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GST CHANGES FROM 1ST JANUARY, 2022

With the 2022 about to begin, following are the few key amendments in GST that one needs to be aware about. These amendments which are applicable from 1st January 2022 (unless otherwise specified) are divided in three categories:

- Amendments in GST Act brought through Finance Act 2021
- Aadhar Authentication mandatory in specified cases
- GST rates changes for specified sectors

Let us discuss in detail what are the amendments effective from 1st January 2022

I. **Amendments in GST Act brought through Finance Act 2021 (Notification 39/2021 Central Tax dated 21st December 2021)**

a) **Section 108 and Section 122: Scope of Supply – Transactions to be treated as Supply under GST – Sec 7(1)(aa)**

Scope of supply under GST Act expanded to include activities or transactions involving supply of goods or services between any person (other than an individual) and its members or constituents for cash, deferred payment or other valuable consideration **w.e.f. 1st July, 2017**. A consequential amendment has also been made in Schedule II of the CGST Act by removing entry no 7 in schedule II with a **retrospective effect from 1st July, 2017**.

This amendment has been made for overruling the impact of the decision of Hon'ble Supreme Court in the case of State of West Bengal vs Calcutta Club Ltd. and taxing the transactions between the associations/societies and its members.

Thus, clubs/associations/societies and its members would be deemed to be separate persons under GST and GST shall be payable on supply transactions between them.

b) **Section 109: Amendment in Condition for Claiming Input Tax Credit - Sec 16(2)(aa)**

Section 16 provides for eligibility of taking Input Tax Credit (ITC). Additional condition has been inserted in Section 16(2) for availing ITC. ITC on invoice or debit note can now be availed only when the details of such invoice or debit note have been furnished by the supplier in his GSTR 1/IFF and the same are appearing in GSTR 2A/2B of the recipient.

This amendment would provide the statutory power to GSTR 2A/2B and their matching in Rule 36(4) of the CGST Rules.



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c) Section 113: Detention, seizure and confiscation of goods to be separate tax proceeding – Sec 74 amendment

Section 74 has been amended to make detention, seizure, release and confiscation of goods/conveyance in transit a separate proceeding from recovery of tax. Thus, there would not be deemed conclusion of detention, seizure, release and confiscation proceedings on conclusion of tax recovery proceedings.

d) Section 114: Provisions relating to determination of tax and interest – Sec 75(12)

Section 75 has been amended to clarify that recovery of unpaid self-assessed tax shall include tax liability reported in GSTR 1 but not paid in GSTR 3B.

e) Section 115: Scope of the provisional attachment and powers of the Commissioner relating to provisional

Commissioner may provisionally attach property of any person specified in Section 122(1A) in addition to the taxable person during the pendency of any proceedings specified under Assessment; Inspection, Search, Seizure and Arrest; Demands and Recovery.

f) Section 116: Proviso inserted u/s 107(6) of CGST Act – Appeals to Appellant Authority (Pre – Deposit)

Pre-deposit of 25% of penalty has been made mandatory for filing of appeal against an order u/s 129(3) for detention or seizure of goods or conveyance.

g) Section 117: Detention, seizure and release of goods and conveyances in transit – Sec 129

Section 129 provides for detention, seizure and release of goods and conveyances in transit for transport of goods in contravention of GST law. As per the existing provisions goods and conveyance is released on payment of applicable tax and penalty equivalent to 100% of the tax payable on goods when the owner of goods comes forward for payment of such tax and penalty.

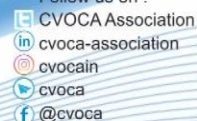
In case owner does not come forward for payment of tax and penalty, goods and conveyance shall be released on payment of applicable tax and penalty equivalent to 50% of the value of the goods reduced by the tax already paid thereon.

Now, penalty equivalent to 200% of tax liability is payable for release of goods and conveyance when the owner of goods comes forward for payment of such penalty. In case owner does not come forward for payment of penalty, goods and conveyance shall be released on payment of penalty equivalent to higher of 50% of the value of the goods or 200% of tax payable on such goods.

Further, the option of releasing the goods and conveyance on furnishing of bond/security has been removed.

Time limits for the detention, seizure and release procedures have been prescribed.

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h) Section 118: Confiscation of goods or conveyances and levy of penalty – Sec 130

Sec. 130 of the CGST Act has been amended to prescribe penalty of 100% in case of confiscation of goods for specified cases.

i) Section 119, Section 120 and Section 121: Grant of wider powers to the department

This amendment empowers the jurisdiction commissioner to call for any information from any person relating to any matters concerned with the Act

2. Aadhaar Authentication mandatory in specified cases (Notf 38/2021 Central Tax dt. 21st Dec 21)

Aadhaar authentication mandatorily required for following cases with effect from 1st January 2022

- For filing of application for revocation or 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 the integrated tax paid on goods exported out of India

3. GST rates changes for specified sectors

a) Textile industry (Notification No. 14 & 15/2021-Central Tax (Rate) ,dt. 18-11-2021)

Rationalization of GST rates at 12% is applicable on most goods. Earlier GST rates for goods were 5%, 12% as well as 18%.

GST rates on Job Work by way of Dyeing and Printing of Textile and Textile Products for registered principal has been increased from 5% to 12%

b) Footwear industry (Notification No. 14/2021-Central Tax (Rate) ,dt. 18-11-2021)

GST rate on Footwear of sale value not exceeding Rs. 1000 per pair has been increased from 5% to 12%

c) Contracts from Government authority and Government entities –(Notification No. 15 & 16/2021-Central Tax (Rate) ,dt. 18-11-2021)

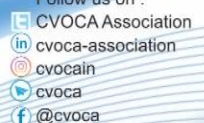
GST rate on works contract Services provided to 'Government Authorities' or 'Government Entities' have been increased from 12% to 18% by contractors or sub-contractors

"Governmental Authority" means an authority or a board or any other body, -

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

with 90per cent. 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.

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“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 90per cent. 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.

d) RCM applicable on E-commerce operator providing: contractors (Notification No. 16 & 17/2021-Central Tax (Rate) ,dt. 18-11-2021)

- a) services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle, omnibus or any other motor vehicle (GST rate 5%)
- b) restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises (i.e. declared tariff above INR 7,500/day (GST rate 5%)

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