## Paper 18 – Indirect Tax Laws and Practice

# Goods and Services Tax

# Scope of Supply

The following amendments have been made by the Finance Act, 2021:
A new clause (aa) has been inserted in Section 7(1) of CGST Act, 2017. Accordingly, para 7 of Schedule II to the CGST Act, 2017 has been omitted retrospectively with effect from 1-7-2017.

**Scope of supply (Section 7 of CGST Act, 2017)**

| As per Section 7(1) Supply includes | As per Section 7(2) Supply excludes |
|---|---|
| (*a*) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.<br><br>**(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice versa, for cash, deferred payment or other valuable consideration (w.r.e.f. 1-7-2017, inserted in the Finance Act, 2021)**<br><br>(*b*) import of services for a consideration whether or not in the course or furtherance of business; ('and' w.e.f. 29th Aug., 2018 inserted retrospectively from 1.7.2017)<br><br>(*c*) the activities specified in Schedule I, made or agreed to be made without a consideration; (w.e.f. 29th Aug., 2018 'and' omitted retrospectively from 1.7.2017)<br><br>(1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II." | (a) activities or transactions specified in Schedule III; or<br>(b) such activities or transactions undertaken by the Central Government, a State Government or (Union territory w.e.f. 27th June, 2018) any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council,<br>Note: Activities specified in Schedule III (i.e. Negative list):<br>1. Services by employee to employer in the course of or in relation to his employment.<br>2. Services by court or Tribunal<br>3. Services by Member of Parliament and others<br>4. Services by funeral, burial etc.<br>5. Sale of land/Building<br>6. Actionable claim other than lottery, betting and gambling.<br>w.e.f. 1-2-2019:<br>1. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.<br>2. (a) Supply of warehoused goods to any person before clearance for home consumption;<br>(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.";<br>*Explanation 1*: For the purpose of paragraph 2, the term "court" includes District Court, High Court and Supreme Court.<br>*Explanation 2*: For the purpose of this paragraph, the expression "warehoused goods" shall have the same meaning as assigned to it in the Customs Act, 1962 |

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|---|---|
| Amendment of Schedule II of CGST Act, 2017:<br><br>**(Activities or transactions to be treated as supply of goods or supply of services)** | Consequent to the amendment in section 7 of the CGST Act, paragraph 7 of Schedule II to the CGST Act has been omitted retrospectively, with effect from the 1st July, 2017. |

# Composition Levy

The registered person shall not be eligible to opt for composition levy under clause (e) of sub-section (1) of section 10 of the said Act if such person is a manufacturer of the following goods:

| S. No. | Tariff item, sub-heading, or heading or Chapter | Description |
|---|---|---|
| 1 | 2105 00 00  | Ice cream and other edible ice, whether or not containing cocoa. |
| 2 | 2106 90 20   | Pan masala |
| 3 | 24   | All goods, i.e. Tobacco and manufactured tobacco substitutes |
| 4 | 2202 10 10  | w.e.f. 1-10-2019<br>AERATED WATER |
| 5 | 6815 | w.e.f. 1-4-2022 NT No. 14/2019 dated 7.3.2019<br>Fly ash bricks or fly ash aggregate with 90% or fly ash content; Fly ash blocks |

| S. No. | Tariff item, sub-heading, or heading or Chapter | Description |
|---|---|---|
| |  | |
| 6 | 6901 00 10  | w.e.f. 1-4-2022 NT No. 14/2019 dated 7.3.2019 Bricks of fossil meals or similar siliceous earths |
| 7 | 6904 10 00  | w.e.f. 1-4-2022 NT No. 14/2019 dated 7.3.2019 Building Bricks |
| 8 | 6905 10 00  | w.e.f. 1-4-2022 NT No. 14/2019 dated 7.3.2019 Earthen or roofing tiles |

a registered person making **supplies** of the above goods is also not eligible to pay concessional tax under the said notification (i.e. in the case of **Gulab Singh Chauhan** (GST AAR Madhya Pradesh) held that preparation of Gutka in the Pan Shop is akin to manufacture on account of the process of preparation being that of mixing of different bought out ingredients and the resultant product having a distinct name and use. Thus the preparation of Gutka at the Pan Shop for sale is covered in the Second Proviso of Notification No. 14/2019 CT In the Table given in Notification No. 14/2019 CT both Pan Masala and goods covered under Chapter 24 are listed as goods for which composition cannot be obtained).

# Exemptions

**The following services are exempted from GST:**

| S.No. | Exempted services<br>Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017) |
|---|---|
| **3** | Pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority or **(a Governmental authority or Govt. Entity – Omitted w.e.f. 1-1-2022 vide Notification No. 16/2021 CT (R) dated 18.11.2021)** by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution.<br>**"Government Entity"** means an authority or a board or any other body including a society, trust, corporation,—<br>(i) set up by an Act of Parliament or State Legislature; or<br>(ii) established by any Government, with 90% or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority". |
| **3A** | w.e.f. 25.1.2018, Composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent. of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority or **(a Governmental authority or a Government Entity – Omitted w.e.f. 1-1-2022 vide Notification No. 16/2021 CT (R) dated 18.11.2021)** by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution |
| **15** | Transport of passengers, with or without accompanied belongings, by—<br>(a) air, embarking from or terminating in an airport located in the state of—<br>(i) Arunachal Pradesh,<br>(ii) Assam,<br>(iii) Manipur,<br>(iv) Meghalaya,<br>(v) Mizoram,<br>(vi) Nagaland,<br>(vii) Sikkim, or<br>(viii) Tripura or<br>(ix) at Bagdogra located in West Bengal;<br>(b) non-airconditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or<br>(c) stage carriage other than airconditioned stage carriage.<br><br>**w.e.f. 1-1-2022, Notification No, 16/2021 CT (R) dated 18.11.2021, "Provided that nothing contained in items (b) and (c) above shall apply to services supplied through an electronic commerce operator and notified under sub-section (5) of Section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017)."**<br><br>It means, w.e.f. 1-1-2022, the exemption on services of transport of passengers, with or without accompanied belongings,<br>a. by non-air-conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire, or<br>b. stage carriage other than air-conditioned stage carriage;<br>shall not be available if such services are supplied through an electronic commerce operator and are notified under sub-section (5) of section 9 of the CGST Act, 2017. |
| **17** | Service of transportation of passengers, with or without accompanied belongings, by—<br>(a) railways in a class other than—<br>(i) first class; or |

| S.No. | Exempted services<br>Notification No. 12/2017-Central Tax (Rate), dated 28-06-2017) |
|---|---|
| | (ii) an air-conditioned coach;<br>(b) metro, monorail or tramway;<br>(c) inland waterways;<br>(d) public transport, other than predominantly for tourism purpose, in a vessel between places located in India; and<br>(e) metered cabs or auto rickshaws (including e-rickshaws).<br><br>w.e.f 1-1-2022, The exemption on service of transportation of passengers, with or without accompanied belongings, by metered cabs or auto-rickshaws (including e-rickshaws) shall not be available if such services are supplied through an electronic commerce operator, and are notified under sub-section (5) of section 9 of the CGST Act, 2017. |

# Reverse Charge Mechanism (RCM)

**Section 9(5) of CGST Act, 2017 / Section 5(5) of IGST Act, 2017 deals with taxability of supply of services**:

Output tax of which shall be paid by e-commerce operator even though e-commerce operator is not the actual supplier. E-commerce liable to comply with GST provisions as if he is supplier of services and liable to pay tax. In case services are notified u/s 9(5), actual supplier of services need not required to get registration even if turnover exceeds threshold limit unless stated other wise.

List of services notified under section 9(5):
1**. Passenger Transport Service**: Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motorcycle; with effect from 1st January 2022, the scope of Passenger Transport Service expanded to include service provided through Omnibus and any other motor vehicle. (Notification No. 17/2021 dated 18.11.2021).

Explanations: -
(a) "radio taxi" means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS);
(b) "maxicab", "motorcab", motorcycle, motor vehicle and omnibus shall have the same meanings as assigned to them respectively in clauses (22), (25), (27), (28) and (29) of section 2 of the Motor Vehicle Act, 1988 (59 of 1988).

2. **Accommodation Services**: Services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section (1) of section 22 of the said CGST Act.

3. **Housekeeping Services:** Services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section (1) of section 22 of the said CGST Act.

4. w.e.f 1-1-2022 **Restaurant Services (i.e. Cloud Kitchen)**: Supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.
"Specified premises means premises providing hotel accommodation service having declared tariff of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent (i.e. ≥ Rs 7500/- per unit)" vide Notification No. 17/2021 dated 18.11.2021.

Note: Restaurant is supplying services through E-COM only, he is not required to get registered under GST. In case, he is already registered, he may continue with such registration or get them de-registered under GST.

**GST on service supplied by restaurants through e-commerce operators (CBIC Circular No. 167/23/2021-GST Dated 17th December 2021):**

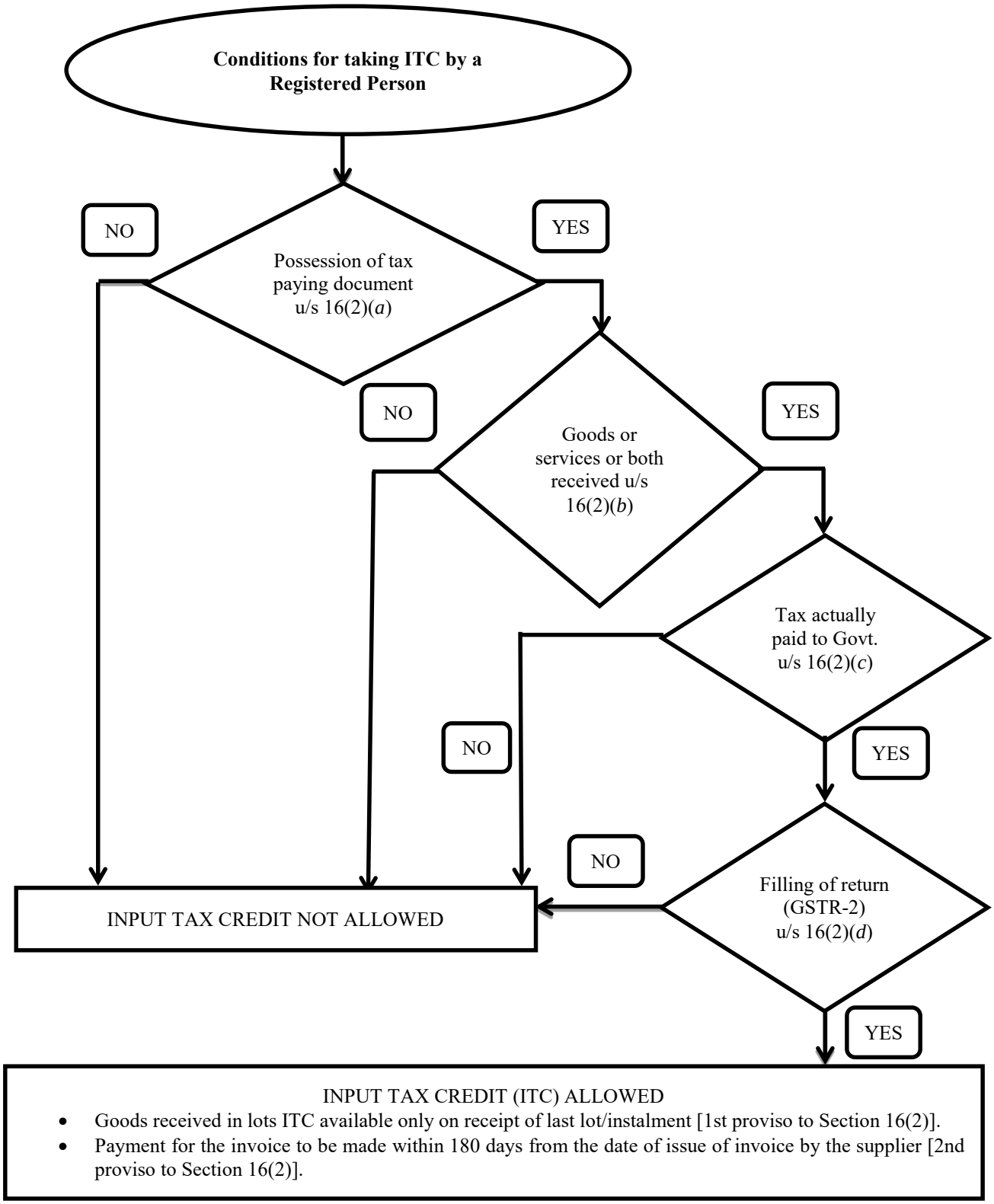
| S.No. | Issue | Clarification |
|---|---|---|
| 1 | Would ECOs have to still collect TCS in compliance with section 52 of the CGST Act, 2017? | As 'restaurant service' has been notified under section 9(5) of the CGST Act, 2017, the ECO shall be liable to pay GST on restaurant services provided, with effect from the 1st January, 2022, through ECO. Accordingly, the ECOs will no longer be required to collect TCS and file GSTR 8 in respect of restaurant services on which it pays tax in terms of section 9(5). On other goods or services supplied through ECO, which are not notified u/s 9(5), ECOs will continue to pay TCS in terms of section 52 of CGST Act, 2017 in the same manner at present |
| 2 | Would ECOs have to mandatorily take a separate registration w.r.t supply of restaurant service [notified under 9(5)] through them even though they are registered to pay GST on services on their own account? | As ECOs are already registered in accordance with rule 8(in Form GST-REG 01) of the CGST Rules, 2017 (as a supplier of their own goods or services), there would be no mandatory requirement of taking separate registration by ECOs for payment of tax on restaurant service under section 9(5) of the CGST Act, 2017. |
| 3 | Would the ECOs be liable to pay tax on supply of restaurant service made by unregistered business entities? | Yes. ECOs will be liable to pay GST on any restaurant service supplied through them including by an unregistered person. |

| | | |
|---|---|---|
| 4 | What would be the aggregate turnover of person supplying 'restaurant service' through ECOs? | It is clarified that the aggregate turnover of person supplying restaurant service through ECOs shall be computed as defined in section 2(6) of the CGST Act, 2017 and 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. |
| 5 | Can the supplies of restaurant service made through ECOs be recorded as inward supply of ECOs (liable to reverse charge) in GSTR 3B? | No. 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). |
| 6 | Would ECOs be liable to reverse proportional input tax credit on his input goods and services for the reason that input tax credit is not admissible on 'restaurant service'? | ECOs provide their own services as an electronic platform and an intermediary for which it would acquire inputs/input service on which ECOs avail input tax credit (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). The situation in this regard remains unchanged even after ECO is made liable to pay tax on restaurant service. ECO would be eligible to ITC as before. Accordingly, it is clarified that 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. It may also be noted that on restaurant service, ECO shall pay the entire GST liability in cash (No ITC could be utilised for payment of GST on restaurant service supplied through ECO) |
| 7 | Can ECO utilize its Input Tax Credit to pay tax w.r.t 'restaurant service' supplied through the ECO? | No. As stated above, the liability of payment of tax by ECO as per section 9(5) shall be discharged in cash. |
| 8 | Would supply of goods or services other than 'restaurant service' through ECOs be taxed at 5% without ITC? | 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. Thus, present dispensation continues for ECO, on supplies other than restaurant services. On such supplies (other than restaurant services made through ECO) GST will continue to be billed, collected and deposited in the same manner as is being done at present. ECO will deposit TCS on such supplies. |
| 9 | Would 'restaurant service' and goods or services other than restaurant service sold by a restaurant to a customer under the same order be billed differently? Who shall be liable for raising invoices in such cases? | Considering that liability to pay GST on supplies other than 'restaurant service' through the ECO, and other compliances under the Act, including issuance of invoice to customer, continues to lie with the respective suppliers (and ECOs being liable only to collect tax at source (TCS) on such supplies), it is advisable that ECO raises separate bill on restaurant service in such cases where ECO provides other supplies to a customer under the same order. |
| 10 | Who will issue invoice in respect of restaurant service supplied through ECO - whether by the restaurant or by the ECO? | The invoice in respect of restaurant service supplied through ECO under section 9(5) will be issued by ECO. |
| 11 | Clarification may be issued as regard reporting of restaurant services, value and tax liability etc., in the GST return. | A number of other services are already notified under section 9(5). In respect of such services, ECO operators are presently paying GST by furnishing details in GSTR 3B. The ECO may, on services notified under section 9 (5) of the CGST Act,2017, including on restaurant service provided through ECO, may continue to pay GST by furnishing the details in GSTR 3B, reporting them as outward taxable supplies for the time being. 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 under section 9(5) will report such supplies of restaurant services made through ECOs in Table 8 of GSTR-1 and Table 3.1 (c) of GSTR-3B, for the time being. |

# Input Tax Credit (ITC)

***Section 16(4) of the CGST Act, 2017*:** A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

Simplified Approach:



Amendment as per Finance Act, 2021 (w.e.f. 1-1-2022): In section 16 of the Central Goods and Services Tax Act, in sub-section (2), after clause (a), the following clause shall be inserted, namely:–

**(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;**

It means ITC claims will be allowed only when the details of such invoice or debit note have been furnished by the supplier in his GSTR-1 and subsequently, it appears in GSTR-2A/2B. So, the taxpayers can no longer claim 5% provisional ITC under the CGST Rule 36(4) and ensure every ITC value claimed was reflected in GSTR-2A/2B.

Accordingly, Rule 36(4) has been substituted to provide that with effect from 01.01.2022, a registered person shall be able to avail ITC in respect of only those invoices or debit notes which have been furnished by the supplier in the statement of outward supplies in FORM GSTR-1 or using the invoice furnishing facility and the details of such invoices or debit notes have been communicated to him in FORM GSTR-2B under sub-rule (7) of rule 60 (Notification No. 40/2021 – Central Tax dt. 29th December, 2021)

**The CBIC has issued Guidelines for disallowing debit of electronic credit ledger under Rule 86A of the CGST Rules, 2017. The salient points of the Guidelines are elaborated below:**

**1. Grounds for disallowing debit of amount from electronic credit ledger**

i. The Commissioner or an officer authorised by him, not below the rank of Assistant Commissioner, must "**form an opinion**" for disallowing debit of an amount from electronic credit ledger after proper application of mind considering all the facts of the case including the nature of prima facie fraudulently availed or ineligible input tax credit and whether the same is covered under the grounds mentioned in rule 86A(1), the amount of input tax credit involved, and whether such disallowance is necessary for restricting him from utilizing/ passing on fraudulently availed or ineligible input tax credit to protect the interests of revenue.

ii. The power of disallowing debit of amount from electronic credit ledger must not be exercised in a mechanical manner and "**careful examination of all the facts of the case**" is important to determine case(s) fit for exercising power under rule 86A. The remedy of disallowing debit of amount from electronic credit ledger being, by its very nature. extraordinary' has to be resorted to with utmost circumspection and with maximum care and caution. It contemplates an objective determination based on intelligent care and evaluation as distinguished from a purely subjective consideration of suspicion. The reasons are to be on the basis of material evidence available or gathered in relation to fraudulent availment of input tax credit or ineligible input tax credit availed as per the conditions/grounds under sub-rule (l) of rule 86A.

**2. Proper authority for the purpose of rule 86A**

i. The Commissioner/ Principal Commissioner may authorize exercise of powers under rule 86A based on the following monetary limits:

| **Total amount of ineligible fraudulently availed input tax credit** | **Officer authorized to disallow debit of amount from electronic credit ledger under rule 86A** |
|---|---|
| Upto ₹ 1 crore | Deputy/ Assistant Commissioner |
| Above ₹ 1 crore but upto ₹ 5crore | Additional/ Joint Commissioner |
| Above ₹ 5 crore | Principal Commissioner/ Commissioner |

i. The Additional Director General /Principal Additional Director General of DGGI can also exercise the powers assigned to the Commissioner under rule 86A. The monetary limits for authorization for exercise of powers under rule 86A, to the officers of the rank of Assistant Director and above of DGGI by the Additional Director General /Principal Additional Director General may be same as mentioned above for equivalent rank of officers.

ii. Where during the course of Audit under section 65 or 66 of CGST Act, 2017, it is noticed that any input tax credit has been fraudulently availed or is ineligible as per the grounds mentioned in rule 86A(1), the concerned Commissioner/ Principal Commissioner of CGST Audit Commissionerate may refer the same to the jurisdictional CGST Commissioner for examination of the matter for exercise of power under rule 86A.

**3. Procedure for disallowance**

i. The amount of fraudulently availed or ineligible input tax credit availed by the registered person, as per the grounds mentioned in rule 86(1) shall be prima facie ascertained based on material evidence available or gathered on record. The "reasons to believe" to disallow debit from electronic credit ledger as formed by the Commissioner or any other officer authorized by him shall be duly recorded by the concerned officer in writing on file, before he proceeds to disallow debit of amount from electronic credit ledger of the said person.

ii. The amount disallowed for debit from electronic credit ledger should not be more than the amount of input tax credit which is believed to have been fraudulently availed or is ineligible, as per the conditions/ grounds mentioned in rule 86A(1).

iii. The action to disallow such debit from electronic credit ledger shall be informed on the portal to the concerned registered person, along with the details of the officer who has disallowed such debit.

**4. Allowing debit of disallowed/restricted credit under rule 86A(2)**

i. The Commissioner or the authorized officer, either on his own or based on the submissions made by the taxpayer with material evidence, may examine the matter afresh and on being satisfied that the input tax credit, initially considered to be fraudulently availed or ineligible, is no more ineligible or wrongly availed, either partially or fully, may allow the use of the credit so disallowed/restricted, up to the extent of eligibility, as per powers granted under rule 86A(2).

ii. Reasons for allowing the debit of electronic credit ledger, which had been earlier disallowed, shall be duly recorded on file in writing, before allowing such debit of electronic credit ledger.

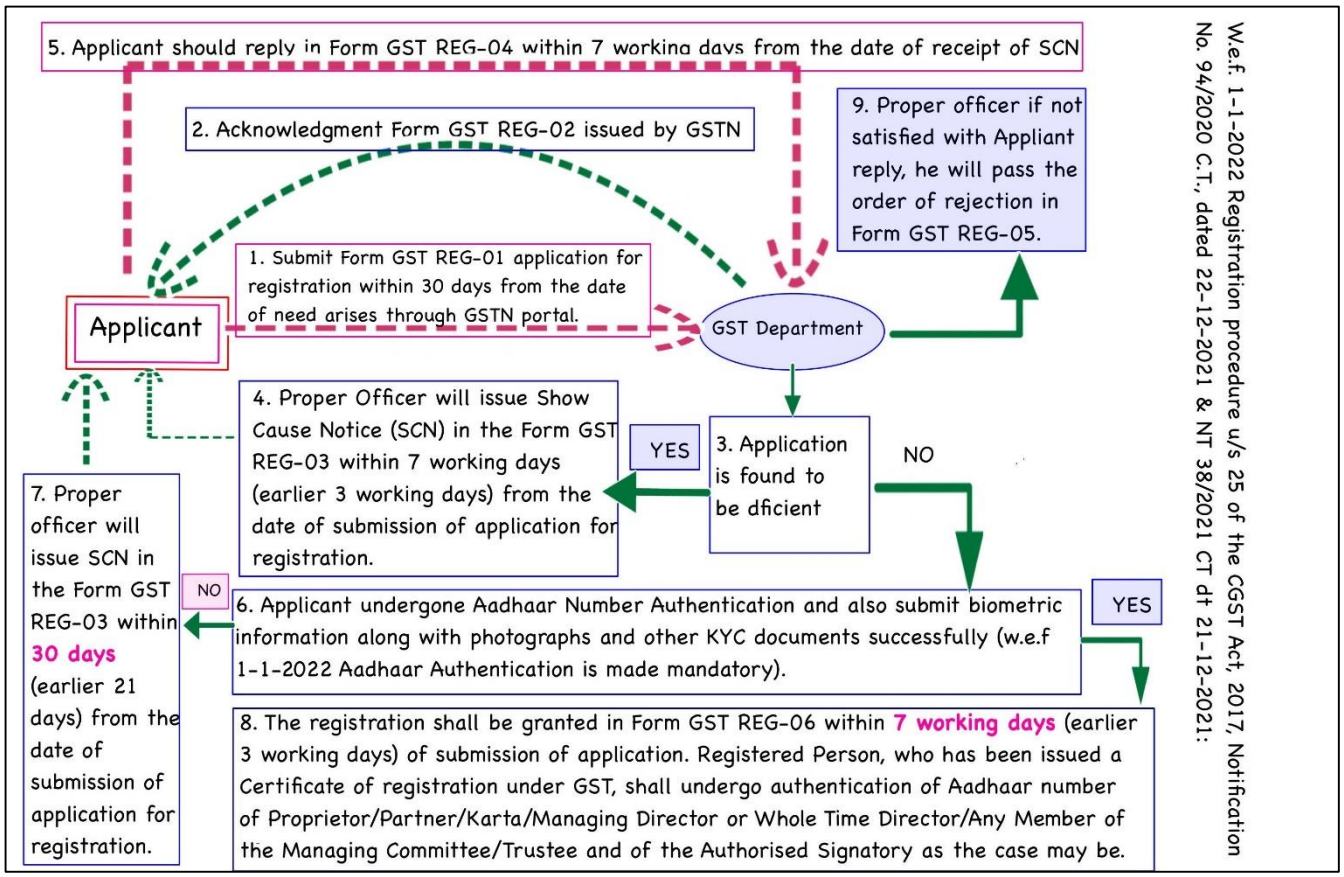
iii. Upon expiry of one year from the date of restriction, the registered person shall be able to debit input tax credit so disallowed, subject to any other action that may be taken against such person.

iv. As the restriction on debit of electronic credit ledger under rule 86A(1) is resorted to protect the interests of the revenue and the said action also has bearing on the working capital of the registered person, it should be endeavoured that in all such cases' the investigation and adjudication are completed at the earliest, well within the period of restriction, so that the due liability arising out of the same can be recovered from the said taxable person and the purpose of disallowing debit from electronic credit ledger is achieved.

Source: Guidelines for disallowing debit of electronic credit ledger under rule 86A of the CGST Rules, 2017

# Registration under GST

Aadhaar authentication mandatory for the new registrations and as well as for the existing registered persons under GST w.e.f. 1-1-2022.




After Aadhaar Authentication such person is also eligible for the following purposes:

- For filing of application for revocation of cancellation of registration
- For filing of refund application in Form RFD-01
- For refund of the IGST paid on goods exported out of India.

If an Aadhaar number is not assigned to an existing registered person, such person shall be offered alternate and viable means of identification in the prescribed manner. Such manner has been prescribed by rule 10B as follows:

(A) Such person shall furnish her/his Aadhaar Enrolment ID slip; and
(B) (i) Bank passbook with photograph or
(ii) Voter Identity card issued by the Election Commission of India; or
(iii) Passport; or
(iv) Driving Licence issued by the Licensing Authority.

Such person shall undergo the authentication of Aadhaar number within a period of 30 days of the allotment of the Aadhaar number.

Enhanced threshold limit of ₹40 lakh for registration will no longer be applicable to persons exclusively engaged in making supplies of following goods namely: -

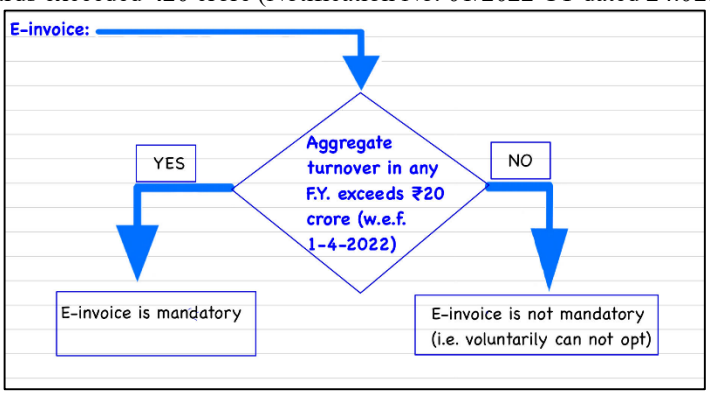
| S. No. | Tariff item, sub-heading, or heading or Chapter | Description |
|---|---|---|
| 1 | 2105 00 00  | Ice cream and other edible ice, whether or not containing cocoa. |
| 2 | 2106 90 20   | Pan masala |
| 3 | 24   | All goods, i.e. Tobacco and manufactured tobacco substitutes |
| 4 | 2202 10 10  | w.e.f. 1-10-2019<br>AERATED WATER |
| 5 | 6815  | w.e.f. 1-4-2022 NT No. 14/2019 dated 7.3.2019<br>Fly ash bricks or fly ash aggregate with 90% or fly ash content; Fly ash blocks |
| 6 | 6901 00 10  | w.e.f. 1-4-2022 NT No. 14/2019 dated 7.3.2019<br><br>Bricks of fossil meals or similar siliceous earths |

| S. No. | Tariff item, sub-heading, or heading or Chapter | Description |
|---|---|---|
| 7 | 6904 10 00  | w.e.f. 1-4-2022 NT No. 14/2019 dated 7.3.2019<br>Building Bricks |
| 8 | 6905 10 00  | w.e.f. 1-4-2022 NT No. 14/2019 dated 7.3.2019<br>Earthen or roofing tiles |

Note: Persons exclusively engaged above goods threshold limit is ₹20 lakh or ₹10 lakh as the case may be.

# Tax Invoice, Credit and Debit Notes

1. w.e.f. 1-4-2022, e-invoicing mandatory for all registered businesses with aggregated turnover in any preceding financial year from 2017-2018 onwards exceeded ₹20 crore (Notification No. 01/2022 CT dated 24.02.2022).




Earlier this limit was as follows:

| E-invoicing is mandatory for every taxpayer* whose aggregate turnover in any of the F.Y. from 17-18 exceeds: | Mandatory w.e.f. | As per Notification No. |
|---|---|---|
| ₹ 500 crores | 01.10.2020 | *61/2020 CT dated 30.07.2020* |
| ₹ 100 crores | 01.01.2021 | *88/2020 CT dated 10.11.2020* |
| ₹ 50 crores | 01.04.2021 | *05/2021 CT dated 08.03.2021* |

2. **Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices: -**

Circular No. 165/21/2021-GST dt. 17.11.2021 has amended Circular No. 156/12/2021-GST dt. 21.06.2021 issued to provide clarifications in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of Notification 14/2020 CT dt. 21.03.2020.

S. No. 4 of Circular No. 156/12/2021 clarified that wherever an invoice is issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of IGST Act, 2017, and the payment is received by the supplier in foreign currency, through RBI approved mediums, such invoice may be issued without having a Dynamic QR Code, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier.

The wordings of S. No. 4 of Circular No. 156/12/2021 created doubt as to whether the relaxation from the requirement of dynamic QR code on the invoices would be available to such supplier, who receives payments from the recipient located outside India through RBI approved modes of payment, but not in foreign exchange. It has been clarified vide Circular No. 165/21/2021 that the intention of clarification as per S. No. 4 in the said circular was not to deny relaxation in those cases, where the payment is received by the supplier as per any RBI approved mode, other than foreign exchange.

S. No. 4 of Circular No. 156/12/2021 has been substituted vide Circular No. 165/21/2021 to clarify that dynamic QR code is not required on the invoice issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of IGST Act, 2017, and the payment is received by the supplier, in convertible foreign exchange or in Indian Rupees, wherever permitted by the RBI. This is so because such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier.

Dynamic QR Code is required to be provided on an invoice, issued to a person, who has been obtained a UIN. Any person, who has obtained a Unique Identity Number (UNI), is not a "registered person" as per the definition of registered person provided in section 2(94) of CGST Act, 2017. Therefore, any invoice issued to such person having a UIN, shall be considered as invoice issued for a B2C supply and shall be required to comply with the requirement of Dynamic QR Code.

# Refund under GST

**1. Clarification on certain refund related issues** Circular No. 166/22/2021-GST dt. 17.11.2021

Following clarifications have been issued in regard to refund:

(i) The time period within which an application for refund can be made shall not be applicable in cases of refund of excess balance in e-cash ledger.

(ii) Furnishing of certification/ declaration under rule 89(2)(l) or 89(2)(m) of the CGST Rules, 2017 for not passing the incidence of tax to any other person is not required in cases of refund of excess balance in e-cash ledger as unjust enrichment clause is not applicable in such case.

(iii) The amount deducted/collected as TDS/TCS under the provisions of section 51/ 52 of the CGST Act, as the case may be, and credited to e-cash ledger of the registered person, is equivalent to cash deposited in electronic cash ledger. It is not mandatory for the registered person to utilize such TDS/TCS amount only for the purpose of discharging tax liability. The registered person is at full liberty to discharge his tax liability in respect of the supplies made by him during a tax period, either through debit in electronic credit ledger or through debit in electronic cash ledger, as per his choice and availability of balance in the said ledgers. Any amount, which remains unutilized in electronic cash ledger, after discharge of tax dues and other dues payable under CGST Act, 2017 and rules made thereunder, can be refunded to the registered person as excess balance in electronic cash ledger in accordance with the proviso to sub-section (1) of section 54, read with sub-section (6) of section 49 of CGST Act, 2017.

(iv) Clause (b) of Explanation (2) under section 54 of the CGST Act, 2017 is applicable for determining relevant date in respect of refund of amount of tax paid on the supply of goods regarded as deemed exports irrespective of the fact whether the refund claim is filed by the supplier or by the recipient. Further, as the tax on the supply of goods, regarded as deemed export, would be paid by the supplier in his return, therefore, the relevant date for purpose of filing of refund claim for refund of tax paid on such supplies would be the date of filing of return, related to such supplies, by the supplier.

2. Refund of GST can be claimed on submitting the attested copy of tax invoice by the Unique Identification Number (UIN) holder, if UIN is not mentioned therein: -

Rule 95 of the CGST Rules, 2017 relating to refund of taxes paid on the Notification inward supplies to notified specialized agency of UNO or Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947 or Consulate or Embassy of foreign countries or any other notified person/class of persons.

One of the conditions prescribed therein for sanction of refund is that name and GSTIN/UIN of the applicant is mentioned in the tax invoice. A proviso has been inserted retrospectively, w.e.f. 1-4-2021, to sub-rule (3) of Rule 95 to provide that where UIN of the applicant is not mentioned in tax invoice, the refund of tax paid by the applicant on such invoice shall be available only if the copy of the invoice, duly attested by the authorised representative of the applicant, is submitted along with the refund application in prescribed form (Notification No. 40/2021 CT dated 29.12.2021).

# Offences and Penalties under GST

**1. Proceedings under section 129 and section 130 delinked from proceedings under section 74 of CGST Act, 2017:**

Section 74 deals with 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 willful mis-statement or suppression of facts.

w.e.f. 1-1-2022, Section 74 of the CGST Act has been amended so as make seizure (section 129) and confiscation of goods and conveyances (section 130) in transit a separate proceeding from recovery of tax.

This makes detention, seizure and confiscation of goods and conveyances in transit a separate proceeding from recovery of tax.

**2. self-assessed tax to include tax payable on outward supplies furnished in GSTR-1 but not included in return under Section 39 of the CGST Act, 2017:**

**General provisions relating to determination of tax section 75,** An explanation has been inserted in sub-section (12) of section 75 of the CGST Act to clarify that "self-assessed tax" shall include the tax payable in respect of outward supplies, the details of which have been furnished under section 37 (output tax liability GSTR-1), but not included in the return furnished under section 39 (payment of tax GSTR-3B).

Example 1: a typographical error/wrongly reported details in GSTR-1 or GSTR-3B which may be rectified in subsequent GSTR_1 or GSTR-3B.

Example 2: where a supply could not be declared in GSTR-1 of an earlier tax period, though the tax on the same was paid by correctly reporting the same in GSTR-3B of said tax period; details may now be reported in the GSTR-1 of the current tax period.

Therefore, in case of mis-match between GSTR-1 and GSTR-3B, the proper officer may first send a communication to the registered person to pay the self-assessed tax short paid /not paid, or to explain the reasons for the same, within a reasonable time 17prescribed in the communication.

Recovery proceedings under section 79 will be initiated by the proper officer only when the said person either (i) fails to reply to the proper officer, or (ii) fails to make the payment of such amount short paid/not paid within the prescribed time or (iii) fails to explain the reasons for such amount short paid/not paid (instruction No. 01/2022 GST dated 07/01/2022).

**3. Amendment of section 83 Provisional Attachment as per Finance Act, 2021 (w.e.f. 1-1-2022):**

In section 83 of the Central Goods and Services Tax Act, for sub-section (1), the following sub-section shall be substituted, namely:–

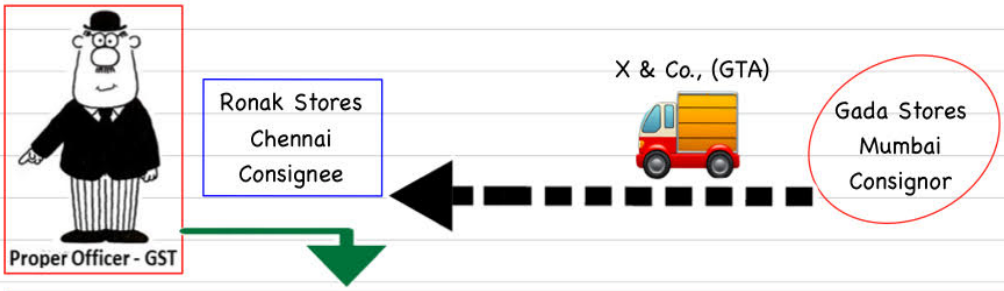
Where, after the initiation of any proceeding under Chapter XII (Advance Ruling), Chapter XIV (i.e. Transitional Provisions) or Chapter XV (i.e. Anti-Profiteering), the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue it is necessary so to do, he may, by order in writing, attach provisionally, any property, including bank account, belonging to the taxable person or any person specified in sub-section (1A) of section 122, in such manner as may be prescribed.

Vide this Modification Powers of Provisional attachment of the Commissioner have been extended to proceeding under Chapter XII (Assessment), XIV (Inspection, Search, Seizure and Arrest) or XV (Demands and Recovery) for attachment of property including bank account belonging to the taxable person / person who has retained benefits of offences under 122(1A) e.g Fake Invoice Transactions, where he feels that provisional attachment is necessary to protect the Interest of the Revenue.

Further, earlier the person whose property is attached could file an objection to such attachment within 7 days of the attachment. However, said provision has been amended by aforesaid notification to provide that the objections to such attachment can be filed at any time. Further, amendment in rule 159 of the CGST Rules, 2017 is also effective from 1-1-2022. Further, a copy of the order of provisional attachment of the property including bank account shall also be sent to the person whose property is being attached.

**4. Section 129, Detention, seizure and release of goods and conveyances in transit has been amended, w.e.f. 1-1-2022:**

Section 129, Detention, seizure and release of goods and conveyances in transit, As per Finance Act, 2021 (w.e.f. 1-1-2022):




As per section 129(1) of the CGST Act, 2017 where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released,-- Upon payment of penalty in addition to tax and interest. W.e.f. 1-1-2022, only penalty is payable for release of such goods but amount of penalty is now higher.

| Particulars | Taxable Goods | | Exempted Goods | |
|---|---|---|---|---|
| | When owner comes forward | When owner does not come forward | When owner comes forward | When owner does not come forward |
| Penalty Sec 129(1) (a)/(b) | 200% of Tax payable on such goods | 50% of the value of goods or 200% of the tax payable on such goods, whichever is higher. | @2% of the value of goods Or ₹25,000 Whichever is less | @5% of the value of goods Or ₹25,000 Whichever is less |

Sec 129(1)(c), Upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) of Section 129(1), in such form and manner as may be prescribed.

Sec 129(3), The Proper Officer shall issue notice within 7 days of such detention or seizure, specifying the penalty payable, and thereafter pass an order within 7 days from the date of service of such notice, for payment of penalty u/s 129.

Sec 129(6), Where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under sub-section (1) within 15 days from the date of receipt of the copy of the order passed under sub-section (3), the goods or conveyance so detained or seized shall be liable to be sold or disposed of otherwise, in such manner and within such time as may be prescribed in newly inserted rule 144A, to recover the penalty payable under sub-section (3):

Provided that the conveyance shall be released on payment by the transporter of

- penalty under sub-section (3) or
- one lakh rupees,

whichever is less:

Provided further that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer.

As a result, proceedings under section 129 delinked from the proceedings under section 130 of CGST Act, 2017.

**Example:** calculate the amount to be paid for release of goods detained or seized under section 129 of the CGST Act, 2017, if owner of the goods does not come forward for payment of applicable tax and penalty.

| Particulars | Amount in ₹ |
|---|---|
| Value of goods | 15,00,000 |
| GST payable on such goods | 2,70,000 |

**Answer:**
In the given case, the amount payable under section 129 is ₹7,50,00/-
Penalty only is payable.

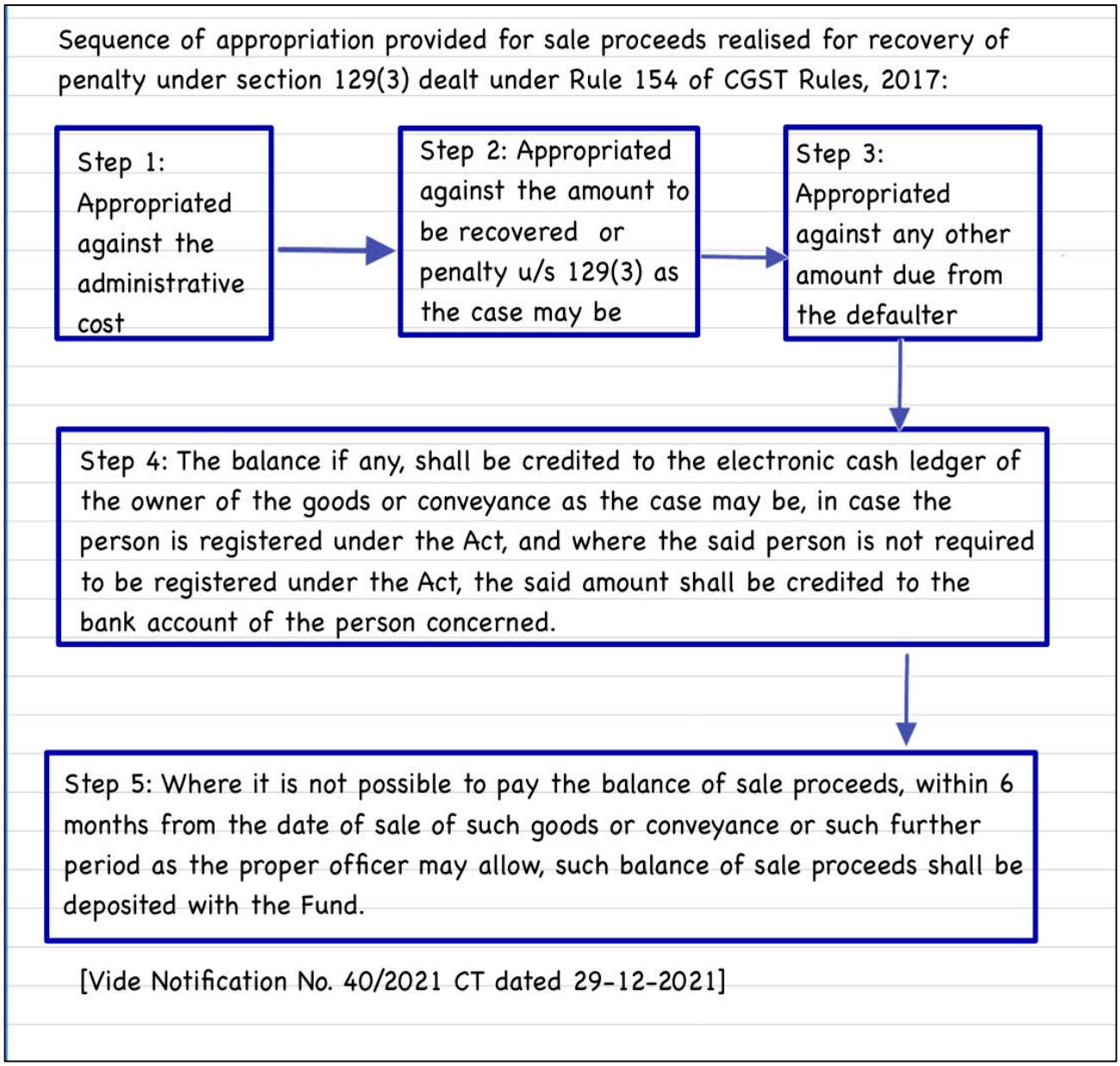
15,00,000 x 50% = 7,50,000
Or
2,70,000 x 200% = 5,40,000

Whichever is higher.

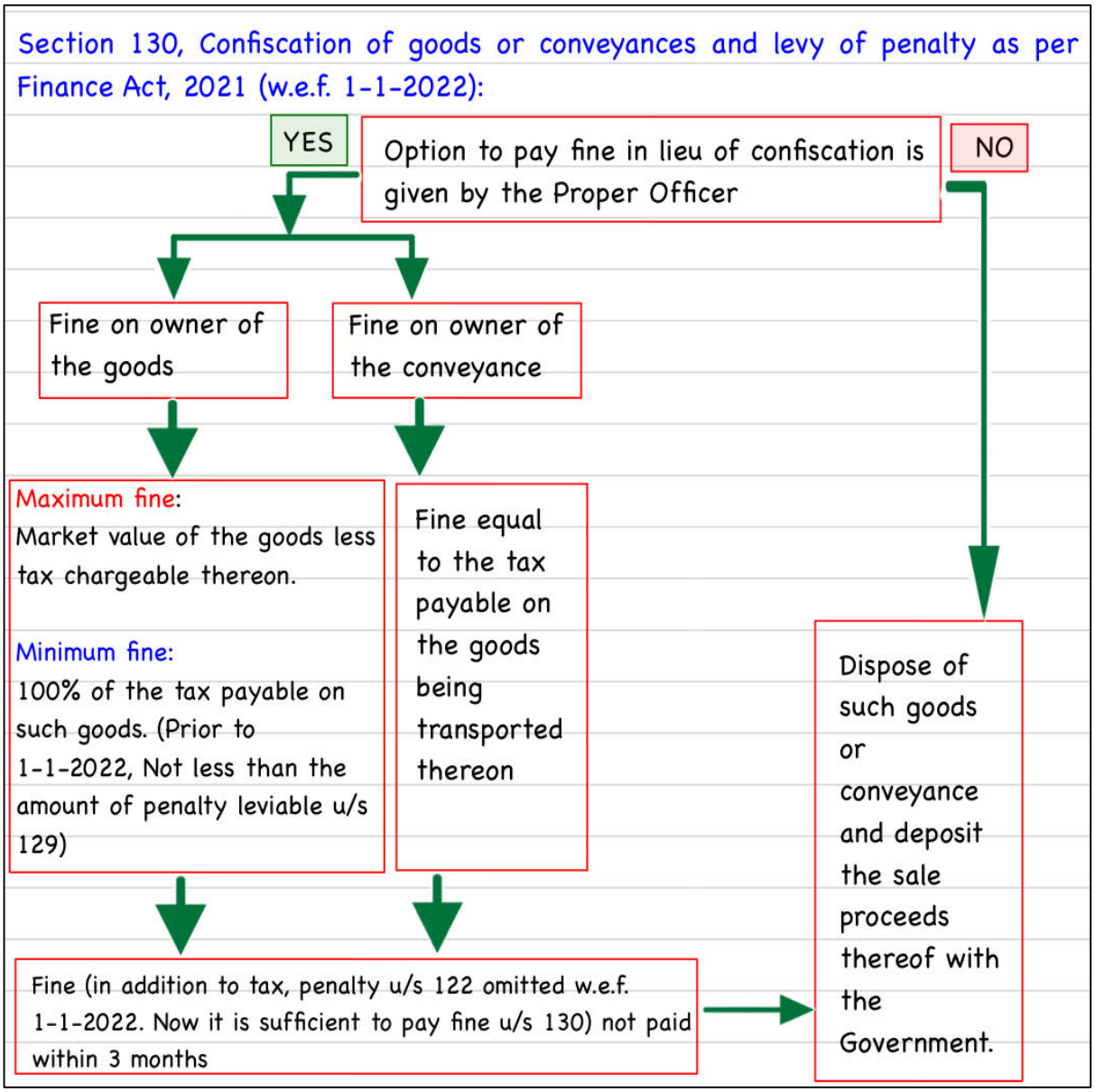
A new rule 144A (**Recovery of penalty by sale of goods or conveyance detained or seized in transit**) has been inserted with effect from 01.01.2022. The new rule lays down that that where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under section 129(1) within fifteen days from the date of receipt of the copy of the order passed under section 129(3), the proper officer shall proceed for sale or disposal of the goods or conveyance so detained or seized by preparing an inventory and estimating the market value of such goods or conveyance.

If the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer. The said goods or conveyance shall be sold through a process of auction, including e-auction.

**5. sequence of appropriation of sale proceeds realized for recovery of penalty under section 129(3):**




**6. Proceedings under section 130 delinked from proceedings under section 129:**
w.e.f. 1-1-2022, Section 130 of the CGST Act (i.e. **Confiscation of goods or conveyances and levy of penalty)** has been amended to delink the proceedings under that section relating to confiscation of goods or conveyances and levy of penalty from the proceedings under section 129 relating to detention, seizure and release of goods and conveyances in transit.




**7. Amendment of section 151, Power to collect statistics:**

w.e.f. 1-1-2022, Section 151 of the CGST Act has been substituted to empower the jurisdictional commissioner to call for information from any person relating to any matter dealt with in connection with the Act.

Earlier, Commissioner was required to issue a notification to call for information from the concerned persons relating to any matter in respect of which statistics were to be collected.

**8. Amendment of section 152, Bar on disclosure of information:**

w.e.f. 1-1-2022, Section 152 of the CGST Act has been amended so as 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.

**9. Amendment of section 168, Power to issue instructions or directions:**

w.e.f 1-1-2022, Section 168 of the CGST Act has been amended to enable the jurisdictional commissioner to exercise powers under section 151 to call for information.

# Assessment under GST

**Clarification on the legal position of voluntary payment of taxes during the course of inspection, search or investigation:**

Under CGST Act, 2017, the taxpayers have an option to make voluntary payment of tax through Form DRC-03. Such voluntary payment of tax before issuance of show cause notice is permitted under section 73(5) and section 74(5) of the CGST Act, 2017. This helps the taxpayers in discharging their admitted liability, self-ascertained or as ascertained by the tax officer, without having to bear the burden of interest under section 50 of CGST Act, 2017 for delayed payment of tax and may also save him from higher penalty imposable on him subsequent to issuance of show cause notice under section 73 or section 74, as the case may be.

Recovery of taxes not paid or short paid, can be made under the provisions of section 79 of CGST Act, 2017 only after following due legal process of issuance of notice and subsequent confirmation of demand by issuance of adjudication order. Therefore, there may not arise any situation where "recovery" of the tax dues has to be made by the tax officer from the taxpayer during the course of search, inspection or investigation, on account of any issue detected during such proceedings. However, the law does not bar the taxpayer from voluntarily making payment of any tax liability ascertained by him or the tax officer in respect of such issues, either before or during the course of such proceedings or subsequently. The tax officer should however, inform the taxpayers regarding the provisions of voluntary tax payments through DRC-03.

The Pr. Chief Commissioners/ Chief Commissioners, CGST Zones and Pr. Director General, DGGI are advised that in case, any complaint is received from a taxpayer regarding use of force or coercion by any of their officers for getting the amount deposited during search or inspection or investigation, the same may be enquired at the earliest and in case of any wrongdoing on the part of any tax officer, strict disciplinary action as per law may be taken against the defaulting officers.

[Instruction No. 01/2022-23 [GST-Investigation] dt. 25.05.2022]

# Anti-profiteering Authority

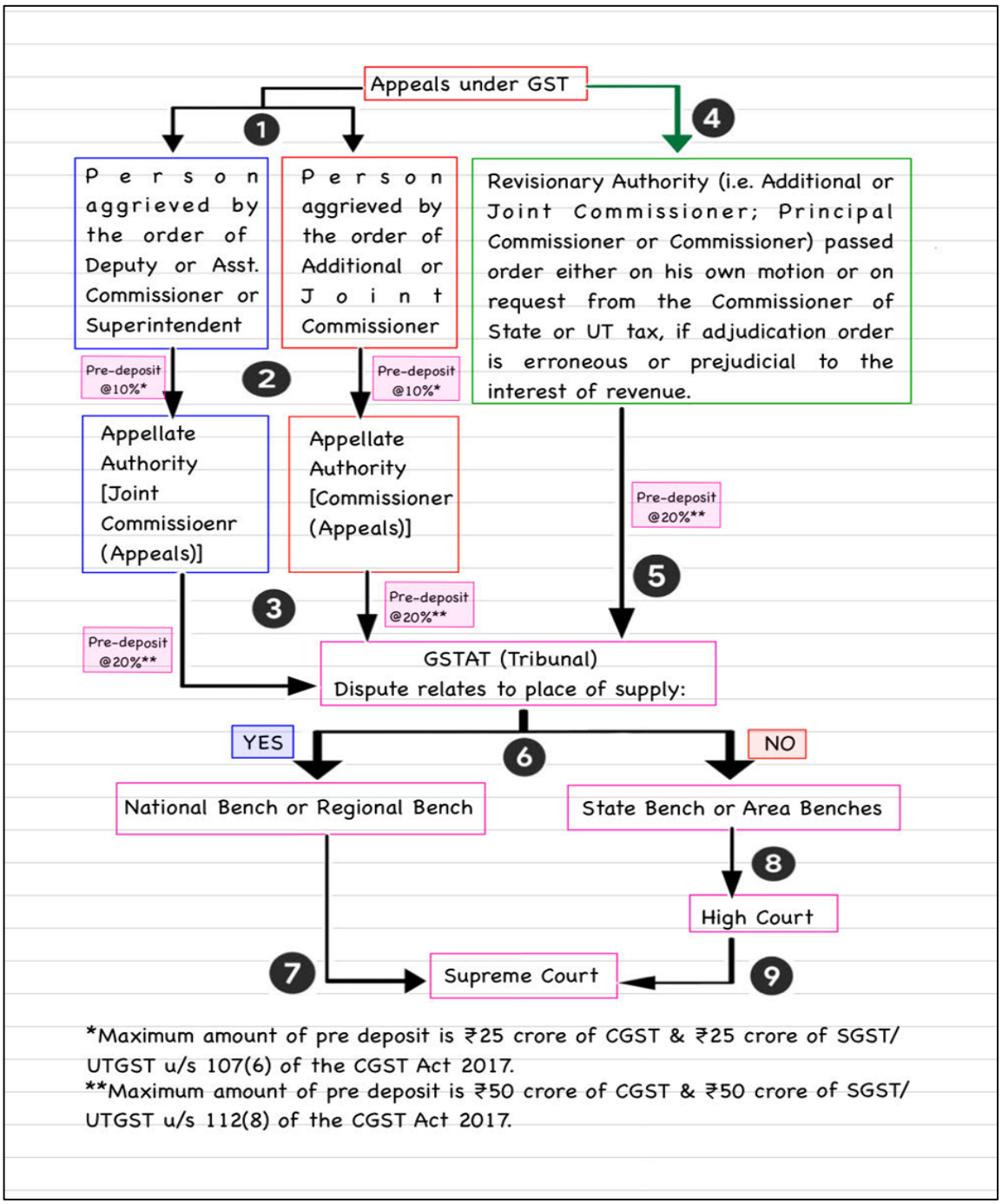
1. **Tenure of Anti-Profiteering Authority extended to five years**

With effect from 30.11.2021, rule 137 of the CGST Rules, 2017 has been amended to extend the tenure of National Anti-Profiteering Authority from existing 4 years to 5 years. Thus, the Authority shall cease to exist after the expiry of five years from the date on which the Chairman enters upon his office unless the Council recommends otherwise.

[Notification No. 37/2021 CT dated 1.12.2021]

# Appeals under GST

w.e.f. 1-1-2022, A proviso to sub-section (6) of section 107 of the CGST Act has been inserted to provide that no appeal shall be filed against an order made under sub-section (3) of section 129, unless a sum equal to **twenty-five per cent.** of penalty has been paid by the appellant.
Accordingly, no appeal shall be filed to Appellate Authority against an order under section 129(3), unless a sum equal to 25% of the penalty has been paid by the applicant. In all other cases it is 10% of the amount of tax in dispute.



# Customs Law

# Import and Export Procedure

**Implementation of automation in the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 with effect from 01.03.2022**

Reference is drawn to the Customs (Import of Goods at Concessional Rate of Duty) Amendment Rules, 2022 notified vide Notification No. 07/2022-Customs (N.T.) dated 01.02.2022 so as to make certain amendments in existing Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 (hereinafter referred to as "IGCR Rules, 2017"). These changes come into effect from 1st March, 2022.

2. The amendments are aimed at simplifying the procedures with a focus on automation and making the entire process contact-less.

3. These include:

a) The process is being automated. The Rules prescribe the submission of the necessary details electronically, through the common portal. (The common portal is the one notified vide notification 33/2021 dated 29-03-2021 and accessible at the URL www.icegate.gov.in).
b) The various forms have been standardized and notified for the purpose of electronic submission of details.
c) Individual transaction-based permissions and intimations, such as - intimation of the intent to import goods at a concessional rate of duty, intimation of the receipt of goods, permission to re-export or clear goods domestically etc., are all being done away with.
d) A monthly statement would to be submitted by the importer on the common portal
e) A procedure for inter-unit transfer of the imported goods has been provided for.
f) An electronic option for voluntary payment through the common portal, as specified in the Rules, is also being developed for implementation.

4. Procedure to be followed by an importer For ease of understanding, the procedure set out in the IGCR Rules, 2017 and the clarifications for smooth implementation are summarized below:

**One-time prior intimation of intent to avail IGCR Benefit:**

4.1 An importer who intends to import goods at a concessional rate of duty shall give a one-time prior information of such goods being imported. This information shall be provided on the common portal in form IGCR-1. (rule 4).
Importer is required to provide one-time information on common poral in the prescribed form consisting of the following particulars as per rule 4, namely;-

(i) The name and address of the importer and his job worker, if any;
(ii) The goods produced or process undertaken at the manufacturing facility of the importer or his job worker, if any, or both;
(iii) The nature and description of goods imported used in the manufacture of goods at the premises of the importer or the job worker, if any;
(iv) Particulars of the exemption notification applicable on such import;
(v) Nature of output service rendered utilizing the goods imported; and
(vi) The intended port(s) of import.

4.2 Subsequently, upon acceptance of such information on the common portal, a unique **Import of Goods at Concessional Rate (IGCR) Identification Number (IIN)** shall be generated. This information is also made available through the common portal to the jurisdictional customs officer as well as the officers at the respective port of import. The importer also has an option to update the form IGCR-1 in case of any change in the details.

4.3 It is clarified that in the case of units already covered under the existing provisions of IGCR Rules, 2017, the importers shall record electronically such details of intimation given in form IGCR-1 on the common portal and generate an IIN against the same.

4.4 The importer is required to furnish a one-time continuity bond, in a format provided in annexure-I to this Circular, to cover all the imports undertaken under this procedure. The bond details such as amount of the bond etc. shall be filled up by the importer on the common portal in part B of the form IGCR-1.

4.5 Subsequently, the physical copy of the bond and bank guarantee, wherever applicable, shall be submitted by the importer to the jurisdictional officer. Upon acceptance, the jurisdictional customs officer shall approve the bond request on the Customs Automated System.

4.6 The details of the bond number and bank guarantees will then be available for the importer to see on the common portal. The importer shall also have an option of topping up the amount of the bond and adding the details of the bank guarantee on the common portal and by providing bond addendum to the bond for adding bank guarantee as per the format given in Annexure-II.

4.7 It is clarified that if the bond/bank guarantee has already been furnished to the jurisdictional officer, there is no requirement to give a fresh bond/bank guarantee. The jurisdictional officer shall enter the details of such bond/bank guarantee in the customs automated system and generate the bond number.

**Import of goods at concessional rate:**
4.8 The importer shall mention the IIN and the continuity bond number and details while filing the bill of entry at the port of import. On the basis of the same, the Deputy Commissioner or Assistant Commissioner of Customs at the port of importation shall allow the benefit of exemption notification. Once a bill of entry is cleared for home consumption, the bond submitted by the importer gets debited automatically in the customs automated system. These details shall be available to the jurisdictional customs officer through the common portal. (rule 5)

**Receipt of goods:**
4.9 These Rules cover the receipt of goods in three scenarios:
(a) Goods are received in the premises of the importer;
(b) Goods are directly received at the premises of the job -worker; or
(c) Goods are partly received at the importer's and partly sent to the job worker's premises
In all such cases, the requirement of intimating the receipt of the goods has been done away with. However, any non-receipt or short-receipt of the goods shall be intimated by the importer immediately on the common portal through form IGCR2. This intimation shall be on the basis of the IIN and details shall be provided against each bill of entry, invoice and item. (rule 6).

**Goods sent for job work from importer's premises:**
4.10 In cases where the goods are first received at the premises of the importer and are then to be sent for job work therefrom, the importer shall send the goods under the cover of an invoice or wherever applicable, through an e-way bill specifying the description and quantity of goods. It is clarified that the requirement of an intimation when sending goods for job work, has been done away with. The importer shall maintain a record and mention such details in the monthly statement.

4.11 The maximum period for which the goods can remain with the job worker shall be six months from the date of invoice or e-way bill. Receipt of goods from the job worker:

4.12 After the completion of job work, there can be three scenarios –
(a) the goods are received back in the premises of the importer, or,
(b) the goods are cleared directly from the premises of the job worker, or
(c) the goods are sent by the job worker to another job worker.

In all such cases, the goods shall be sent under an invoice or wherever applicable, e-way bill. The importer shall maintain a record of such movement of goods and mention the details in the monthly statement.

**Inter-Unit transfer of goods**
4.13 A separate provision has been included for unit transfer of goods, where goods are sent to a different unit of the same importer. The goods, in such cases shall be sent under an invoice or wherever applicable, e-way bill, mentioning the description and quality of goods. Utilization of goods for intended purpose

4.14 It is clarified that the importer who has availed the benefit of an exemption notification shall use the goods imported in accordance with the conditions specified in the exemption notification within six months from the date of import. In case of goods that have not been utilized or defective goods, the importer has an option to either re export such goods or clear the same for home consumption within the said period of six months.

4.15 Further, in all cases where the import at concessional rate is governed by condition no. 108 of the notification 50/2017-Customs, the export of manufactured goods should be completed within six months from the date of import. Re-Export or clearance for home consumption:

4.16 In case an importer opts to re-export such goods, he shall record the details of export documents such as shipping bill number, shipping bill date and the port of export. These details shall be specified against the bill of entry, invoice and item details of the goods imported.

4.17 In case the importer intends to clear the un-utilized or defective goods on payment of requisite duty and interest, the import duty payable would be equal to the difference between the duty leviable on such goods but for the exemption availed and that already paid, if any, at the time of importation, along with interest rate as fixed by notification under section 28AA. The period for calculation of interest would start from the date of import of such goods and end with the date of actual payment.

4.18 An option is available to the importer to clear the capital goods imported, on payment of duty along with interest, at a depreciated value, after they have been put to use.

4.19 The particulars of such clearances and duty payments shall be recorded by the importer in the monthly statement. The importer shall pay such duties and interest using manual challan at the port of import. An option for voluntary payment through the common portal, as specified in the Rules, is under development for being enabled shortly.

**Monthly statement and maintenance of account**

4.20 Instead of the quarterly return prescribed earlier, the importer shall submit a monthly statement by the tenth day of the following month, on the common portal in the form IGCR-3 prescribed. (rule 6). It is clarified that the first monthly statement under the changed procedures shall be submitted by the importers in the month of April 2022.

4.21 The importer shall, with respect to the goods imported, maintain an account as prescribed in rule 6. Further, with respect to inter-unit transfer of goods, the importer shall maintain an account as prescribed in rule 6B. These accounts shall be produced by the importer to the jurisdictional Deputy /Assistant Commissioner of Customs as and when required by the said officer

4.22 The job-worker shall also maintain an account as prescribed in rule 6A which shall be produced to the jurisdictional customs officer, as and when required by the said officer.

5. An importer or the job worker who contravenes the provisions of these rules shall be liable to a penalty as prescribed in the said rules (rule 8A). It is clarified that, this is in addition to any other action taken under the Customs Act, 1962 for recovery of duties.

**6. Transitional measures**

6.1 In order to account for the stock of goods imported under IGCR that are already existing in the premises of the importer or job worker on the date of transition to the new procedure, an option is being provided to the importer to record the details of all such goods according to the bills of entry, invoice and item, in the monthly statement by linking their past bills of entry in the common portal.

6.2 The details of the existing bonds under IGCR shall be entered into the customs automated system by the jurisdictional officers and the amount of surety/bank guarantee shall be determined in accordance with the Customs circular 48/2017 dated 08.12.2017.

6.3 While the system architecture to provide information in the forms prescribed shall be in place from 01-03-2022, to enable a smooth transition, importers shall have an option to submit procurement certificates for import of goods at the port of import for availing the exemption benefit till 13-03-2022.

6.4 Currently there is a requirement for EOUs to follow Rule 5 of Customs (IGCR) Rules, 2017 to be eligible for claiming exemption of duties/ taxes on the import of goods. The system architecture with respect to above rule in respect of EoUs is under development. The same shall be implemented in due course. Till such date, procurement certificates can continue to be submitted by the EOUs for import of goods in lieu of generating IIN in the system.

# Foreign Trade Policy

# Foreign Trade Policy

1. The Foreign Trade Policy 2015-20 which was valid till 31 March, 2020, is extended up to 30th September 2022 (Notification No. 64/2015-2020 dated 31.03.2022).

2. Exemption from IGST and GST compensation cess extended upto 30th June 2022, in case of imports under Advance Authorisation for physical exports or/and imports under Export Promotion Capital Goods for physical exports, in case of goods imported by EOU/EHTP/STP/BTP units from DTA (vide Notification No. 66/2015-2020 dated 1-4-2022)

According to a notification issued by the Directorate General of Foreign Trade (DGFT) on July 1, 2022, exemption from integrated tax and compensation cess under Advance Authorization under Paragraph 4.14 of Foreign Trade Policy 2015-2020 will continue after June 30, 2022. Similarly, exemption from integrated tax and compensation cess under EPCG scheme under paragraph 5.01 (a) of FTP 2015-2020 will also continue, stated the DGFT circular.

The circular further stated that exemption from integrated tax and compensation cess under EOU scheme under paragraph 6.01(d)(ii) of FTP 2015-2020 will remain in force after June 30, 2022.