



**SUPPLEMENTARY_PAPER 19_FOR DEC 2024
TERM OF EXAMINATION_SYLLABUS 2022**

Indirect Tax Laws and Practice

**STATUTORY UPDATES
FOR
DECEMBER 2024 EXAMINATION**

(Amendments incorporated from 1st December 2023 to 31st May 2024)



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SECTION- A

GOODS AND SERVICES TAX (GST)

ACT & RULES



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REGISTRATION UNDER GST

- 1. Risk-based biometric aadhaar authentication of registration applicants – Pilot project in Gujarat extended to Puducherry and Andhra Pradesh [vide Notification No. 54/2023 CT dated 17.11.2023]:**

In order to improve the registration process, biometric based aadhaar authentication of the highrisk applicants who opt for authentication of Aadhaar number was introduced on a pilot basis in the State of Gujarat. An applicant who has opted for authentication of Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, shall be followed by biometric-based Aadhaar authentication and taking photograph:

- (i) of the applicant where the applicant is an individual or
- (ii) of such individuals where the applicant is not an individual,
along with the verification of the original copy of the documents uploaded with the application in Form GST REG-01 at one of the notified Facilitation Centres.

The application shall be deemed to be complete only after completion of the process laid down hereunder. An acknowledgement shall be issued to the applicant only after completion of biometric-based authentication. The above biometric based Aadhaar authentication of the high-risk applicants who opt for authentication of Aadhaar number has been extended to the States of Puducherry and Andhra Pradesh.



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INSPECTION, SEARCH, SEIZURE, ARREST AND PROSECUTION

- 1. Judgment of the Hon'ble Supreme Court in the case of Northern Operating Systems Private Limited (NOS) not to be made applicable to all cases universally (vide CBIC Instruction No. 05/2023-GST dt. 13.12.2023):**

Subsequent to the judgment of the Hon'ble Supreme Court's judgment dated 19.05.2022 in the case of CC, CE and ST, Bangalore (Adj.) etc. Vs. Northern Operating Systems Private Limited (NOS), proceedings have been initiated for the alleged evasion of GST on the issue of secondment under Section 74(1) of the CGST Act, 2017. It was held in the said case that the secondment of employees by the overseas group company to NOS was a taxable service of 'manpower supply' and Service Tax was applicable on the same. It is noted that secondment as a practice is not restricted to Service Tax and the issue of taxability on secondment shall arise in GST also. However, there may be multiple types of arrangements in relation to secondment of employees of overseas group company in the Indian entity. In each arrangement, the tax implications may be different, depending upon the specific nature of the contract and other terms and conditions attached to it. Therefore, the decision of the Hon'ble Supreme Court in the NOS judgment should not be applied mechanically in all the cases.

The instruction has been issued to inform that section 74(1) cannot be invoked merely on account of non-payment of GST, without specific element of fraud or willful misstatement or suppression of facts to evade tax. Therefore, only in the cases where the investigation indicates that there is material evidence of fraud or willful misstatement or suppression of fact to evade tax on the part of the taxpayer, provisions of section 74(1) of CGST Act may be invoked for issuance of show cause notice, and such evidence should also be made a part of the show cause notice.

- 2. Consent based sharing of information furnished by taxable person {vide NOTIFICATION No. 06/2024 – Central Tax dated 22nd February 2024):**

the Central Government, on the recommendations of the Council, hereby notifies “**Public Tech Platform for Frictionless Credit**” as the system with which information may be shared by the common portal based on consent under subsection (2) of Section 158A of the Central Goods and Services Tax Act, 2017 (12 of 2017).

Explanation.— For the purpose of this notification, “Public Tech Platform for Frictionless Credit” means an enterprise-grade open architecture information technology platform, conceptualised by the Reserve Bank of India as part of its



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“Statement on Developmental and Regulatory Policies” dated the 10th August, 2023 and developed by its wholly owned subsidiary, Reserve Bank Innovation Hub, for the operations of a large ecosystem of credit, to ensure access of information from various data sources digitally and where the financial service providers and multiple data service providers converge on the platform using standard and protocol driven architecture, open and shared Application Programming Interface (API) framework.



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ASSESSMENT AND APPEALS

- 1. Relaxation for filing appeals against demand orders passed till 31.03.2023 under Section 73 or 74 of the CGST Act, 2017 (vide Notification No. 53/2023-CT dt. 02.11.2023):**

Taxable persons who could not file an appeal against the order passed by the proper officer on or before 31.03.2023 under section 73 or 74 within 3 months specified in section 107(1) or the extended period of 1 month as specified under section 107(4) of the CGST Act, and whose appeal against the said order was rejected solely on the grounds that the said appeal was not filed within the time period specified in section 107, shall file an appeal against the said order in FORM GST APL-01 in accordance with section 107(1) on or before 31st day of January 2024.

Provided that an appeal against the said order filed in accordance with the provisions of section 107 of the Act, and pending before the Appellate Authority before the issuance of this notification, shall be deemed to have been filed in accordance with this notification, if the appellant has paid

- (a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and
- (b) a sum equal to 12.5% of the remaining amount of tax in dispute arising from the said order, subject to a maximum of Rs. 25 Crore rupees, in relation to which the appeal has been filed, out of which at least 20% should have been paid by debiting from the Electronic Cash Ledger.

No refund shall be granted on account of this notification till the disposal of the appeal, in respect of any amount paid by the appellant, either on their own or on the directions of any authority (or) court, in excess of the amount paid by the appellant as specified above before the issuance of this notification, for filing an appeal section 107(1).

No appeal under this notification shall be admissible in respect of a demand not involving tax.

Furthermore, the provisions of Chapter XIII 'Appeals and Revision' of the CGST Rules, 2017 shall mutatis mutandis, apply to an appeal filed under this notification.



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- 2. Serving of the summary of notice in FORM GST DRC-01 and uploading of summary of order in FORM GST DRC-07 electronically on the portal by the proper officer (vide CBIC Instruction No. 04/2023-GST dt. 23.11.2023):**

Non-issuance of the summary of such notices/ orders electronically on the portal is in clear violation of the explicit provisions of CGST Rules. Further, to keep track of the proceedings and consequential action in respect of recovery, appeal etc, subsequent to issuance of notices/orders, the proper officers have been directed:

- to serve summary of the notice required to be issued under sections 52, 73, 74, 122, 123, 124, 125, 127, 129 and 130 of the CGST Act, 2017 in Form DRC-01 as required under rule 142(1), electronically on the common portal, and
- to issue summary of the orders required to be issued in sections 52, 62, 63, 64, 73, 74, 75, 76, 122, 123, 124, 125, 127, 129 and 130 of the CGST Act, 2017 in Form DRC-07 as prescribed under rule 142(5), electronically on the common portal.



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CUSTOMS LAW



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INDIAN CUSTOMS TRADE FACILITATION MEASURES

1. **Phased implementation of Electronic Cash Ledger (ECL) in Customs - Section 51A of the Customs Act, 1962 [vide Notification No 05-06/2024 Cus (NT) both dated 19.01.2024]:**

The Electronic Cash Ledger (ECL) functionality is covered in section 51A of the Customs Act, 1962. It provides enabling provision whereby the importer, exporter or any person liable to pay duty, fees etc., under the Customs Act, 1962 has to make a non-interest-bearing deposit with the Government for the purpose of payment. Section 51A(4) provides that CBIC may by notification exempt certain deposits to which provisions of the Electronic Cash Ledger will not be applicable. Accordingly, CBIC has exempted following deposits from all of the provisions of section 51A of the Customs Act till 29.02.2024-

- (i) with respect to goods imported or exported in customs stations where customs automated system is not in place;
- (ii) with respect to goods imported or exported at international courier terminals (In next phase, from 01.03.2024, the exemptions cited above would continue, except for the deposits with respect to goods imported or exported at International Courier Terminals. In other words, payments relating to Courier shipments would be required to be done through ECL from 01.03.2024 onwards.);
- (iii) with respect to accompanied baggage;
- (iv) other than those used for making electronic payment of:
 - a. any duty of customs, including cesses and surcharges levied as duties of customs;
 - b. Integrated Goods and Services Tax (IGST);
 - c. GST Compensation Cess;
 - d. interest, penalty, fees or any other amount payable under the Act, or Customs Tariff Act, 1975.

The phased introduction of ECL is aimed at leveraging technology and reforming the payment process, inter-alia related to clearance of goods as the deposit may be held in ECL by the trade for making subsequent transaction-wise payments of various types. This has potential to easing compliance in numerous ways.



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EXPORT PROMOTION SCHEMES
UNDER FOREIGN TRADE POLICY
(FTP – 2023)



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IMPORT POLICY FOR SECONDHAND GOODS:

1. Import policy of used IT assets (laptop, desktop, monitor, printer) imported from SEZ to DTA notified [vide Notification No. 56/2023 dated 01.01.2024]:

S. No	Second Hand Capital Goods	Import Policy	Conditions, if any	S. No	Other than Capital Goods	Import Policy	Conditions, if any
(a)	(i) Desktop Computers; (ii) Refurbished/reconditioned Spares of re-furbished parts of Personal Computers/Laptops; (iii) Air Conditioners; (iv) Diesel generating sets	Restricted	Importable against Authorisation	(a)	Second Hand Goods other than capital goods	Restricted	Importable against Authorisation
(b)	All electronics and IT Goods notified under the Electronics and IT Goods (Requirements of Compulsory Registration) Order, 2012 as amended from time to time	Restricted	(i) Importable against an authorization subject to conditions laid down under Electronics and IT Goods (Requirements of Compulsory Registration) Order, 2012 as amended from time to time. (ii) Import of unregistered/noncompliant notified products as in CRO, 2012 as amended from time to time is "Prohibited"	(b)	Second Hand Goods imported for the purpose of repair/refurbishing/reconditioning or reengineering	Free	Subject to condition that waste generated during the repair /refurbishing of imported items is treated as per domestic Laws/Rules/Orders/Regulations/technical specifications/ Environmental/safety and health norms and the imported item is reexported back as per the Customs Notification.
(c)	Refurbished / reconditioned spares of Capital Goods	Free	Subject to production of Chartered Engineer certificate to the effect that such spares have at least 80% residual life of original spare				
(d)	All other second-hand capital goods {other than (a) (b) & (c) above}	Free					

Import policy of used IT assets (laptop, desktop, monitor, printer) imported from SEZ to DTA, subject to fulfilment of specified conditions, has been notified in the FTP. The said import is restricted and requires authorization.



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2. **Merchant trading carried out within one specific foreign country permitted** [vide Notification No. 62/2023 dated 20.02.2024]:

Existing Para	Revised Para
merchanting trade involving shipment of goods from one foreign country to another foreign country without touching Indian ports, involving an Indian intermediary was allowed, subject to RBI guidelines, except for goods in the CITES and SCOMET lists	Merchant trade involving shipment of goods from one foreign country to another foreign country without touching Indian ports, or shipment of goods within one specific foreign country, involving an Indian intermediary is allowed subject to compliance with RBI guidelines, except for goods in the CITES, or SCOMET.

Effect of the Notification: Merchanting Trade carried out within one specific foreign country is permitted subject to compliance with RBI guidelines, except for goods listed in the CITES Appendices, or under SCOMET.

Note: CITES stands for the Convention on International Trade in Endangered Species of Wild Fauna and Flora. It's an international agreement between governments to regulate or ban international trade in species that are threatened with extinction. The goal of CITES is to ensure that the trade in wild animals and plants doesn't threaten the survival of the species.

3. **Enabling provisions for import of inputs that are subjected to mandatory Quality Control Orders (QCOs) by Advance Authorisation holders, EOU and SEZ** [vide Notification No. 71/2023 dated 11.03.2024]:

Quality Control Orders (QCOs) are regulatory mandates issued by the Indian government to ensure that products meet specific quality standards. These orders, typically issued by the Bureau of Indian Standards (BIS) under the BIS Act, 2016, apply to a wide range of products to protect consumer safety, health, and environment. Domestic manufacturers as well as importers need to ensure that products covered by QCOs must not be manufactured/imported without compliance with specific standards.

Enabling provisions have been incorporated in FTP for exempting inputs imported by Advance Authorisation holders, EOUs and SEZ from mandatory Quality Control Orders (QCOs).

However, import of inputs under Advance Authorisation/EOU/SEZ without compliance to the mandatory QCOs, shall be subjected to the following conditions:



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(i) For Advance Authorisation:

- (a) Import of inputs under the Advance authorization without compliance to the mandatory QCOs shall be with pre import condition. Such inputs shall be utilised in the manufacturing of the export product (making normal allowance for wastage) and shall be exported under the same authorization. Unutilized imports shall not be transferred to DTA, even after regularization of default in fulfilment of export obligation. It shall be destroyed in the presence of jurisdictional GST/Customs authorities or may be reexported. In addition, such unutilised imports shall be liable to payment of effective duty along with interest to customs authorities and specified composition fee to DGFT.
- (b) Said Exemption shall be specifically endorsed in the advance authorization, upon the request of the authorization holder.
- (c) The exemption from QCO will be available for physical exports only and such exemption will not be allowed for deemed exports for Advance Authorisation Holders.
- (d) Import of Inputs without compliance to the mandatory QCOs under DFIA scheme is not allowed.

(ii) For EOUs

Exemption from applicability of mandatory QCOs issued under the BIS Act, 2016, shall be provided to EOU on import of inputs which are required for export production. No DTA clearance of such inputs or goods manufactured made out of such inputs, are allowed. An undertaking to that effect will be submitted to the Customs authorities by the EOU at the time of importation and a copy of the same shall also be submitted to the Development Commissioner concerned. The exemption from QCO will be available for physical exports only and such exemption will not be allowed for deemed exports.

(iii) For SEZ

Exemption from applicability of mandatory QCOs issued under the BIS Act, 2016, shall be provided to SEZ on import of inputs which are required for export production. No DTA clearance of such inputs or goods manufactured made out of such inputs, are allowed. An undertaking to that effect will be submitted to the concerned Development Commissioner of the SEZ by the SEZ Unit at the time of importation. The exemption from QCO will be available for physical exports only.

Above exemption shall be applicable only for the list of notified Ministries/Departments whose notifications on mandatory QCOs are exempted by the DGFT for goods to be utilised/ consumed in manufacture of export products.



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4. **Amendment in Ineligible categories under the RoDTEP Scheme for claiming benefit: The following categories of exports/exporters which shall not be eligible for rebate under the RoDTEP Scheme [vide Notification No. 70/2023 dated 08.03.2024]:**
- (i) Exports of imported goods as per para 2.46 of FTP i.e. Import for Export;
 - (ii) Exports through trans-shipments, meaning thereby exports originating in third country but trans-shipped through India;
 - (iii) Export products which are subject to minimum export price or export duty;
 - (iv) Products which are restricted for exports under Schedule-2 of Export Policy in ITC (HS);
 - (v) Products which are prohibited for exports under Schedule-2 of Export Policy in ITC (HS);
 - (vi) Deemed Exports;
 - (vii) Supplies of products manufactured by DTA units to SEZ/FTWZ units;
 - (viii) Products manufactured in EHTP and BTP (Omitted- vide Notification No. 70/2023 dated 08.03.2024);
 - (ix) Products manufactured partly or wholly in a warehouse under section 65 of Customs Act, 1962;
 - (x) *Products manufactured or exported in discharge of export obligation against advance authorisation or Duty Free Import Authorization (DFIA) or Special Advance Authorisation issued under a duty exemption scheme of relevant Foreign Trade Policy;
 - (xi) *Products manufactured or exported by a unit licensed as 100% Export Oriented Unit (EOU) in terms of the provisions of the Foreign Trade Policy;
 - (xii) *Products manufactured or exported by any of the units situated in Free Trade Zone (FTZ), Export Processing Zones (EPZ) or Special Economic Zone (SEZ);
 - (xiii) Products manufactured or exported availing the benefit of Notification No 32/1997-Customs dated 01.04.2017 (i.e. jobbing transactions);
 - (xiv) Exports for which electronic documentation in ICEGATE EDI has not been generated or Exports from Non-EDI port; and
 - (xv) Goods which have been taken into use after manufacture (i.e. second-hand goods); [***As per para 4.55B of the FTP (inserted vide DGFT Notification No. 19/2015-20 dated 17.08.2021), the inclusion of exports made by categories mentioned in Sr. No. X, XI and XII above i.e. the exporters under the categories of SEZ, EOU, Advance Authorisation etc. and the RoDTEP rates for export items under such categories would be decided later based on the recommendations of the RoDTEP Committee.] – (omitted – vide Notification No. 70/2023 dated 08.03.2024)



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Note: Effect of this Notification:

- i. RoDTEP is being extended to AA holders (except Deemed Exports) & EOU units from 11.03.2024 till 30.09.2024 as per Appendix 4RE.
- ii. Extension of RoDTEP to SEZ units as per Appendix 4RE will take place on IT integration of SEZs with Customs Automated System (ICEGATE).
- iii. RoDTEP Scheme extended earlier in September 2023 till 30.06.2024, is being further extended for exports till 30.09.2024.