



Updates

December

2021

Highlights



Updates

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New Functionalities in GSTN Portal

Tax Notifications

Sl No	Subject	Central Tax Notification	State Tax Notification
1.	CGST (Ninth Amendment) Rules, 2021 in respect of the following:	37/2021-CT, dt. 01-12-2021	1657-F.T. dt. 23-12-2021

Amendments in Rule 137: Tenure of National Anti-profiteering Authority:

- ✓ With effect from 30-11-2021, the tenure of the National Anti-profiteering Authority has been extended for a further period of 01 year (existing tenure of four years is extended to five years).

Amendment in the format of Form GST DRC 03 – Salient features:

- ✓ Following causes of payment inserted in the form -
 - intimation of tax ascertained through FORM GST DRC-01A,
 - Mismatch (Form GSTR-1 & Form GSTR-3B),
 - Mismatch (Form GSTR-2B & Form GSTR-3B)
- ✓ Format of the Table changed (Two new columns for payment under the head 'Fee' and 'Other' inserted)

Tax Notifications (contd...)

SI No	Subject	Central Tax Notification	State Tax Notification
2.	01-01-2022 notified as the effective date of the newly inserted rule 10B (<i>Requirement of authentication of Aadhaar number for existing registered persons in order to be eligible to apply for revocation of cancellation and refund</i>) & consequential amendment in rules 23(1), 89(1) & 96(1).	38/2021-CT, dt. 21-12-2021	36-F.T. dt. 10-01-2022
3.	01.01.2022 notified as the effective date of the amendments in the following provisions of the CGST/WBGST Act carried out in the Finance Act, 2021/ WB Finance Act, 2021:-	39/2021-CT, dt. 21-12-2021	----

Amendment in section 7 (Scope of Supply):

✓ Insertion of new clause in sub-section (1) w.e.f . 01.07.2017:

- Provision to levy tax on activities or transactions involving supply of goods or services by any person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration, and,
- 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 person to another.

Tax Notifications (contd...)

Following amended provisions shall come into force w.e.f. 01.01.2022...

Amendment in section 16 (Eligibility & conditions for taking ITC):

✓ Insertion of new clause in sub-section (2):

- Provision for **availing of input tax credit** on invoice or debit note **only when the details** of such invoice or debit note **have been furnished by the concerned supplier** in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note.

Amendment in section 74 (Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful- misstatement or suppression of facts:

- To make seizure and confiscation of goods and conveyances in **transit a separate proceeding from the recovery of tax.**

Amendment in section 75 (General provisions relating to determination of tax):

- To clarify that “self-assessed tax” shall include the tax payable in respect of details of **outward supplies furnished** under section 37, but not included in the **return furnished** under section 39.

Tax Notifications (contd...)

Following amended provisions shall come into force w.e.f. 01.01.2022...

Amendment in section 83 (Provisional attachment to protect revenue in certain cases):

✓ Substitution of sub-section (1) :

- To provide for provisional attachment after initiation of any proceeding under Chapter XII (Assessment), Chapter XIV (Inspection, Search, Seizure And Arrest) or Chapter XV (Demands And Recovery) for the purpose of protecting the interest of Government Revenue.
- The amendment aims to **remove the ambiguities caused by the phrase 'during the pendency'** of certain proceedings as in the **existing provision** of provisional attachment.

Amendments in section 107 (Appeals to Appellate Authority):

✓ Insertion of new proviso in sub-section (6):

- To provide that **no appeal shall be filed** against an order of penalty under section 129(3), **unless a sum equal to 25% of the penalty** has been paid by the appellant

Tax Notifications (contd...)

Following amended provisions shall come into force w.e.f. 01.01.2022...

Amendments in section 129 (Detention, seizure and release of goods and conveyances in transit):

✓ **Amendment of sub-sections (1), (2), (3), (4) & (6):**

- To provide for release of **detained/seized goods and conveyances and related documents upon payment of applicable penalty** (instead of applicable tax and penalty as per the existing provision giving rise to various ambiguities)
- To provide for **definite timelines** for issuance of notice(7 days) and passing order for payment of penalty (7 days from service of notice)
- To **delink the proceedings of detention, seizure and release** of goods and conveyances in transit and related documents (under section 129) from the proceedings of confiscation of goods or conveyances (under section 130) by providing for provision for sale or disposal of the detained/seized goods and conveyance to recover any unpaid penalty.

Tax Notifications (contd...)

Following amended provisions shall come into force w.e.f. 01.01.2022...

Amendments in section 130 (Confiscation of goods or conveyances and levy of penalty):

✓ Amendment of sub-sections (1), (2) & (3):

- To **delink the proceedings relating to confiscation** of goods or conveyances and levy of penalty (under section 130) **from the proceedings relating to detention, seizure and release of goods and conveyances in transit** (under section 129).
- This is a consequential amendment to section 129.

Amendments in Section 151 (Power to collect statistics):

✓ Substitution of section 151 to provide for Power to call for information:

- To **empower the Commissioner or an officer authorized by him to call for information** from any person relating to any matter dealt with in connection with the Act.

Tax Notifications (contd...)

Following amended provisions shall come into force w.e.f. 01.01.2022...

Amendments in section 152 (Bar on disclosure of information):

✓ Amendment of sub-sections (1) & (2) :

- To provide that no information **obtained under sections 150 and 151 shall be** used for the purposes of any proceedings under the Act without giving an opportunity of being heard to the person concerned.

Amendments in Schedule II: (Activities or Transactions to be treated as Supply of Goods or Supply of Services)

✓ Omission of Paragraph 7 (Supply of Goods) with retrospective effect from 01-07-2017 as a consequential amendment of section 7 :

- In accordance with the existing entry in paragraph 7 of Schedule II, supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration was treated as a supply of goods.

Tax Notifications (contd...)

SI No	Subject	Central Tax Notification	State Tax Notification
1.	CGST (Tenth Amendment) Rules, 2021 in respect of the following:	40/2021-CT, dt. 28-12-2021	----

Substitution of Rule 36(4):

✓ To restrict the availability of input tax credit in respect of invoices or debit notes the details of which are required to be furnished by the supplier to the extent the same is furnished in the statement of outward supply of the supplier and is communicated to the recipient in his Form GSTR 2B;

(Date of effect: 01-01-2022)

Insertion of sub-rules 1A & 3A in Rule 80:

✓ Extension of the due date of furnishing of Annual return in Form GSTR 9 & the self-certified reconciliation statement in Form GSTR 9C for the FY 2020-2021 till 28.02.2022.

Insertion of proviso to Rule 95(3):

✓ Provision for submission of duly attested copies of invoices by the authorized representative of a Unique Identity Number (Consulates or Embassies of foreign countries etc.) for claiming refund of tax paid on their inward supplies in case the Unique Identity Number is not mentioned on the tax invoice;

(Date of effect 01-04-2021)

Tax Notifications (contd...)

CGST (Tenth Amendment) Rules, 2021 contd.

Amendment in Rule 142: Notice and order for demand of amounts payable under the Act

- ✓ Consequential amendment to the amendment in Section 129 to provide for the provision of intimation of voluntary payment of penalty within 07(seven) days of issuance of notice of detention or seizure of goods or conveyance in transit but before the issuance of order of penalty for contravention of the relevant provisions for transportation or storage of any goods in transit;

(Date of effect: 01-01-2022)

New Rule 144A:

- ✓ Prescription for Recovery of penalty by sale of goods or conveyance detained or seized in transit

(Date of effect: 01-01-2022)

Substitution of Rule 154: [Disposal of proceeds of sale of goods or conveyance and movable or immovable property]

- ✓ Prescription for disposal of proceeds of sale of goods and movable or immovable property as a consequential amendment to the amendment in Section 129

(Date of effect: 01-01-2022)

Tax Notifications (contd...)

CGST (Tenth Amendment) Rules, 2021 contd.

Changes in Rule 159 : [Provisional attachment of property]

- ✓ Provision for the entitlement of a copy of order of provisional attachment under section 83 to the person whose property is being attached provisionally and to provide for a new Form GST DRC 22A for filing of an objection in respect of the provisional attachment of property by the said person

(date of effect 01-01-2022)

✓ Substitution of:

Form GST DRC 10 (notice for auction of goods), **Form GST DRC 11** (notice to the successful bidder in auction to make payment), **Form GST DRC 12** (certificate of transfer of possession and ownership of goods or conveyance sold through auction to the successful bidder), **Form GST DRC 22** (Order of provisional attachment of any property), **Form GST DRC 23** (Order of restoration of a property/bank account which is provisionally attached), **Form GST APL – 01** (Form for filing of appeal before an Appellate Authority)

- ✓ Insertion of format of Form GST DRC 22A (Application for filing an objection in respect of provisional attachment of property)

(date of effect 01-01-2022)

Rate Notifications

Notification Nos [18/2021-CT\(R\)](#) dt 28-12-2021, [19/2021-CT\(R\)](#) dt 28-12-2021 & [20/2021-CT\(R\)](#) dt 28-12-2021 are related to **transposition changes** in the GST rate notifications on supply of goods to align the same with the latest HSN (Harmonised System Nomenclature) code w.e.f. 01.01.2022

SI No	Subject	Central Rate Notification	State Rate Notification	IGST Rate Notification
1	Amendment in GST rate notification No. 1/2017-CT(R) dt 28-06-2017 in respect of various goods :	18/2021-CT(R) dt 28-12-2021	18/2021-IGST(R) dt 28-12-2021

Change in Schedule-I [Rate of tax : 5%] [Effective date: 1st January, 2022]

SI	Chapter	Description
2	0303, 0304, 0305, 0306, 0307, 0308, 0309	All goods [other than fresh or chilled] and put up in unit container and,— (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily], subject to the conditions as in the ANNEXURE

Existing entries are substituted as above

Rate Notifications *contd....*

Change in Schedule-I [Rate of tax : 5%] *contd...* [Effective date: 1st January, 2022]

SI	Chapter	Description
9	0403	Yoghurt; Cream, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavored or containing added fruit, nuts or cocoa

Existing entries are substituted as above

14	0410	Insects and other edible products of animal origin, not elsewhere specified or included
87	1515	Other fixed vegetable or microbial fats and oils (including jojoba oil) and their fractions, whether or not refined, but not chemically modified.
107	2306	Oil-cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of vegetable or microbial fats or oils, other than those of heading 2304 or 2305 other than cottonseed oil cake
127	2518	Dolomite, whether or not calcined or sintered, including dolomite roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape; 2518 10 dolomite, Not calcined or sintered

Existing entries are substituted as above

Rate Notification *contd....*

Change in Schedule-I [Rate of tax : 5%] *contd...* [Effective date: 1st January, 2022]

SI	Chapter	Description
186A	3816	Dolomite ramming mix
186B	3826	Bio-diesel supplied to Oil Marketing Companies for blending with High Speed Diesel
<i>Existing entries in 186A are substituted as above</i>		
232	841912	Solar water heater and system
244	8802 or 8806	Other aircraft (for example, helicopters, aeroplanes) except the items covered in Sl. No. 383 in Schedule III, other than for personal use
245	8807	Parts of goods of heading 8802 or 8806 (except parts of items covered in Sl. No. 383 in Schedule III)
258	9405	Kerosene pressure lantern

Change in Schedule-II [Rate of tax : 12%] [Effective date: 1st January, 2022]

SI	Chapter	Description
15	0802	Other nuts, dried, whether or not shelled or peeled, such as Almonds, Hazelnuts or filberts (<i>Corylus</i> spp.), Chestnuts (<i>Castanea</i> spp.), Pistachios, Macadamia nuts, Kola nuts (<i>Cola</i> spp.), Pine nuts [other than dried areca nuts]
25	1516	Animal or microbial fats and animal or microbial oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinised, whether or not refined, but not further prepared

Existing entries are substituted as above

Rate Notification contd....

Change in Schedule-II [Rate of tax : 12%] contd... [Effective date: 1st January, 2022]

SI	Chapter	Description
26	1517	Edible mixtures or preparations of animal fats or microbial fats or animal oils or microbial oils or of fractions of different animal fats or microbial fats or animal oils or microbial oils of this Chapter, other than edible fats or oils or their fractions of heading 1516
27	1518	Animal or microbial fats and animal or microbial oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; inedible mixtures or preparations of animal, vegetable or microbial fats or oils or of fractions of different fats or oils of this chapter, not elsewhere specified or included
28	1601	Sausages and similar products, of meat, meat offal, blood or insects; food preparations based on these products
29	1602	Other prepared or preserved meat, meat offal, blood or insects
41	2009	Fruit or nut juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter

Existing entries are substituted as above

Rate Notification contd....

Change in Schedule-II [Rate of tax : 12%] contd... [Effective date: 1st January, 2022]

SI	Chapter	Description
41A	2009 89 90	Tender coconut water put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any such actionable claim or enforceable right in respect of such brand name has been voluntarily foregone, subject to the conditions as specified in the ANNEXURE]”
<i>New Insertion of 41A & omission of existing entry in SI No 49</i>		
144	5703	Carpets and other textile floor coverings (including Turf), tufted, whether or not made up
185A	7419 80 30	Brass Kerosene Pressure Stove
225	9405	Hurricane lanterns, Kerosene lamp / pressure lantern, petromax, glass chimney, and parts thereof
236	9701	Paintings, drawings and pastels, executed entirely by hand, other than drawings of heading 4906 and other than hand-painted or hand-decorated manufactured articles; collages, mosaics and similar decorative plaques

Existing entries are substituted as above

Rate Notification contd....

Change in Schedule-III [Rate of tax : 18%] [Effective date: 1st January, 2022]

SI	Chapter	Description
26A	2404 12 00	Products containing nicotine and intended for inhalation without combustion
26B	2404 91 00, 2404 92 00, 2404 99 00	Products for oral application or transdermal application or for application otherwise than orally or transdermally, containing nicotine and intended to assist tobacco use cessation
26C	2515 12 20, 2515 12 90	Marble and travertine, other than blocks
26D	2516 12 00	Granite, other than blocks
26E	2601	Iron ores and concentrates, including roasted iron pyrites
26F	2602	Manganese ores and concentrates, including ferruginous manganese ores and concentrates with a manganese content of 20% or more, calculated on the dry weight.
26G	2603	Copper ores and concentrates
26H	2604	Nickel ores and concentrates
26I	2605	Cobalt ores and concentrates
26J	2606	Aluminium ores and concentrates

Existing SI Nos from 26A to 26J & the corresponding entries relating thereto, are substituted as above

Rate Notification contd....

Change in Schedule-III [Rate of tax : 18%] [Effective date: 1st January, 2022]

SI	Chapter	Description
26K	2607	Lead ores and concentrates
26L	2608	Zinc ores and concentrates
26M	2609	Tin ores and concentrates
26N	2610	Chromium ores and concentrates

Existing SI Nos from 26K to 26L & the corresponding entries relating thereto, are substituted as above

Existing SI No 41; chapter (30) (Nicotine polacrilex gum) shall be omitted

72	3603	Safety Fuses; Detonating Cords; Percussion or Detonating Caps; Igniters; Electric Detonators
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Existing entries are substituted as above

98A	3827	Mixtures containing halogenated derivatives of Methane, Ethane or Propane, not elsewhere specified or included
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New insertion as 98A

190A	7011	Glass envelopes (including bulbs and tubes), open, and glass parts thereof, without fittings, for electric lamps and light sources, cathode ray tube or the like
195	7019	Glass fibres (including glass wool) and articles thereof (for example, yarn, rovings, woven fabrics)

Existing entries are substituted as above

Rate Notification contd....

Change in Schedule-III [Rate of tax : 18%] contd... [Effective date: 1st January, 2022]

SI	Chapter	Description
317B	8414	Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters; Gas-tight biological safety cabinets, whether or not fitted with filters [other than bicycle pumps, other hand pumps and parts of air or vacuum pumps and compressors of bicycle pumps]
320	8419 [other than 8419 12]	Machinery, plant or laboratory equipment, whether or not electrically heated (excluding furnaces, ovens and other equipment of heading 8514), for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilising, pasteurising, steaming, drying, evaporating, vaporising, condensing or cooling, other than machinery or plant of a kind used for domestic purposes; instantaneous or storage water heaters, non-electric [other than Solar water heater and system]
330	8438	Machinery, not specified or included elsewhere in this Chapter, for the industrial preparation or manufacture of food or drink, other than machinery for the extraction or preparation of animal or fixed vegetable or microbial fats or oils

Existing entries are substituted as above

Rate Notification contd....

Change in Schedule-III [Rate of tax : 18%] contd... [Effective date: 1st January, 2022]

SI	Chapter	Description
352	8462	Machine-Tools (Including Presses) For Working Metal by Forging, Hammering or Die Forging (Excluding Rolling Mills); Machine-Tools (Including Presses, Slitting Lines and Cut-To-Length Lines) For Working Metal by Bending, Folding, Straightening, Flattening, Shearing, Punching, Notching or Nibbling (Excluding Draw-Benches); Presses for Working Metal or Metal Carbides, Not Specified Above

Existing entries are substituted as above

369C	8485	Machines for Additive Manufacturing
382A	8524	Flat Panel Display Modules, Whether or Not Incorporating Touch-Sensitive Screens

New insertions as 369C & 382A

383	8525 or 8806	Closed-circuit television (CCTV), transmission apparatus for radio-broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras, digital cameras and video camera recorders including goods in the form of unmanned aircraft falling under 8806 [other than two-way radio (Walkie talkie) used by defence, police and paramilitary forces, etc.]
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Existing SI No 383 & the corresponding entries relating thereto, are substituted as above

Rate Notification contd....

Change in Schedule-III [Rate of tax : 18%] contd... [Effective date: 1st January, 2022]

SI	Chapter	Description
390	8539	Electrical Filament or discharge lamps including sealed beam lamp units and ultra-violet or infra-red lamps; arc lamps [other than Light-Emitting Diode (LED) Light Sources]
392	8541	Semiconductor Devices (for example, Diodes, Transistors, Semiconductor Based Transducers); Photosensitive Semiconductor devices; Light-Emitting Diodes (LED), whether or not assembled with other Light-Emitting Diodes (LED); Mounted Piezo-Electric crystals
398	8548 or 8549	Waste and scrap of primary cells, primary batteries and electric accumulators; spent primary cells, spent primary batteries and spent electric accumulators; electrical parts of machinery or apparatus, not specified or included elsewhere in this Chapter
411H	9013	Lasers, other than Laser Diodes; other Optical Appliances and Instruments, not specified or included elsewhere in this Chapter

Existing entries are substituted as above

Rate Notification contd....

Change in Schedule-III [Rate of tax : 18%] contd... [Effective date: 1st January, 2022]

SI	Chapter	Description
413A	9022	Apparatus based on the use of X-rays or of alpha, beta, gamma or other ionizing radiations [other than those for medical, surgical, dental or veterinary uses], including radiography or radiotherapy apparatus, X-ray tubes and other X-ray generators, high tension generators, control panels and desks, screens, 28 examinations or treatment tables, chairs and the like
438A	9405	Luminaires and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated nameplates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included [other than kerosene pressure lantern and parts thereof including gas mantles; hurricane lanterns, kerosene lamp, petromax, glass chimney, and parts thereof; LED lights or fixtures including LED lamps; LED (light emitting diode) driver and MCPCB (Metal Core Printed Circuit Board)]
441A	9508	Travelling Circuses and Travelling Menageries; Amusement Park Rides and Water Part Amusements; Fairground Amusements, including Shooting Galleries; Travelling Theatres

Existing description are substituted as above

Rate Notification contd....

Change in Schedule-III [Rate of tax : 18%] contd... [Effective date: 1st January, 2022]

SI	Chapter	Description
449B	9617	Vacuum flasks and other vacuum vessels, Complete; parts thereof other than glass inners
<i>Existing description are substituted as above</i>		

Change in Schedule-IV [Rate of tax : 28%] [Effective date: 1st January, 2022]

SI	Chapter	Description
15A	2404 11 00	Products containing tobacco or reconstituted tobacco and intended for inhalation without combustion
15B	2404 19 00	Products containing tobacco or nicotine substitutes and intended for inhalation without combustion
<i>New insertions as 15A & 15B</i>		
176	8802 or 8806	Aircrafts for personal use

Existing description are substituted as above

Rate Notification *contd....*

SI No	Subject	Central Rate Notification	State Rate Notification	IGST Rate Notification
2	Amendment in GST exempt <u>notification No. 2/2017- CT (R) dt 28-06-2017</u> in respect of various goods: <i>Date of effect: 01-01-2022</i>	<u>19/2021-CT(R) dt 28-12-2021</u>	<u>19/2021-IGST(R) dt 28-12-2021</u>

SI	Chapter	Description
22	0303, 0304, 0305, 0306, 0307, 0308, 0309	All goods [other than fresh or chilled] and other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any actionable claim or enforceable right in respect of such brand name has been foregone voluntarily], subject to the conditions as in the ANNEXURE I
43B	0711	Vegetables provisionally preserved, but unsuitable in that state for immediate consumption

Existing entries are substituted as above

Rate Notification contd....

Exemption to certain Goods contd... [Effective date: 1st January, 2022]

SI	Chapter	Description
49	0802	Other nuts, fresh such as Almonds, Hazelnuts or filberts (<i>Corylus</i> spp.), walnuts, Chestnuts (<i>Castanea</i> spp.), Pistachios, Macadamia nuts, Kola nuts (<i>Cola</i> spp.), Areca nuts, Pine nuts, fresh, whether or not shelled or peeled

Existing entries are substituted as above

97A	2009 89 90	Tender coconut water other than those put up in unit container and, - (a) bearing a registered brand name; or (b) bearing a brand name on which an actionable claim or enforceable right in a court of law is available [other than those where any such actionable claim or enforceable right in respect of such brand name has been voluntarily foregone, subject to the conditions as specified in the ANNEXURE I]
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New Insertion of 97A & omission of existing entry in SI No 101.

141	8807	Parts of goods of heading 8801
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Existing entries are substituted as above

Rate Notification *contd....*

SI No	Subject	Central Rate Notification	State Rate Notification	IGST Rate Notification
3	Amendment in GST notification No. 21/2018-CT(R) dt 26-07-2018 in respect of specified handicraft items: <i>Date of effect: 01-01-2022</i>	20/2021-CT(R) dt 28-12-2021	20/2021-IGST(R) dt 28-12-2021

SI	Chapter	Description	Rate
4	4414	Wooden frames for painting, photographs, mirrors etc	12%
29	741980	Art ware of brass, copper/ copper alloys, electro plated with nickel/silver	12%

Existing entries are substituted as above

SI No	Subject	Central Rate Notification	State Rate Notification	IGST Rate Notification
4	Amendment in GST rate notification No. 1/2017-CT(R) dt 28-06-2017 by superseding notification 14/2021-CT(R) dt 18-11-2021 in respect of the following good: <i>Date of effect: 01-01-2022</i>	21/2021-CT(R) dt 31-12-2021	40-FT dt 10-01-2022	21/2021-IGST(R) dt 31-12-2021

Change of Rate from 5% [Schedule-I] to 12% [Schedule-II] [Effective date: 1st January, 2022]

SI	Chapter	Description
171A1	64	Footwear of sale value not exceeding Rs.1000 per pair

Existing S.Nos. 225 and the entries relating thereto in Schedule I (Rate 5%) are omitted

Rate Notification contd....

SI No	Subject	Central Rate Notification	State Rate Notification	IGST Rate Notification
5	Amendment in GST rate notification No. 11/2017-CT (R) dt 28-06-2017 in respect of various services by superseding notification No. 15/2021-CT(R) dt 18-11 2021 : <i>Date of effect: 01-01-2022</i>	22/2021-CT(R) dt 31-12-2021	41-FT dt 10-01-2022	22/2021-IGST(R) dt 31-12-2021

SI	Heading	Description	Rate	Condition
3	9954 (Construction services)	(iii) Composite supply of works contract as defined in clause (119) of section 2 of the CGST Act, 2017, supplied to the Central Government, State Government, Union territory or a local authority [a Governmental Authority or a Government Entity] by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of- (a) a historical monument, (b) canal, dam or other irrigation works; (c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.	12%	Omitted [The struck through portion & the condition have been omitted by the amendment]

Rate Notification contd....

Summary of Changes in Rates of Services contd... [Effective date: 1st January, 2022]

SI	Heading	Description	Rate	Condition
3	9954 (Construction services)	<p>(vi) Composite supply of works contract as defined in clause (119) of section 2 of the CGST Act, 2017, other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above provided to the Central Government, State Government, Union territory or a local authority [a Governmental Authority or a Government Entity] by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of-</p> <p>(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;</p> <p>(b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or</p> <p>(c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the CGST Act, 2017</p> <p><i>Explanation – For the purposes.....</i></p>	12%	Omitted <i>[The struck through portion & the condition have been omitted by the amendment]</i>

Rate Notification *contd....*

Summary of Changes in Rates of Services *contd...* [Effective date: 1st January, 2022]

SI	Heading	Description	Rate	Condition
3	9954 (Construction services)	(vii) Composite supply of works contract as defined in clause (119) of section 2 of the CGST Act, 2017, involving predominantly earth work (that is, constituting more than 75 per cent. of the value of the works contract) provided to the Central Government, State Government, Union territory or a local authority [a Governmental Authority or a Government Entity]	5%	Omitted [The struck through portion & the condition have been omitted by the amendment]
		(ix) Composite supply of works contract as defined in clause (119) of section 2 of the CGST Act, 2017 provided by a sub-contractor to the main contractor providing services specified in item (iii) or item (vi) above to the Central Government, State Government, Union territory or a local authority [a Governmental Authority or a Government Entity]	12%	
		(x) Composite supply of works contract as defined in clause (119) of section 2 of the CGST Act, 2017 provided by a sub-contractor to the main contractor providing services specified in item (vii) above to the Central Government, State Government, Union territory or a local authority [a Governmental Authority or a Government Entity]	5%	

Circulars

SI No	Subject	Central Circular	State Circular
1	Clarification regarding GST on service supplied by restaurants through e-commerce operators (ECO)	167/23/2021 dt 17-12-2021	---

- ✓ With effect from the 01-01-2022, the ECO shall be liable to pay GST on restaurant services provided through ECO, since 'restaurant service' has been notified under section 9(5) vide notification No [17/2021-CT\(R\) dt 18-11-2021](#)
- ✓ TCS on goods or services which are not notified u/s 9(5) which are supplied through ECOs, will be paid by the ECOs in terms of section 52
- ✓ There would be no mandatory requirement of taking separate registration by ECOs for payment of tax on restaurant service under section 9(5) since ECOs are already registered as suppliers of their own goods or services
- ✓ ECOs will be liable to pay GST on any restaurant service supplied through them including by an unregistered person.
- ✓ The liability of payment of tax by ECOs as per section 9(5) shall be discharged in cash.
- ✓ The aggregate turnover of person supplying restaurant service through ECOs shall be computed as defined in section 2(6) & shall include the aggregate value of supplies made by the restaurant through ECOs. Accordingly, for threshold consideration or any other purpose in the Act, the person providing restaurant service through ECO shall account such services in his aggregate turnover

Circulars (contd...)

Clarification on supply of restaurant service through ECO contd...

- ✓ **ECOs are not the recipient of restaurant service** supplied through them. Since these are not input services to ECO, these are not to be reported as inward supply (liable to reverse charge).
- ✓ ECOs provide their own services as an electronic platform & an intermediary for which it would acquire inputs/input service on which ECOs avail ITC. The ECO charges commission/fee etc. for the services it provides. The ITC is utilised by ECO for payment of GST on services provided by ECO on its own account (say, to a restaurant). **ECO shall not be required to reverse ITC on account of restaurant services on which it pays GST in terms of section 9(5) of the Act. On restaurant service, ECO shall pay the entire GST liability in cash** i.e. no ITC could be utilised for payment of GST on restaurant service supplied through ECO
- ✓ ECO is required to pay GST on services notified under section 9(5), besides the services/other supplies made on his own account. On any supply that is not notified under section 9(5) that is supplied by a person through ECO, **the liability to pay GST continues on such supplier and ECO shall continue to pay TCS on such supplies.**
- ✓ On supplies other than restaurant services made through ECO, GST will continue to be billed, collected & deposited in the same manner as is being done at present. ECO will deposit TCS on such supplies.

Circulars (contd...)

Clarification on supply of restaurant service through ECO contd...

- ✓ Liability to raise invoice in case of supplies other than 'restaurant service' sold by a restaurant through ECO:
 - Issuance of invoice to customer, continues to lie with the respective suppliers and ECOs shall be liable only to collect TCS on such supplies.
- ✓ Liability to raise invoice in case of supplies of 'restaurant service' & other than restaurant service through ECO under the same order:
 - ECO may raise separate bill on restaurant service in such cases where ECO provides other supplies to a customer under the same order.
- ✓ **The invoice in respect of restaurant service supplied through ECO under section 9(5) will be issued by ECO.**
- ✓ Clarification on reporting of restaurant services, value & tax liability etc in the GST return:
 - The ECO may continue to pay GST by furnishing the details in GSTR 3B by way of reporting them as outward taxable supplies for the time being on services notified under section 9(5), including on restaurant service provided through ECO,
 - Besides, ECO may also, for the time being, **furnish the details of such supplies of restaurant services under section 9(5) in Table 7A(1) or Table 4A of GSTR-1**, as the case maybe, for accounting purpose.
 - Registered persons supplying restaurant services through ECOs **will report such supplies of restaurant services made through ECOs in Table 8 (Nil rated, exempted & non-GST supplies) of GSTR-1 & Table 3.1 (c) (Nil rated, exempted supplies) of GSTR-3B, for the time being.**

Rulings by WBAAR

Order No & Dt:
15/WBAAR/2021-22
dated 09.12.2021

Name of the
Applicant:
KAYAL INFRA

The applicant is stated to be involved in construction of property used for residential purpose. However the said property or the firm is not registered under any affordable housing scheme of the Central/ State Government .

Following rulings are sought:

- ✓ Whether the property currently under construction is a Residential Real Estate Project (RREP) as defined under Notf. No. 11/2017-CT (R) dt 28.06.2017 amended vide Notf. No. 03/2019-CT (R) dt 29.03.2019.
- ✓ Whether the said property under construction is an affordable residential apartment as defined under the aforesaid notification.
- ✓ Whether the GST rate to be charged from customers for sale of flats in the said property should be 1.5% (0.75% CGST and 0.75% SGST), as further reduced by 1/3 rd to factor in the value of land or it should be 7.5% (3.75% CGST and 3.75% SGST), as further reduced by 1/3rd to factor in the value of land.

Rulings by WBAAR (contd...)

RULING:

- ✓ The project referred to in the instant application which is currently under construction is a Residential Real Estate Project (RREP) as defined under N No. 11/2017-CT (R) dt 28.06.2017 & amended vide N No. 03/2019-CT (R) dt 29.03.2019 [corresponding WB State N No.1135-F.T. dt 28.06.2019 as amended vide N No. 552-F.T. dt 29.03.2019]
- ✓ The apartments in the said project qualify as affordable residential apartment as defined under the aforesaid notification.
- ✓ GST rate to be charged from customers for sale of flats in the said project, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier, shall be 1.5% (0.75% CGST and 0.75% SGST), as further reduced by 1/3 rd to factor in the value of land.

Order No & Dt:

15/WBAAR/2021-22

dated 09.12.2021

Name of the

Applicant:

KAYAL INFRA

Rulings by WBAAR (contd...)

Order No & Dt:

16/WBAAR/2021-22
dated 31.12.2021

Name of the

Applicant:

**M/s. SHIV FLOUR
MILL**

❑ The applicant has entered into an agreement with the District Controller of Food & Supplies, Kolkata, Govt of WB for supply of fortified Wholemeal Atta. According to the said agreement, the State Govt. (Food & Supplies Department) sends the whole, unpolished food grain to the applicant for crushing and processing it into flour. The applicant returns the flour (atta) packed in the manner as the State Govt. requires by fortifying the crushed grain with the vitamin which is then distributed through the Public Distribution System (PDS) by the State Govt. (Foods & Supplies Department)

Following rulings are sought:

- ✓ Whether the instant composite supply of service by way of milling of food grains into flour to Food & Supplies Department, Govt. of WB for distribution of such flour under PDS is eligible for exemption under entry No. 3A of Notf. No. 12/2017-CT (R) dt 28.06.2017?

- ✓ What shall be rate of GST on such milling, if it does not fall under entry No. 3A?

Rulings by WBAAR (contd...)

RULING:

✓ In the instant case, value of supply shall be the consideration in money & shall also include all the components towards non-cash consideration, as discussed. This composite supply of services by way of milling of food grains into flour (atta) to Food & Supplies Department, for distribution of such flour under PDS is eligible for exemption under entry sl no. 3A of the Notf. No. 12/2017-CT (R) dt 28.06.2017 only when the value of goods involved in such composite supply does not exceed 25% of the value of supply.

✓ If the value of goods involved in such composite supply exceeds 25% of the value of supply, the supply shall attract tax @ 5% (CGST @ 2.5% + WBGST @ 2.5%) vide entry serial No. 26 of the Notf. No. 12/2017-CT (R) dt 28.06.2017 [corresponding State Tax Notf. No. 1135-FT dt 28.06.2017].

Order No & Dt:

16/WBAAR/2021-22

dated 31.12.2021

Name of the

Applicant:

M/s. SHIV FLOUR MILL

Rulings by WBAAR (contd...)

□ The applicant entered into a performance based contract for water loss management with Kolkata Municipal Corporation (KMC) which includes construction of water distribution networks and operation & maintenance. The contract was awarded for a single lump sum amount. However, for the contract signing purposes, KMC shared two separate contracts for DB phase and O&M phase along with the Letter of Award.

Following rulings are sought:

- ✓ Whether based on the facts of the agreement entered between the applicant and KMC, Establishment of District Meter Areas, Construction Works and Operation & Maintenance (hereinafter referred to as “DB” and “O&M” respectively) be considered as divisible supplies under the GST Laws?
- ✓ If the answer to (1) is not affirmative, whether the agreement entered between the applicant and KMC be treated as single contract for composite supply of DB and O&M and what would be its taxability under GST regime?
- ✓ If the answer to (1) is affirmative (i.e. DB and O&M will be considered as divisible), would O&M be regarded as pure services contract falling under clause (b) of para 5 of Schedule II to The CGST Act, 2017? Accordingly, input tax credit would become the cost in the hands of the applicant in connection with the O&M contract. Thus recoverable from client under change in Law clause.

Order No & Dt:

17/WBAAR/2021-22
dated 31.12.2021

Name of the
Applicant:

SUEZ INDIA
PRIVATE LIMITED

Rulings by WBAAR (contd...)

Order No & Dt:
17/WBAAR/2021-22
dated 31.12.2021

Name of the
Applicant:
SUEZ INDIA PRIVATE
LIMITED

RULING:

✓ The contract for water loss management made by the applicant with Kolkata Municipal Corporation which includes construction of water distribution networks and operation & maintenance shall be treated as an indivisible single contract and qualifies for works contract as defined under section 2(119) of the GST Act.

The instant composite supply of works contract gets covered under entry sl no 3(iii) of the Notf. No. 20/2017-CT (R) dt 22.08.2017 [corresponding State Notf. No. 1497 F.T. dt 22.08.2017] & therefore shall attract tax @ 12% (Central Tax @ 6% + State Tax @ 6%) w.e.f. 22.08.2017. From 01.07.2017 to 21.08.2017, the supply is taxable @ 18% (Central Tax @ 9% + State Tax @ 9%) vide entry sl no 3(ii) of the Notf. No. 11/2017-CT (R) dt 28.06.2017 [corresponding State Notf. No. 1135 F.T. dt 28.06.2017].

Rulings by WBAAR (contd...)

Order No & Dt:
18/WBAAR/2021-22
dated 31.12.2021

Name of the
Applicant:
MAA LAXMI
ENTERPRISE

□ The applicant has entered into an agreement with the District Controller of Food & Supplies, Kolkata, Govt of WB for supply of fortified Wholemeal Atta. According to the said agreement, the State Govt. (Food & Supplies Department) sends the whole, unpolished food grain to the applicant for crushing and processing it into flour. The applicant returns the flour(atta) packed in the manner as the State Govt. requires by fortifying the crushed grain with the vitamin which is then distributed through the Public Distribution System (PDS) by the State Govt. (Foods & Supplies Department)

Following rulings are sought:

- ✓ Whether the instant composite supply of service by way of milling of food grains into flour to Food & Supplies Department, Govt. of WB for distribution of such flour under PDS is eligible for exemption under entry No. 3A of Notf. No. 12/2017-CT (R) dt 28.06.2017?
- ✓ What shall be rate of GST on such milling, if it does not fall under entry No. 3A?

Rulings by WBAAR (contd...)

Order No & Dt:
18/WBAAR/2021-22
dated 31.12.2021

Name of the
Applicant:
MAA LAXMI
ENTERPRISE

RULING:

- ✓ In the instant case, value of supply shall be the consideration in money & shall also include all the components towards non-cash consideration, as discussed. This composite supply of services by way of milling of food grains into flour (atta) to Food & Supplies Department, for distribution of such flour under PDS is eligible for exemption under entry sl no. 3A of the Notf. No. 12/2017-CT (R) dt 28.06.2017 only when the value of goods involved in such composite supply does not exceed 25% of the value of supply.
- ✓ If the value of goods involved in such composite supply exceeds 25% of the value of supply, the supply shall attract tax @ 5% (CGST @ 2.5% + WBGST @ 2.5%) vide entry serial No. 26 of the Notf. No. 12/2017-CT (R) dt 28.06.2017 [corresponding State Tax Notf. No. 1135-FT dt 28.06.2017].

Court Judgements

HIGH COURT OF BOMBAY: Meritas Hotels (P.) Ltd. V. State of Maharashtra WRIT PETITION NO. 7793 OF 2021, DECEMBER 3, 2021

Facts:

- ✓ The petitioner challenges the action of the respondent in refusing to accept and entertain the appeal preferred by the petitioner against the impugned assessment order dated April 20, 2019 passed under Section 62 of the MGST Act, 2017.
- ✓ The physical true copy of the assessment order dated April 20, 2019 was not served on the petitioner nor was the same uploaded on the GSTN portal. The scanned copy of the impugned assessment order dated April, 20, 2019 was sent by email dated April 20, 2019 to the General Manager of the petitioner company. This email communication remained to be reported by the General Manager to the management of the petitioner company.
- ✓ Initially the appeal was tried to be filed manually by the petitioner on November 20, 2019 and thereafter on January 10, 2020 through the electronic mode. Appeal filed after prescribed time-limit and after condonable period was not accepted

Court Judgements (contd.)

Facts (contd):

- It is after the attachment of the bank account of the petitioner on July 1, 2019 upon initiation of recovery proceedings against the petitioner that an application for certified true copy came to be made on November 5, 2019. The certified true copy was made available on November 6, 2019.
- The appeal under Section 107(1) of the said Act was attempted to be filed in the physical form on November 20, 2019 which the respondent no.5 refused to accept or even acknowledge the receipt thereof. The impugned assessment order was uploaded on GSTN portal only on January 8, 2020 whereupon the petitioner tried to file online appeal on the GSTN portal on January 10, 2020.

Judgement :

- The point that arises for consideration in the present petition is, whether in the facts of the present case, the period of limitation for the purpose of filing an appeal under Section 107(1) of the said Act would commence from the date when the impugned assessment order is uploaded on the GSTN portal or from the date of service upon the petitioner of the scanned copy of the impugned assessment order by email on April 20, 2019.

Court Judgements (contd.)

Judgement (contd) :

- A reading of Section 107(1) of the said Act indicates that from the date of communication of the impugned assessment order passed by the adjudicating authority, the appeal to the appellate authority has to be filed within three months. In the present case, the impugned assessment order passed by the respondent no.4 was communicated by email to the General Manager of the petitioner on April 20, 2019.
- Failure on the part of the General Manager to inform the petitioner regarding receipt of the impugned assessment order will not have the effect of extending the period of limitation prescribed under Section 107(1) of the said Act. The period of three months prescribed will commence from the date on which the said decision or order is communicated to the petitioner
- It was incumbent upon the petitioner to file the appeal within the statutory period of limitation prescribed by sub-section (1) & sub-section (4) of Section 107 of the said Act, to be reckoned taking into consideration the date of communication of impugned assessment order as April 20, 2019, which the petitioner failed to do. Consequently, we find no merit in the writ petition. The writ petition is dismissed with no order as to costs.



New Functionalities in GSTN Portal

For details:-<https://www.gst.gov.in/newsandupdates>

REGISTRATION

❖ Defects Fixed On GST Portal for Taxpayers

Taxpayers are able to update mobile number and e mail Id in Promoter/Partner section with OTP verification through non- core amendment.

RETURN

❖ Defects Fixed On GST Portal for Taxpayers

- While filing 'TDS and TCS Credit Received Form' taxpayers were getting duplicate entries. This issue has now been fixed.
- The issue of inability to download Form GSTR-4A excel file for FY 19-20 by the taxpayers has now been fixed.

❖ Allowing entry of suspended GSTINs as recipients in Form GSTR 1/IFF (B2B Tables)

The system used to return an error message if a supplier entered GSTIN of a suspended taxpayer in the B2B, B2BA, CDNR and CDNRA tables of Form GSTR-1/IFF. This validation has now been removed and taxpayer would be **able to enter suspended GSTIN as a recipient of taxable supplies** in respective tables of Form GSTR-1/IFF.

New Functionalities in GSTN Portal (*contd...*)

For details:-<https://www.gst.gov.in/newsandupdates>

RETURN *contd..*

❖ Changes made in Form GSTR-1/IFF

In order to **improve the taxpayer experience**, some enhancements have been done in GSTR-1/IFF user interface where taxpayers are provided with-

- a reorganized dashboard
- easy amendment and addition of records
- Document counts on tiles with colour coding
- Increase in number of records per page
- Recipient wise count of records

For more details, please click <https://www.gst.gov.in/newsandupdates/read/513>

New Functionalities in GSTN Portal (*contd...*)

For details:-<https://www.gst.gov.in/newsandupdates>

RETURN *contd..*

❖ Creation of My Masters facility in Form GSTR-1/IFF

- 'My Master' facility has been created to help the taxpayer in making **data entries faster & to reduce errors** while creating their Statement of outward supplies in Form GSTR-1. Here taxpayers can save details of their recipients & suppliers & the HSN of the commodities they deal in for following two masters on the portal & in the offline tool:
 - ❖ Product Master
 - ❖ Supplier/Recipient Master
- Whenever a taxpayer enters data in the related field of GSTR-1 for which master exists, Offline tool/portal will fetch the details from the Master and will show the probable values in the drop down based on the key words entered. By selecting the dropdown, all the corresponding fields of that row can be filled up automatically.
- Taxpayers can also upload offline master to update their online master on GST common portal and similarly download the online master and import it in the offline tool to update his offline master.

New Functionalities in GSTN Portal (*contd...*)

For details:-<https://www.gst.gov.in/newsandupdates>

APPEALS

❖ Integration of Appeal Module with LUT Module

A functionality has been deployed on the portal for tax officials to give effect to orders passed by the Appellate Authority against orders passed in respect of LUTs filed by taxpayers in Form GST-RFD-11.

❖ Integration of Appeal Module with Enforcement Module

The taxpayers will now be able to file an online appeal against orders passed by an Enforcement Officer.

❖ Integration of Appeal Module with Assessment Module

The taxpayers will now be able to file an online appeal against orders passed by a Tax Officer.

New Functionalities in GSTN Portal (contd...)

For details:-<https://www.gst.gov.in/newsandupdates>

BACK OFFICE

❖ Creation of new role in the system to view IP Audit Trail records

Earlier all Tax Officers, assigned the role of 'View All India Records', were able to view IP audit trail records of taxpayers. Now a new role 'View IP Details' has been created in the system and only the officers assigned this role would get access to this functionality. The officers with the role of 'View All India Records' will not be able to view IP Audit Trail records.

❖ Site visit enabled for cancelled taxpayers

The tax-officer would now be able to conduct field visit for cancelled taxpayers and update the details in the field visit Mobile App

❖ Alert triggered to Tax officers whenever a Taxpayer opts in/out of Composition Scheme

Till now the Tax Officer was alerted only whenever a taxpayer opted out of the Composition Scheme. Now the Tax Officer would receive an **alert whenever a taxpayer opts in or opts out of Composition Scheme.**

New Functionalities in GSTN Portal (*contd...*)

For details:-<https://www.gst.gov.in/newsandupdates>

BACK OFFICE *contd..*

❖ Implementation of Form GST DRC-01A in Enforcement Module

- Form DRC-01A (Intimation of Liability before SCN), has been implemented in the Enforcement module *notified vide Notification No. 49/2019 Dt. 9th October, 2019.*
- The Enforcement Officers have been provided:
 - A new drop down under 'Notices' tab "Intimate Liability before SCN" (Part-A of DRC-01A).
 - A new facility to view the taxpayer's reply in Reply folder (Part-B of DRC-01 A) & to file a counter reply.
 - After issuance of Part-A of DRC-01A, if the Taxpayer makes payment through Form GST DRC-03, the enforcement officer will be able to view the payment details, issue an acknowledgement in Form GST DRC-04 and conclude the proceedings by issuing Form GST DRC-05.
- If an SCN is already issued in an enforcement case and officer attempts to issue Form DRC-01A, system will return a message: "SCN is already issued in this case. You can't issue DRC-01A at this stage".

New Functionalities in GSTN Portal (*contd...*)

For details:-<https://www.gst.gov.in/newsandupdates>

BACK OFFICE *contd..*

❖ Integration of Appeal Module with Enforcement Module

- The tax officers will now be able to file an online appeal against orders passed by an Enforcement Officer.
- The Enforcement Officers would be able to give effect to orders passed against the appeals filed.

❖ Integration of Appeal Module with Assesment Module

- The tax officers will now be able to file an online appeal against orders passed by an Assessing Officer.
- The Jurisdictional Officers would be able to give effect to orders passed against the appeals filed.

Thank
you



Image courtesy:
<https://www.google.co.in/imghp?hl=en&tab=ri&ogbl>

Disclaimer:

This presentation is clarificatory in nature. It is not to be construed as a legal explanation or interpretation of the Acts and the Rules.