

## GST AMENDMENTS – ALL AT ONE PLACE

This Note contains **all RELEVANT AMENDMENTS as notified by ICAI and applicable for CA Inter May 2024 exams.**

All amendments made by Finance Act 2023 and relevant Notifications/ Circulars **till October 31, 2023** is covered in simplified manner.

This Notes **MUST BE READ** along with our YouTube Lecture on Unacademy for full clarity/coverage: <https://www.youtube.com/live/7lyvSR22iLc?si=DUOncqnEH23IELVb>

All the best!!

CA Kishan Kumar

### CH 2 – SUPPLY UNDER GST

#### 1. Casinos, horse racing and online gaming excluded from the purview of Schedule III to clarify their taxability [Entry 6 of Schedule III amended]

Amended Entry 6 provides as follows:

“Actionable claims, other than ~~betting, gambling and lottery~~ **specified actionable claims.**”

Thus, **specified actionable claims** qualify as supply. All other actionable claims are outside the ambit of definition of supply.

**Specified actionable claim** means the actionable claim involved in or by way of—

i) lottery;	ii) Betting;	iii) gambling;
iv) <b>casinos;</b>	v) <b>horse racing;</b>	vi) <b>online money gaming;</b>

**Online money gaming** means online gaming in which players

- pay or deposit money or money's worth, including virtual digital assets,
- in the expectation of winning money or money's worth, including virtual digital assets,
- in any event including game, scheme, competition or any other activity or process,
- whether or not its outcome or performance is based on skill, chance or both and whether the same is permissible or otherwise under any other law for the time being in force.

#### 2. Definition of supplier amended [Section 2(105)]

The definition of supplier has been amended to provide that

- a person who organizes or arranges, directly or indirectly, supply of **specified actionable claims**, including a person who owns, operates or manages digital/electronic platform for such supply, shall be

deemed to be a supplier of such actionable claims, whether such actionable claims are supplied by him or through him.

All the provisions of CGST Act shall apply to such supplier of specified actionable claims, as if he is the supplier liable to pay the tax in relation to the supply of such actionable claims.

#### 3. Supply of food and beverages at cinema halls taxable as restaurant service

It is clarified that:

- (i) supply of food or beverages in a cinema hall is **taxable as 'restaurant service'** as long as:
- the food or beverages are supplied by way of or as part of a service, and
  - supplied independent of the cinema exhibition service.
- (ii) where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of **composite supply**, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the **principal supply**.

The cinema operator:

- may run these refreshment/eating stalls/ kiosks/ counters/ restaurant themselves  
or
- they may give it on contract to a third party.

The customer may like to avail the services supplied by these refreshment/snack counters or choose not to avail these services.

Further, the cinema operator can also install vending machines, or supply any other recreational service such as through coin-operated machines etc. which a customer may or may not avail.

#### 4. Clarification on taxability of shares held in a subsidiary company by holding company

Issue	Clarification
Whether the holding of shares in a subsidiary company by the holding company will be treated as 'supply of service' and whether the same will attract GST or not.	Securities are considered neither as goods nor as services in terms of definition of goods u/s 2(52) and the definition of services u/s 2(102). Further, securities include 'shares' as per definition of securities <sup>1</sup> .  Therefore, <b>the activity of holding of shares of subsidiary company by the holding company per se cannot be treated as a supply of services</b> by a holding company to the said subsidiary company and cannot be taxed under GST.

### CH 3 - CHARGE UNDER GST

#### 5. Tax on services supplied by director of a company in his personal capacity such as renting of immovable property to the company/body corporate not payable under RCM

It is clarified that services supplied by a director of a company/body corporate to the company/body corporate

- in his **private/personal capacity**, such as services supplied by way of renting of immovable property
- are **not taxable under RCM**.

Only those services supplied by director of company/body corporate, which are supplied by him

- as or in the **capacity of director** of that company or body corporate
- shall be **taxable under RCM** in the hands of the company or body corporate.

#### 6. Tax on passenger transportation services by omnibus except where the person supplying such services through ECO is a company, payable by ECO

The Government may, on the recommendations of the GST Council, notify specific categories of services the tax [CGST/SGST/IGST] on supplies of which shall be paid by the **electronic commerce operator (ECO)** if such services are supplied through it. [Section 9(5) of the CGST Act/Section 5(5) of the IGST Act].

Services by way of transportation of passengers by a radio-taxi, motor cab, maxicab, motor cycle, omnibus or any other motor vehicle through ECO is covered u/s 9(5) and tax on such service is payable by ECO;

**With effect from 20.10.2023**, services by way of transportation of passengers

- by an omnibus has been excluded from the above entry and
- a separate category of services has been introduced for transportation of passengers by an omnibus.

Above category of services has been amended as under:-

- ❖ Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motorcycle, **or any other motor vehicle except omnibus.**

Further, following new category of services has been introduced:

- ❖ **Services by way of transportation of passengers by an omnibus except where the person supplying such service through ECO is a company.**

Thus, **with effect from 20.10.2023**, the tax on services by way of transportation of passengers by an omnibus provided by a company through ECO is not payable by ECO. It will be payable by the company itself.

#### **7. Composition Supplier eligible to supply goods through e commerce operator.**

Earlier, composition supplier was barred from making supply of goods as well as services through e commerce operator u/s 10(2) and 10(2A).

Now, composition supplier can supply goods through e commerce operator. However, composition supplier is not permitted to supply services through e commerce operator.

## **CH 4 – PLACE OF SUPPLY**

### **8. Place of supply of goods purchased Over the Counter in one State and transported to another State by the buyer [Section 10 of the IGST Act amended]**

There are cases where an unregistered person purchases goods over the counter (OTC) in one State and thereafter, transports the goods to another State (generally, the State where he resides).

Example: Migrant workers, tourists, etc. who come to a State for work, tourism, etc. and purchase goods in that State to take it to their respective State.

Similarly, in automobile sector, the residents of a State may travel to another State to purchase vehicle from that State to take advantage of lower registration charges and road tax, which vary from State to State and thereafter, take the vehicle to their State.

POS in case of OTC sales to unregistered persons is as follows:

Where the **address** of the unregistered person **is recorded** in the invoice.

POS is location as per address of unregistered person recorded in the invoice\*\*

Where the **address** of the unregistered person **is not recorded** in the invoice.

POS is location of the supplier

\*\*Simply mentioning the State of unregistered person instead of complete address would be sufficient.

New clause (ca) inserted in section 10 of the IGST Act.

**9. Place of Supply in case of Transportation of Goods**

Nature of Supply	Place of Supply
Recipient is registered	Location of such person (recipient)
Recipient is unregistered	Location at which such goods are handed over for their transportation.
Provided that where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.	

**10. Clarification regarding place of supply in case of supply of services in respect of advertising sector**

Issue	Clarification
<p>Case: Supply (sale) of space or supply (sale) of rights to use the space on the hoarding/ structure (immovable property) belonging to vendor to the client/advertising company for display of their advertisement on the said hoarding/ structure.</p> <p>What will be the place of supply of services provided by the vendor to the advertising company in such case?</p>	<p>The hoarding/structure erected on the land should be considered as immovable structure or fixture as it has been embedded in earth.</p> <p>PoS of any service provided by way of supply of space on an immovable property or grant of rights to use an immovable property shall be governed by the provisions of section 12(3)(a) of the IGST Act which states</p> <ul style="list-style-type: none"> <li>➤ PoS of services directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or coordination of construction work shall be the</li> <li>➤ location at which the immovable property is located.</li> </ul> <p>Therefore, the PoS in such case would be the location where such hoarding/ structure is located.</p>
<p>There may be another case where the advertising company wants to display its advertisement on hoardings/ billboards at a specific location availing the services of a vendor.</p> <p>The responsibility of arranging the hoardings/ billboards lies with the vendor who may himself own such structure or may be taking it on rent from another person.</p> <p>During this entire time of display of the advertisement, the vendor is in possession of the hoarding/structure on which advertisement is displayed and the advertising company is not occupying the space or the structure.</p> <p>What will be the PoS of such services provided by the vendor to the advertising company?</p>	<p>In this case, Vendor is providing advertisement services to advertising company by providing visibility to an advertising company's advertisement for a specific period of time on his structure possessed/taken on rent by him at the specified location.</p> <p>There is no supply (sale) of space/ supply (sale) of rights to use the space on hoarding/structure (immovable property) by the vendor to the advertising company.</p> <p>Accordingly, the place of supply of the same shall not be covered u/s 12(3)(a) of IGST Act.</p> <p>Therefore, such services provided by the vendor to advertising <b>company are purely in the nature of advertisement services in respect of which place of supply shall be determined in terms of section 12(2) of IGST Act.</b></p>

## CH 5 – EXEMPTIONS FROM GST

### 11. Exemptions Modified:

Old Law	New Law
Satellite launch services supplied by Indian Space Research Organization, Antrix Corporation Limited or New Space India Limited exempted.	Satellite launch services supplied by <b>ANY ENTITY is Now Exempt.</b>
Services by the Central Government, State Government, Union territory or local authority excluding the following services— <b>a)</b> services by the Department of Posts; <b>b)</b> services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; <b>c)</b> transport of goods or passengers; or <b>d)</b> any service, other than services covered under entries (a) to (c) above, provided to business entities.	Services by the Central Government, State Government, Union territory or local authority excluding the following services— <b>a)</b> services by the Department of Posts <b>and the Ministry of Railways (Indian Railways);</b> <b>b)</b> services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; <b>c)</b> transport of goods or passengers; or any service, other than services covered under entries (a) to (c) above, provided to business entities.

### 12. New Exemption

Services provided to a Governmental Authority by way of —

- a) water supply;
- b) public health;
- c) sanitation conservancy;
- d) solid waste management; and
- e) slum improvement and upgradation.

## CH 6 - VALUE OF SUPPLY

### 13. Tax to be paid on specified actionable claims at the time of receipt of payment for such supplies by the suppliers

Earlier, *Notification No. 66/2017 CT* exempted all registered persons from the requirement of payment of tax at the time of receipt of advances in case of supply of goods and provides for payment of tax in such cases at the time of supply as specified in section 12(2)(a).

**With effect from 01.10.2023**, said notification has been amended to

- **exclude registered persons making supply of specified actionable claims** from the said exemption.

Effectively, in case of specified actionable claims, the tax shall be paid by the supplier at the time of receipt of payment for such supplies.

## CH 8 - ITC

### 14. Addition in Blocked Credit u/s 17(5)

Goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013;

## CH 9 - REGISTRATION

### 15. Requirement of the presence of the applicant for physical verification of business premises done away with [*Proviso to rule 9(1) amended and rule 25 substituted*]

Requirement of the presence of the applicant for physical verification of business premises has been done away with. Thus, as per amended proviso to rule 9(1), where—

- (a) a person, fails to undergo Aadhaar authentication or does not opt for Aadhaar authentication; or
- (aa) a person, who has undergone Aadhaar authentication, is identified on the common portal, based on data analysis and risk parameters, for carrying out physical verification of places of business; or
- (b) the proper officer deems it fit to carry out physical verification of places of business,

the registration shall be granted within 30 days of submission of application, after physical verification of the place of business, ~~in the presence of the said person~~ in the manner provided under rule 25 and verification of such documents as the proper officer may deem fit.

Thus, now, presence of the applicant is not required for physical verification.

Corresponding amendment has been made in rule 25. Substituted rule 25 provides as follows:

#### (i) Where the proper officer is satisfied that the physical verification of the place of business of a person is required **AFTER** the grant of registration;

he may get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in prescribed form on the common portal

- **within a period of 15 working days following the date of such verification.**

#### (ii) Where the physical verification of the place of business of a person is required **BEFORE** the grant of registration in the circumstances specified in the proviso to rule 9(1) [*as given above*]:

the proper officer shall get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in prescribed form on the common portal

- **at least 5 working days prior to the completion of the time period specified** in the said proviso.

### 16. Time limit for furnishing Details of bank account amended [**Rule 10A amended**]

While filing the application for registration, a person is required to furnish the details of his bank account.

Rule 10A provides that the details of bank account can be provided soon after obtaining certificate of registration and a GSTIN, but within

- **30 days** ~~45 days~~ from the date of grant of registration or
- **before furnishing the details of outward supplies of goods or services or both u/s 37 in Form GSTR-1 or using IFF (Invoice Furnishing Facility)** ~~due date of furnishing return under section 39,~~ whichever is earlier.



**17. System based suspension of registration in case of failure to furnish the details of valid bank account within stipulated time. Automatic revocation on furnishing said details [Rule 21A(2A) substituted and third proviso to rule 21A(4) inserted]**

Rule 21A(2A) has been substituted to provide as follows: Where,-

(i) a comparison of the returns furnished by a registered person u/s 39 with:

- the details of outward supplies furnished in Form GSTR-1 or
- the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their Form GSTR-1,

OR

(ii) such other analysis, as may be carried out on the recommendations of the Council,

show that there are significant differences or anomalies indicating contravention of the provisions of the CGST Act or the rules made thereunder, leading to cancellation of registration of the said person, or

**(iii) there is a contravention of the provisions of rule 10A by the registered person,**

the registration of such person shall be suspended.

Said person shall be intimated in prescribed form by sending a communication to his e-mail address provided at the time of registration or as amended from time to time. In this intimation for suspension and notice for cancellation of registration, the said differences and anomalies are highlighted and said person is asked to explain, **within a period of 30 days**, as to why his registration shall not be cancelled.

Further, where the registration has been suspended as above for contravention of provisions of rule 10A and the registration has not already been cancelled by the proper officer under rule 22, the suspension of registration shall be deemed to be revoked upon compliance with the provisions of rule 10A.

**18. Time-limit for filing application for revocation of cancellation of registration increased to 90 days and extension of 180 days permitted on sufficient reason being shown [Section 30 & Rule 23(1) amended]**

Representations were received by the Department to the effect that the earlier time limit of

- 30 days (normal period of revocation) plus
- 30 days (extension by Additional/Joint Commissioner) plus
- 30 days (extension by Commissioner) for applying for revocation of cancellation of registration u/s 30 was quite less.

**Consequently, time limit for making an application for revocation of cancellation of registration has been raised**

- from 30 days to 90 days and
- it can be further extended for a period not exceeding 180 days on sufficient reason being shown;
- by Commissioner or an officer authorized by him in this behalf.

**19. Unregistered persons with aggregate turnover upto threshold limit permitted to supply goods through an ECO.**

As per section 24(ix), persons who supply goods and/or services, other than services notified under section 9(5), through such ECO who is required to collect TCS under section 52 is required to obtain registration mandatorily.

However, persons making supplies of services through an ECO are exempted from obtaining registration with

aggregate turnover up to 20 lakh (10 lakh in case of MMNT).

No such exemption was available for a person supplying goods through such ECO. Thus, as per the prevalent position, unregistered persons were not permitted to make supply of goods through an ECO (who is required to collect TCS).

However, other suppliers supplying goods offline were allowed exemption from registration upto the threshold limit.

Consequently, it was decided to provide an **exemption from registration upto threshold limit to the suppliers supplying goods online through ECOs provided they are making only intra-State supply**; since inter-State supplier of goods has to otherwise obtain compulsory registration.

#### Conditions to follow:

- i) such persons shall **not make any inter-State supply** of goods;
- ii) such persons shall **not make supply** of goods through ECO **in more than one State/Union territory**;
- iii) such persons shall be required to have a **PAN issued** under the Income- tax Act, 1961;
- iv) such persons shall, before making any supply of goods through ECO, declare on the common portal:
  - a. their **PAN**
  - b. **address** of their place of business and
  - c. **State/UT in which such persons seek to make such supply**, which shall be subjected to validation on the common portal;
- v) such persons have been **granted an enrolment number** on the common portal on successful validation of the PAN declared above;
- vi) such persons shall **not be granted more than one enrolment number** in a State/UT;
- vii) no supply of goods shall be made by such persons through ECO unless such persons have been granted an enrolment number on the common portal; and
- viii) where such persons are subsequently granted registration u/s 25, the enrolment number shall cease to be valid from the effective date of registration.

## CH 10 – TAX INVOICE; CREDIT & DEBIT NOTES

### 20. Threshold limit for e-invoicing reduced to 5 crore

**With effect from 01.08.2023**, such limit has been reduced to 5 crore. Thus, 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 5 crore.

### 21. Applicability of e-invoicing to Government Departments/PSUs etc. registered solely for the purpose of deduction of tax at source as per provisions of section 51

Issue	Clarification
Whether e-invoicing is applicable for supplies made by a notified person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, to Government Departments or establishments/ Government agencies/	Government Departments or establishments/ Government agencies/ local authorities/ PSUs, which are required to deduct TDS u/s 51, are liable for compulsory registration u/s 24(vi).  Therefore, these entities are to be treated as registered persons under the GST law as per provisions of section 2(94).



local authorities/ PSUs which are registered solely for the purpose of deduction of TDS u/s 51.

Accordingly, the registered person, whose turnover exceeds the prescribed threshold for generation of e-invoicing, is required to issue e-invoices for the supplies made to such entities.

## CH 11 – PAYMENT OF TAX

### 22. Clarification on charging of interest under section 50(3) in cases of wrong availment of IGST credit and reversal thereof

Issue	Clarification
<p>In the case of wrong availment of IGST credit by a registered person and reversal thereof, for the calculation of interest under rule 88B, whether the balance of ITC available in electronic credit ledger (ECL) under the head of IGST only needs to be considered or total ITC available in electronic credit ledger, under the heads of IGST, CGST and SGST taken together, has to be considered.</p>	<p>Since the amount of ITC available in ECL, under any of the heads of IGST, CGST or SGST, can be utilized for payment of liability of IGST, it is the total ITC available in ECL, under the heads of IGST, CGST and SGST taken together, that has to be considered for calculation of interest under rule 88B and for determining as to whether the balance in the ECL has fallen below the amount of wrongly availed ITC of IGST, and to what extent the balance in ECL has fallen below the said amount of wrongly availed credit.</p> <p>Thus, in the cases where IGST credit has been wrongly availed and subsequently reversed on a certain date, there will not be any interest liability under section 50(3) if, during the time period starting from such availment and up to such reversal, the balance of ITC in the ECL, under the heads of IGST, CGST and SGST taken together, has never fallen below the amount of such wrongly availed ITC, even if available balance of IGST credit in ECL individually falls below the amount of such wrongly availed IGST credit.</p> <p>However, when the balance of ITC, under the heads of IGST, CGST and SGST of ECL taken together, falls below such wrongly availed amount of IGST credit, then it will amount to the utilization of such wrongly availed IGST credit and the extent of utilization will be the extent to which the total balance in ECL under heads of IGST, CGST and SGST taken together falls below such amount of wrongly availed IGST credit, and will attract interest as per section 50(3) read with section 20 of the IGST Act, 2017 and of rule 88B(3).</p>
<p>Whether the credit of compensation cess available in ECL shall be taken into account while considering the balance of ECL for the purpose of calculation of interest under rule 88B(3) in respect of wrongly availed and utilized IGST, CGST or SGST credit.</p>	<p>ITC in respect of compensation cess can be utilized only towards payment of compensation cess. Thus, credit of compensation cess cannot be utilized for payment of any tax under CGST or SGST or IGST heads and/ or reversals of credit under the said heads.</p> <p>Accordingly, credit of compensation cess available in ECL cannot be taken into account while considering the</p>

	balance of ECL for the purpose of calculation of interest under rule 88B(3) in respect of wrongly availed and utilized IGST, CGST or SGST credit.
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## CH 14 – TDS & TCS

### 23. Details of TCS furnished by ECO to be made available electronically to only registered suppliers [Rule 67(2) amended]

Unregistered suppliers of services and now unregistered suppliers of goods also are allowed to make supplies through ECOs till the time their turnover does not exceed the prescribed threshold limit.

Rule 67 has been amended to clearly bring out that the details of TCS furnished by ECOs in Form GSTR-8 shall be made available only to the registered suppliers, as the supplies by unregistered persons do not attract TCS.

Amended rule 67(2) provides as follows:

***The details of tax collected at source under section 52(1) furnished by the ECO shall be made available electronically to each of the registered suppliers*** on the common portal after filing of Form GSTR-8 for claiming the amount of tax collected in his electronic cash ledger after validation.

## CH 15 – RETURNS

### 24. Manner of dealing with difference in ITC available in auto-generated statement containing the details of ITC and that availed in return prescribed [New rule 88D introduced]

Where the amount of ITC availed by a registered person in the return for a tax period(s) furnished by him in Form GSTR-3B exceeds the ITC available to such person as per Form GSTR-2B in respect of the said tax period(s), by more than a specified extent,

- the said registered person shall be given an intimation in prescribed form electronically on the common portal, and a copy of such intimation shall also be sent to his e-mail address provided at the time of registration or as amended from time to time.

Said intimation shall highlight the said difference and will direct him to—

- a) pay an amount equal to the excess ITC availed in the said Form GSTR- 3B, along with interest payable under section 50, through prescribed form, or
- b) explain the reasons for the aforesaid difference in ITC on the common portal,

within a period of 7 days.

Such registered person shall, upon receipt of said intimation, either,

- a) pay an amount equal to the excess ITC, as specified in intimation, fully or partially, along with interest payable, through prescribed form and furnish the details thereof, electronically on the common portal, or
- b) furnish a reply, electronically on the common portal, incorporating reasons in respect of the amount of excess ITC that has still remained to be paid,

within 7 days' period.

Where any amount specified in the intimation remains to be paid within 7 days' period and where no explanation/reason is furnished by the registered person in default or where the explanation/reason furnished by such person is not found to be acceptable by the proper officer,

- the said amount shall be liable to be demanded in accordance with the provisions of section 73/section 74.

Further, such a person should not be allowed to file Form GSTR-1/ IFF for the subsequent tax period.

This provision would help in safeguarding the revenue by controlling the difference in ITC availed in Form GSTR-3B and that available as per Form GSTR-2B of the taxpayers and will reduce the ITC mismatches.

### **25. Additional cases prescribed wherein a registered person is debarred from furnishing details of outward supplies in Form GSTR-1/IFF [Rule 59(6) amended]**

Rule 59(6) stipulates the cases where a registered person is debarred from furnishing details of outward supplies in Form GSTR-1/IFF. Said rule has been amended to add two new clauses as follows:

- (e)** a registered person, to whom an intimation has been issued on the common portal under the provisions of rule 88D(1) in respect of a tax period/periods, shall not be allowed to furnish GSTR-1/IFF for a subsequent tax period, unless he has either paid the amount equal to the excess ITC as specified in the said intimation or has furnished a reply explaining the reasons in respect of the amount of excess ITC that still remains to be paid, as required under rule 88D(2);
- (f)** a registered person shall not be allowed to furnish GSTR-1/IFF, if he has not furnished the details of the bank account as per the provisions of rule 10A.

### **26. Section 23 overrides section 22 and section 24.**

Thus, if a person falls u/s 23, then there is no need of GST registration even if that person falls u/s 22 or 24.

### **27. Time limit upto which Return/ statement for a tax period can be furnished**

Return/ statement u/s 37, 39, 44 and 52 for a month **can't be furnished after the expiry of a period of three years from the due date** of furnishing the said return/ statement.

Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person to furnish the it even after the expiry of the said period of three years from the due date of furnishing the said details.