generate an e-way bill in respect of an outward supply of goods to Mr. Narayan.

Examine with reference to the provisions under GST law, whether Mr. Nandi and Mr. Shambhu can generate e-way bill?

Solution) Provisions of Law:-

Rule 138E of the CGST Rules, 2017 contains provisions pertaining to blocking of e-way bill generation facility, i.e. disabling the generation of e-way bill. A user will not be able to generate e-way bill for a GSTIN if the said GSTIN is not eligible for e-way bill generation as per rule 138E.

Rule 138E as amended vide Notification No. 15/2021 CT dated 18.05.2021 provides that 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. In terms of rule 138E, a person paying tax under regular scheme who has not furnished the returns for a consecutive period of 2 tax periods is considered as a defaulting person.

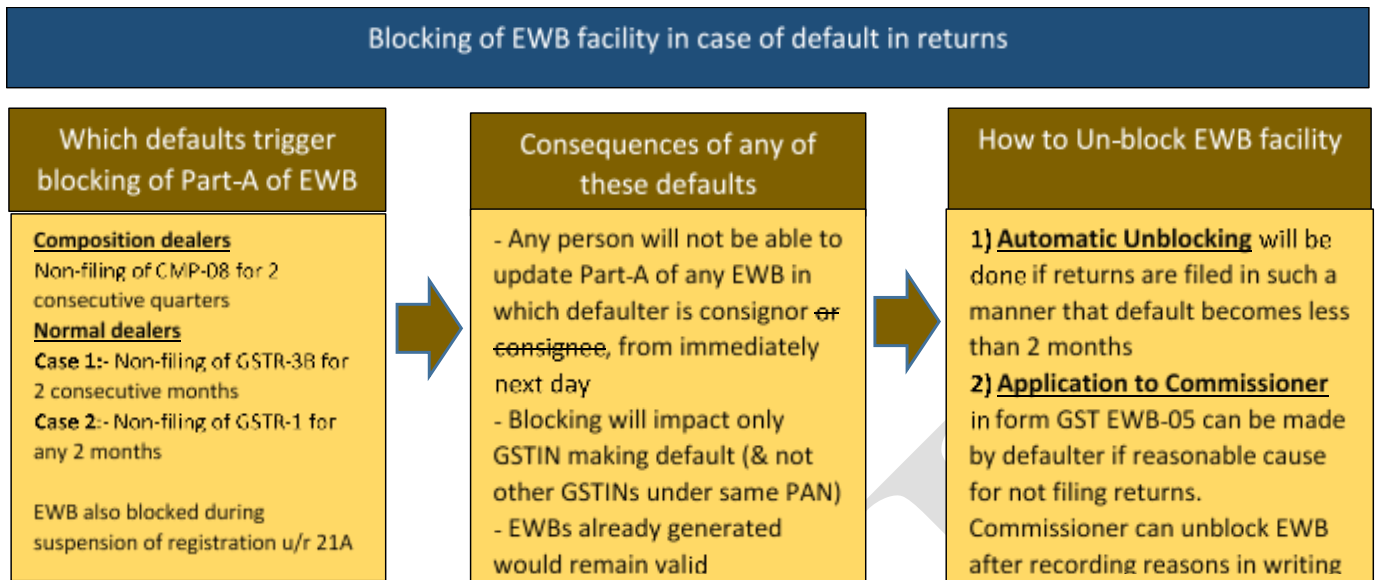
Suspended GSTIN cannot generate e-way bill as supplier. However, the suspended GSTIN can get the e-way bill generated as recipient or as transporter. In other words, e-way bill generation facility is blocked only in respect of any outward movement of goods of the registered person who is not eligible for e-way bill generation as per rule 138E. E-way bills can be generated in respect of inward supplies of said registered

person.

Conclusion in the above case

Thus, applying the above provisions, there will be no restriction in generating e-way Bill by Mr. Nandi as Mr. Nandi who is making outward movement of goods is a regular return filer.

E-way bill generation is blocked in case of movement of goods made by Mr. Shambhu to Mr. Narayan as it's an outward movement of goods of Mr. Shambhu who has not filed GSTR-3B for past 2 months



Category F:- Amendments relating to GST Returns

Amendment No. 11:- Mandatory requirement of Submitting Reconciliation Statement audited by Specified Profession has been replaced by concept of Self-certified Reconciliation Statement
Relevant Chapter;- Filing of GST Return

What we already know	<p>1) Requirement of GST Audit:- Sec 35(5) provided that any registered person whose ATO during any financial year exceeded Rs. 2 Crore was required to get his accounts audited by a Chartered accountant or Cost accountant. This threshold limit of 2 Cr. was increased to 5 Cr. through subsequent notifications for FY 2018-19 and FY 2019-20.</p> <p>2) Requirement of Reconciliation Statement certified by auditor:- Sec 44 r/w Rule 80 also provided for filing of reconciliation statement in GSTR-9C, duly certified by GST auditor, in cases where GST audit under Sec 35(5) was required i.e. when ATO exceeded 5 Crore during FY. For persons whose ATO was below 5 Crore, filing of annual return in form GSTR-9 was mandatory but there was no need for reconciliation statement.</p>
What is the amendment	<p><u>Amendment 1:-</u> Proviso to Sec 44 allows Commissioner to exempt (on the recommendation of GST Council) any class of registered person from filing annual return u/s 44</p> <p>Using the above power, Commissioner has issued Notification dated 30th July 2021 to exempt taxpayers whose ATO during FY 2020-21 is upto Rs. 2 Crore from filing the annual return.</p> <p><u>Amendment 2:-</u> The requirement of GST audit u/s 35(5) has been done away with. Hence, there is no concept of GST audit now</p> <p><u>Amendment 3:-</u> Following amendments have been brought under Sec 44 and Rule 80 w.e.f 1st August 2021:-</p> <ul style="list-style-type: none"> ▪ Requirement of filing reconciliation statement is now not connected to requirement of filing GST audit (since concept of GST audit is no longer in existence now). Instead, Rule 80 specifically provides that any registered person whose ATO exceeds Rs. 5

Core during relevant FY is required to file reconciliation statement in GSTR-9C [thus, effectively threshold remains the same, its just that language has been changed to remove reference of Sec 35(5)]

- Now reconciliation statement in GSTR-9C can be **self-certified** by registered person (instead of earlier requirement of getting it attested from GST auditor)

Crux regarding Requirement of filing annual return and Reconciliation statement

Type of registered taxpayer	Is annual return required	Is Reconciliation statement required
Any department of CG or SG or local authority whose books are required to be audited by CAG (irrespective of turnover)	No	No
Any other person whose ATO is 2 Crore or less during relevant FY	No	No
Any other person whose ATO is more than 2 Crore but upto 5 Crore during relevant FY	Yes	No
Any other person whose ATO exceeds Rs. 5 crore during relevant FY	Yes	Yes

Amendment No. 12:- Amendment related to Maximum Late Fees payable for Delayed filing of GST returns – Sec 47 of CGST Act Relevant Chapter; - Filing of GST Return

What is the existing provision	In case of delay in filing returns, following late fees was provided under Sec 47:-	
	Failure	Quantum of Late Fees
	In case of failure to pay the following returns within the statutory due date:- <ul style="list-style-type: none"> Statement of Outward Supplies (GSTR-1) Return in Form GSTR-3B Return by Composition Dealer (GSTR-4) Return by a Non-resident tax payer (GSTR-5) Final Return 	Lower of the following:- <ol style="list-style-type: none"> Rs. 200 (Rs. 100 under CGST & Rs. 100 under SGST) for every day during which such failure continues OR Rs. 10,000 (Rs. 5,000 each under CGST & SGST or Rs. 10,000 under IGST)
	Failure to file the annual return within the due date	Lower of the following:- <ol style="list-style-type: none"> Rs. 200 (Rs. 100 under CGST & Rs. 200 under SGST) for every day during which such failure continues OR 0.5% of Turnover of Registered person in the State or Union Territory (0.25% of Turnover is maximum late fees under CGST Act & similar amt. under SGST Act)

Amendment Late Fees in Different Scenarios

Category 1:- Late Fees payable by Normal Registered Persons (other than Composition Dealer) for failure to file GSTR-1 and/or GSTR-3B upto due date

Category of Person	Quantum of Late Fees
1A) Registered persons who have nil outward supplies in the tax period/ whose total amount of tax payable in the GSTR-3B is Nil, as the case may be	Lower of the following:- 1) Rs. 200 (Rs. 100 under CGST & Rs. 100 under SGST) for every day during which such failure continues OR 2) Rs. 500 (Rs. 250 each under CGST & SGST or Rs. 500 under IGST)
1B) Registered persons other than 1A) who have Aggregate Turnover \leq Rs. 1.5 Crore in the preceding FY	Lower of the following:- 1) Rs. 200 (Rs. 100 under CGST & Rs. 200 under SGST) for every day during which such failure continues OR 2) Rs. 2000 (Rs. 1000 each under CGST & SGST or Rs. 2000 under IGST)
1C) Registered persons other than 1A) who have Aggregate Turnover $>$ Rs. 1.5 Crore but \leq 5 Cr. in the preceding FY	Lower of the following:- 1) Rs. 200 (Rs. 100 under CGST & Rs. 200 under SGST) for every day during which such failure continues OR 2) Rs. 5000 (Rs. 2500 each under CGST & SGST or Rs. 5000 under IGST)
1D) Registered persons other than 1A) who have Aggregate Turnover $>$ Rs. 5 Cr. in the preceding FY	Lower of the following:- 1) Rs. 200 (Rs. 100 under CGST & Rs. 200 under SGST) for every day during which such failure continues OR 2) Rs. 10,000 (Rs. 5000 each under CGST & SGST or Rs. 10,000 under IGST)

Category 2:- Late Fees payable by Composition Dealer for failure to **file GSTR-4 upto due date** (applicable w.e.f. FY 2021-22 onwards)

Category of Person	Quantum of Late Fees
1A) Composition Dealers whose Total Tax payable in GSTR-4 is Nil	Lower of the following:- 1) Rs. 200 (Rs. 100 under CGST & Rs. 200 under SGST) for every day during which such failure continues OR 2) Rs. 500 (Rs. 250 each under CGST & SGST or Rs. 500 under IGST)
1B) Registered persons other than 1A)	Lower of the following:- 1) Rs. 200 (Rs. 100 under CGST & Rs. 200 under SGST) for every day during which such failure continues OR 2) Rs. 2000 (Rs. 1000 each under CGST & SGST or Rs. 2000 under IGST)

Late Fees for Failure to File Annual Return upto Due Date

The amount of late fees applicable u/s 47 in case of delay in filing of annual return shall be lower of the following:-

- 1) Rs. 200 (Rs. 100 under CGST & Rs. 200 under SGST) for every day during which such failure continues **OR**
- 2) 0.5% of Turnover of Registered person in the State or Union Territory

Late Fees for Failure to File GSTR-5 (NRTP) or GSTR-10 (Final Return) upto Due date

The amount of late fees applicable u/s 47 in case of delay in filing of GSTR-5 or GSTR-10 shall be lower of the following:-

- 1) Rs. 200 (Rs. 100 under CGST & Rs. 200 under SGST) for every day during which such failure continues **OR**
- 2) **Rs. 10,000** (Rs. 5000 each under CGST & SGST or Rs. 10,000 under IGST)

Illustration relating to Sec 47 from ICAI RTP for May 22 exams

(a) Mr. Ayushman, a registered person having intra-State aggregate turnover of Rs. 1.2 crores in the preceding financial year did not file GSTR-3B for the month of September, 2021 by 10th November, 2021. The amount of tax payable for the month of September, 2021 is Rs. 8 lakh. All his supplies are intra-State supplies. Is there any late fee payable for the same? If yes, what is the amount of late fee payable?

(b) Will your answer be different in (a), if Mr. Ayushman has intra-State aggregate turnover of Rs. 5 crores in the preceding financial year?

(c) Will your answer be different in (a), if total amount of tax payable in the GSTR-3B for the month of September is Nil?

Solution) (i) As per section 47 of the CGST Act, 2017 read with Notification No 19/2021 CT dated 01.06.2021, the registered persons whose aggregate turnover is \leq Rs. 1.5 crores in the preceding FY, and who fails to furnish the returns required under section 39 by the due date shall pay a late fee of Rs. 2,000 (Rs. 1,000 each under CGST & SGST or Rs. 2,000 under IGST).

Thus, late fee is payable in the given case and the amount of late fee payable is Rs. 2,000 (Rs. 1,000 each under CGST & SGST).

(ii) As per section 47 of the CGST Act, 2017 read with Notification No 19/2021 CT dated 01.06.2021, the registered persons whose aggregate turnover is more than Rs. 1.5 crores but less than equal to Rs. 5 crores in the preceding FY, and who fails to furnish the returns required under section 39 by the due date shall pay a late fee of Rs. 5,000 (Rs. 2,500 each under CGST & SGST or Rs. 5,000 under IGST).

Thus, late fee is payable in the given case and the amount of late fee payable is Rs. 5,000 (Rs. 2,500 each under CGST & SGST).

(iii) As per section 47 of the CGST Act, 2017 read with Notification No 19/2021 CT dated 01.06.2021, any registered person whose total amount of tax payable in the GSTR-3B is Nil and who fails to furnish the returns required under section 39 by the due date shall pay a late fee of Rs. 500 (Rs. 250 each under CGST & SGST or Rs. 500 under IGST).

Thus, late fee is leviable even if total amount of tax payable in the GSTR-3B for the month of September is Nil. The amount of late fee would be Rs. 500 (Rs. 250 each under CGST & SGST).