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GST council in its 45th meeting held on 17 September 2021 took various decisions with respect to GST rates on goods & services and changes related GST law and compliances. To give statutory effect to such decisions, various notifications issued on 30 September 2021. Synopsis of such notifications are mentioned below: -

A. GST rate related changes pertaining to Services

1. Intellectual Property (IP) right related Services

Hitherto there was a distinction as regards the applicable rate of tax on the supply of services in the nature of temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP). The applicable rate of tax was 12% if the IP was in respect of goods (other than software) and the applicable rate of tax was 18% if the IP is in respect of software. The said distinction as regards the applicable rate of tax has now been done away with. W.e.f. 1 October 2021, GST rate on temporary or permanent transfer any type of Intellectual Property rights will be 18%.

Thus, transfer of rights relating to movies, television programs, songs etc. will be taxable @18%. This applies to all kinds of rights like satellite, OTT, theatrical, musical etc.

Any services by way of allowing usage of trademarks, logos, brand names etc. will also now be taxable @18%.

2. Services by way of printing of all goods falling under Chapter 48 or 49 which attract CGST @ 6 % or 2.5 % or Nil, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer.

The above service was taxable @ 12%. W.e.f. 01.10.2021 rate of GST on the said service has been increased to 18%.

3. Services by way of admission to entertainment events

Hitherto there was confusion as regards the applicable rate of tax (i.e. 18% or 28%) as regards the supply of services by way of admission to various amusement facilities or entertainment events via-a-vis casinos or race clubs or sporting events like IPL. Changes have been made to clarify the following: -

Sr. No.	Description of Service	GST Rate
(i)	Services by way of admission only to the following places: ➤ Casinos or race clubs ➤ Any place having casinos or race clubs ➤ Sporting events like IPL	28%
(ii)	Services by way of admission to; (a) theme parks, water parks and any other place having joy rides, merry-go rounds, go carting, or (b) ballet, - other than any place covered by serial number (i) above	18%

The above clarification will also apply to transaction taken place before 1 October 2021.

4. Exemption on Export Ocean freight and Export Air freight

Exemption on services by way of transportation of goods by an aircraft/ a vessel from customs station of clearance in India to a place outside India is further extended till 30-09-2022.

5. GST rate on job-work relating to manufacture of alcoholic liquor for human consumption

Hitherto, there was confusion as regards the applicable rate of tax on the job work transactions in relation to the manufacture of alcoholic liquor for human consumption. Appropriate changes have been made to clarify that job-work relating to manufacture of alcoholic liquor for human consumption will attract 18%.

6. Other GST rate changes for supply of services applicable w.e.f. 01.10.2021

- i). GST exemption on "Services of leasing of assets (rolling stock assets including wagons, coaches, locos) by the Indian Railways Finance Corporation to Indian Railways" is withdrawn. Hence such services will be now taxable.
- ii). Service of granting "National Permits" to goods carriages is exempted from payment of GST. Till now, the transporters were paying GST on the same under RCM basis. Now, there will be no tax on the said activity.
- iii). Services provided to government under training programme where 75% or more of the expenses are borne by government is exempt from payment of GST.
- iv). Services rendered by Asian Football Confederation (AFC) and its subsidiaries as well as services received by AFC and its subsidiaries related to events in Women's Asia Cup 2022 hosted in India shall be exempt provided a certificate is obtained from the Director of Ministry of Youth Affairs and Sports. Further, admission to events organized under AFC Women's Asia Cup 2022 is exempted from payment of GST.
- v). Works contract services for construction, repairs, renovation, alteration of any building (used to prepare or distribute mid-day meals under mid-day meal scheme) owned by

any entity registered under section 12AB of Income Tax Act, 1961 shall be taxable @12%.

Earlier this entry only covered entities registered under section 12AA of income tax act.

Also, all the exemptions available under NN 12/2017 CT(R) applicable to services rendered by or to entities registered under section 12AA of Income Tax Act, 1961 will also be applicable to registered under section 12AB of Income Tax Act, 1961.

These changes are necessitated due to amendments made in Income Tax Act, 1961.

B. GST rate related changes pertaining to Goods

1. GST rate changes of renewable energy devices:

GST rate on following renewable devices and its parts is increased from 5% to 12% w.e.f. 01.10.2021:

- i). Bio-gas plant;
- ii). Solar power based devices;
- iii). Solar power generator;
- iv). Wind mills, Wind Operated Electricity Generator (WOEG);
- v). Waste to energy plants / devices;
- vi). Solar lantern / solar lamp;
- vii). Ocean waves/tidal waves energy devices/plants;
- viii). Photo voltaic cells, whether or not assembled in modules or made up into panels.

Further, where renewable devices mentioned above or their components are supplied along with technical services like installation, testing etc. the same shall be taxable as: 70% of the value of consideration taxable @12%, balance 30% value taxable @18%. Earlier 70% of the value was taxable @5%.

2. Other important changes in GST rates for goods applicable w.e.f. 01.10.2021:

Particulars	HSN Code	Old Rate	New Rate
Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres; box files, letter trays, and similar articles, of paper or paperboard of a kind used in offices, shops or the like.	4819	12%	18%
Waste, Parings and Scrap, of Plastics	3915	5%	18%
Ball point pens; felt tipped and other porous-tipped pens and markers; fountain pens; stylograph pens and other pens; duplicating stylos; pen holders, pencil holders and similar holders; parts (including caps and clips) of the foregoing articles, other than those of heading 9609.	9608	12%	18%
Plans and drawings for architectural, engineering, industrial, commercial, topographical or similar purposes, being originals drawn by hand; hand-written texts; photographic reproductions on	49060000	12%	18%

sensitised paper and carbon copies of the foregoing.			
Unused postage, revenue or similar stamps of current or new issue in the country in which they have, or will have, a recognised face value; stamp-impressed paper; banknotes; cheque forms; stock, share or bond certificates and similar documents of title (other than Duty Credit Scrips).	4907	12%	18%
Transfers (decalcomanias).	4908	12%	18%
Printed or illustrated postcards; printed cards bearing personal greetings, messages or announcements, whether or not illustrated, with or without envelopes or trimmings.	4909	12%	18%
Calendars of any kind, printed, including calendar blocks	4910	12%	18%
Other printed matter, including printed pictures and photographs; such as Trade advertising material, Commercial catalogues and the like, printed Posters, Commercial catalogues, Printed inlay cards, Pictures, designs and photographs, Plan and drawings for architectural engineering, industrial, commercial, topographical or similar purposes reproduced with the aid of computer or any other devices.	4911	12%	18%
Iron ores and concentrates, including roasted iron pyrites.	2601	12%	18%
Manganese ores and concentrates, including ferruginous manganese ores and concentrates with a manganese content of 20% or more, calculated on the dry weight.	2602	12%	18%
Copper ores and concentrates; Nickel ores and concentrates; Cobalt ores and concentrates; Aluminium ores and concentrates; Lead ores and concentrates; Zinc ores and concentrates; Tin ores and concentrates; Chromium ores and concentrates	2603 to 2610	12%	18%

3. Rate reductions and GST exemptions provided on specified Covid-19 treatment and medicines has been extended upto 31.12.2021. (Notification No. 12/2021-Central Tax (Rate))
4. Changes have been made to clarify that Tamarind seeds meant for any use other than sowing shall attract the tax @ 5%.
5. **Applicability of Compensation Cess on Carbonated Beverages**
Compensation Cess of 12% will apply on “Carbonated Beverages of Fruit Drink” and “Carbonated Beverages with Fruit Juice”.
6. **Applicability of Anti- profiteering in case of reduction in GST rate**

Any reduction in GST rate will be subject to anti profiteering and the benefit of rate reduction needs to be passed on to customers. If prices are inclusive of taxes, then supplier is required

to reduce such prices on account of rate reduction in order to comply with anti- profiteering provision.

C. Other GST Related Changes

1. Relaxation in filing of Form ITC-04 w.e.f. 1-10-2021

W.e.f. 1 October 2021, filing frequency of ITC-04 shall be as follows: -

Condition	Filing Frequency
Aggregate Turnover in preceding FY is more than Rs.5 Crore	Half yearly i.e. April – September and Oct-March
Aggregate Turnover in preceding FY is upto Rs.5 Crore	Annually

2. Clarifications / amendments with respect to Refund under section 77 of CGST Act/ section 19 of IGST Act, 2017. (Circular No. 162/18/2021-GST and Rule 89 (1A) of CGST Rules, 2017.

Section 77 of the CGST Act, 2017 and Section 19 of the IGST Act, 2019 provides the mechanism for refund in cases where CGST / SGST is paid on an inter-state supply instead of IGST and vice-versa. The following amendments / clarifications have been issued -

- i). Refund under said sections is to be filed within two years from the date of payment of correct tax type.
- ii). In cases where the taxpayer has made the payment in the correct tax type before 24-09-2021, the refund in such cases is to be filed on or before 23.09.2023 i.e. two years from the date of amendment made in the rules.
- iii). The refund is eligible even if the correction in payment of the tax type is made suo-moto by the tax payer himself.
- iv). All pending refund applications filed, whether pending or disposed off, as on 23-09- 2021 are required to be decided in terms of the amended provisions.
- v). Refund would not be available where the taxpayer has made tax adjustment through issuance of credit note as in such cases the tax paid earlier under wrong tax type has already been adjusted.

3. Clarification with respect to Intermediary Services

It has been clarified that even a person who wholly subcontracts the work will not be considered as Intermediary.

4. Clarification on time limit for claiming Input tax credit on Debit notes issued in FY 20-21. (Circular No. 160/16/2021-GST)

W.e.f. 01-01-2021, the provisions of section 16 (4) of CGST Act, 2017 were amended to specify the time limit of availment of input tax credit based on the date of debit notes and not the date of underlying invoice. It is now clarified that the time limit (under section 16 (4)) for input tax credit availed on debit notes after 1-01-2021 will be determined in terms of amended provisions i.e. on the basis of date of debit note and not on the basis of date of underlying invoice.

Thus the input tax credit of debit notes issued during the period April 2020 to 31-03-2021 and which are not availed till date can be availed in GSTR 3B of Sept 2021.

5. No requirement to carry physical copy of tax invoice where E-Invoice has been generated

No requirement to carry the physical copy of tax invoice in cases where E invoice has been generated as per rule 48(4) of the CGST Rules, 2017. It is further clarified that production of the Quick Response (QR) code having an embedded Invoice Reference Number (IRN) electronically, for verification by the proper officer, would be treated as compliance to the GST provisions. (Clarified, vide circular no 160/16/2021 – GST dated 20.09.2021).

6. Clarification of refund on export of goods which are subject to export duty (Circular no 160/16/2021 – GST dated 20.09.2021).

Proviso to section 54(3) of CGST Act prohibits refund of unutilized ITC for export of goods which are subjected to export duty. It is clarified, vide circular no 160/16/2021 – GST dated 20.09.2021, that the said restriction will apply to only those goods which are actually subjected to export duty i.e., on which some export duty has to be paid at the time of export. Only such goods will be covered by said restriction imposed under section 54(3) of CGST Act, 2017.

It is expressly clarified that goods, which are not subject to any export duty and in respect of which either NIL rate is specified or which are fully exempted from payment of export duty, would not be covered by such restriction imposed under said section. Thus refund of unutilised ITC will be eligible for export of all such goods.

7. Clarification on export of services between Related Parties. (Circular no 161/17/2021 – GST dated 20.09.2021)

A supply of service cannot be considered as export if supplier and recipient of supplier are merely establishment of distinct person. Government has issued clarifications vide circular no 161/17/2021 – GST dated 20.09.2021, stating as follows: -

- i). A company incorporated in India under the Companies Act, 2013 and foreign company incorporated under the laws of any other country are to be treated as separate legal entities.
- ii). A subsidiary/ sister concern/ group concern (incorporated in India) of any foreign company will be considered as a separate person than the foreign company (incorporated under the laws of any other country) under GST law and would not be considered as “merely establishments of a distinct person”.
- iii). Thus a supply between an Indian company (incorporated in India) to foreign company (incorporated outside India) can be treated as export of services subject to fulfilment of other conditions.

8. Non filing of GSTR-1 if GSTR-3B is not filed for previous tax month

With effect from 01.01.2022, a registered person shall not be allowed to furnish FORM GSTR-1, if he has not furnished the return in FORM GSTR-3B for the preceding month.

9. Changes with respect to Aadhar Authorisation and linking of PAN for registration, claiming refund and filling revocation application.

The following changes are proposed which are to be made effective from a future date to be notified:

- i). Details of bank account which has been obtained on the PAN of the registered person are required to be furnished after grant of registration.
- ii). The PAN of the proprietor shall also be linked with the Aadhaar number of the proprietor for any registration granted under GST.
- iii). Refund will be disbursed in the bank account, which is linked with PAN on which registration has been obtained under GST. Further the refund will be disbursed only if the PAN of the Proprietorship Concern is linked with the Aadhar of such proprietor.
- iv). Mandatory Aadhar authentication of Authorized signatory as well as of specified person of registered person mentioned in below table for the purpose of
 - a) claiming refund of IGST paid on export of goods,
 - b) for filing any refund claim and
 - c) for filling application for revocation of cancellation of registration.

Type of Registered person	Name of specified person
Proprietorship firm	Proprietor
Partnership firm	Any Partner
Hindu undivided family	Karta
Company	Managing Director or any whole time Director
Association of persons/ Body of individuals/ Society	Any of the Members of the Managing Committee
Trust	Trustee

10. Late Fees for delayed filing of GSTR-1

Hitherto, government is not collecting any late fees for delayed filing of GSTR-1. Now it has been clarified that late fees will be collected on delayed filing of GSTR-1 and same will appear in next open return in form GSTR-3B.

Should you require any further clarification, please contact us. We will be glad to serve you better.

Regards,

For M/s Ashish B & Associates

Ashish Bajaj

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