

# Analysis of Notifications and Circulars issued on Recommendations of 48<sup>th</sup> GSTC Meeting

13<sup>th</sup> January 2022



By



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# Notifications & Circulars issued post 48<sup>th</sup> GSTC Meeting

S.NO	Notifications	Details
1	NTN. 26/2022-CT dt 26/12/2022	Central Goods and Services Tax (Fifth Amendment) Rules, 2022
2	NTN 27/2022-CT dt 26/12/2022	Notification under sub-rule (4B) of rule 8 of CGST Rules, 2017
3	NTN 12/2022-CT(R) dt 30/12/2022	Seeks to amend notification No. 1/2017- Central Tax (Rate) dated the 28th June, 2017
4	NTN 13/2022-CT(R) dt 30/12/2022	Seeks to amend Notification No. 2/2017-Central Tax (Rate), dated the 28th June, 2017
5	NTN 14/2022-CT(R) dt 30/12/2022	Seeks to amend Notification No. 4/2017- Central Tax (Rate), dated the 28th June, 2017
6	NTN 15/2022-CT(R) dt 30/12/2022	Seeks to amend Notification No. 12/2017-Central Tax (Rate), dated the 28th June, 2017

# Notifications & Circulars issued post 48<sup>th</sup> GSTC Meeting

S.NO	Circulars	Details
1	183/15/2022 - 27-12-2022	Clarification to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for FY 2017-18 and 2018-19
2	184/16/2022 - 27-12-2022	Clarification on the entitlement of input tax credit where the place of supply is determined in terms of the proviso to sub-section (8) of section 12 of the Integrated Goods and Services Tax Act, 2017
3	185/17/2022 - 27-12-2022	Clarification with regard to applicability of provisions of section 75(2) of Central Goods and Services Tax Act, 2017 and its effect on limitation
4	186/18/2022 - 27-12-2022	Clarification on various issue pertaining to GST
5	187/19/2022 - 27-12-2022	Clarification regarding the treatment of statutory dues under GST law in respect of the taxpayers for whom the proceedings have been finalised under Insolvency and Bankruptcy Code, 2016
6	188/20/2022 - 27-12-2022	Prescribing manner of filing an application for refund by unregistered persons

# We will be Analyzing

S.NO	Details
1	Changes with respect to Registration under GST
2	Changes with respect to Input Tax Credit under GST
3	Changes with respect to filing of returns under GST
4	Changes with respect to refunds under GST
5	Changes with respect to Appeals under GST
6	Changes with respect to Demand and Recovery under GST
7	Changes with respect to Exemption on Services under GST
8	Changes in Exemption and Rate of Goods
9	Other Clarifications and Changes under GST
10	Other Recommendations yet to be Notified

# Changes with respect to Registration under GST



**GST**  
REGISTRATION

# Registration under GST

## Verification of Mobile No. and E-mail address linked with PAN for GST Registration - Amendment in Rule 8 of CGST Rules,2017

**Earlier:** Every application of registration require the PAN along email id and Mobile No.

### **Amendment:**

- Sub-rule (1) and (2) of Rule 8 of CGST Rules, 2017, has been amended to provide that the applicant is not required to provide the mobile number and e-mail address before applying for registration.
- The mobile number and e-mail address linked to the Permanent Account Number of the applicant shall be verified through the one-time passwords sent on the mobile number and e-mail address.

**Rationale:** This has been done to discourage the fake GST registrations under GST.



**Notification No. 26/2022-Central Tax dated 26-12-2022**

# Registration under GST

**Biometric based Aadhaar Authentication for Registration - Sec 25(6A) of CGST Act, 2017 read with Rule 8(4A) of CGST Rules, 2017**

## Background:

- Sec 25(6A) notified through Finance Act, 2019 w.e.f. 01-01-2020 requires Aadhaar authentication or furnish proof of possession of Aadhaar number of every person applying for GST Registration.
- In this regard, Rule 8(4A) was introduced which required all applicants of registration to undergo Aadhaar authentication w.e.f. 21-08-2020.
- Post which Notification No. 94/2020-CT dt 22-12-2020 introduced biometric based Aadhaar Authentication. However, the same was not notified till date.

**Notification No. 26/2022-Central Tax & Notification No. 27/2022-Central Tax both dated 26-12-2022**



# Registration under GST

**Amendment-** Rule 8(4A) has been substituted and now procedure for **biometric-based Aadhaar authentication** is laid down;

- Every application for registration made by a person who has opted for authentication of Aadhaar number while applying for registration
- 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 of the applicant, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 at one of the Facilitation Centres notified by the Commissioner.
- The Central Government may, on the recommendations of the Council, by notification has specified that **this provisions shall be applicable in the state of Gujarat only.**
- This will help in avoiding the fake and fraudulent registrations.

**Notification No. 26/2022-Central Tax & Notification No. 27/2022-Central Tax both dated 26-12-2022**



# Registration under GST

## Physical Verification in case of Biometric based Aadhaar Authentication

- Clause (aa) has been inserted in the proviso to sub-rule (1) and sub-rule (2) of Rule 9 to notify *physical verification of place of business before granting registration even in case of applicants opting to undergo Biometric based Aadhaar authentication, if such applicants are identified by the GST Portal as risky based on the data analysis and risk parameters.*
- In such cases, *the time limit for granting registration* in form GST REG-06 or issuing notice seeking clarification in form GST REG-03 would be *within 30 days* from the date of submission of the application.

Notification No. 26/2022-Central Tax dated 26-12-2022

# Registration under GST

## Suo-moto application for cancellation of registration for TDS Deductors and TCS Collectors – Rule 12(3) of CGST Rules , 2017

- A person no longer liable to deduct tax at source under section 51 or collect tax at source under section 52, may himself apply for cancellation of registration w.e.f. 26-12-2022.
- Prior to 26.12.2022, only the proper officer had the power to order cancellation of registration where he was satisfied that the person to whom TDS/TCS registration has been granted was no longer liable to deduct/collect tax. However, no mechanism was available to such persons for seeking registration cancellation on their own.

**Notification No. 26/2022-Central Tax & Notification No. 27/2022-Central Tax both dated 26-12-2022**

# Changes with respect to Input Tax Credit under GST

## INPUT TAX CREDIT



# Input Tax Credit under GST

## Rationalization of Rule 37 to provide for proportionate ITC reversal on part payment by recipient

- Rule 37(1) was amended w.e.f., 01.10.2022 which provided that where the registered person failed to pay to the supplier, the value of supply along with tax within 180 days from the date of issue of invoice [as provided for in the second proviso to Section 16(2)], would be required to pay the ITC availed along with interest under Section 50.
- Prior to this amendment, the requirement to pay the ITC availed was only proportionate to the amount remaining unpaid to the supplier.

**Notification No. 26/2022-Central Tax dated 26-12-2022**

# Input Tax Credit under GST

## Rationalization of Rule 37 to provide for proportionate ITC reversal on part payment by recipient

- Now, Rule 37(1) of the CGST Rules has been amended retrospectively w.e.f. 01-10-2022 to provide for the reversal of input tax credit only proportionate to the amount not paid to the supplier vis-a-vis the value of the supply, including tax payable.
- This amendment has been made to remove ambiguity that the registered person would not be required to reverse the full ITC availed on the supplies, even where he has made a partial payment to the supplier in respect of the said supplies.

**Notification No. 26/2022-Central Tax dated 26-12-2022**

# Input Tax Credit under GST

## Reversal of ITC in case of non-payment of tax by the supplier and re-availment thereof

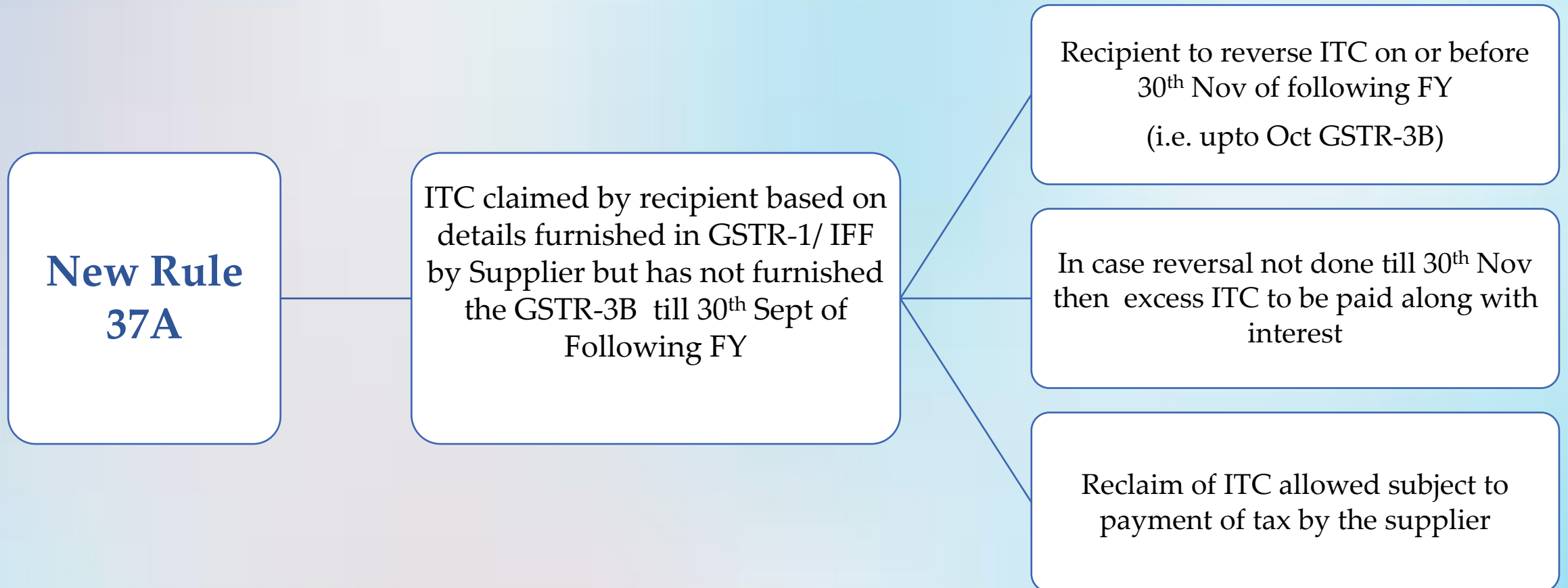
- **Sec 16(2)(c)** - ITC Eligibility on Inward supplies dependent on the fact that the tax charged in respect of such supply has been actually paid by the supplier.
- **Section 41(2)** - The credit of input tax availed by a registered person under sub-section (1) in respect of such supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed.

Provided that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may re-avail the amount of credit reversed by him in such manner as may be prescribed.

- **Rule 37A** has been inserted in CGST Rules vide **Notification No. 26/2022-Central Tax dated 26-12-2022** to provide the manner for such reversal and re-availment of such ITC.



# Input Tax Credit under GST



# Input Tax Credit under GST

## CGA Legal Comments

- GST Portal provides an option to view “Filing Status” for a GSTIN which provides tax period wise filing status of GSTR-1 and GSTR-3B. Recipient can use this facility to track whether the supplier has filed its GSTR-3B or not.
- Additionally with the introduction of system of **sequential filing of GSTR-1 & GSTR-3B**, the erring suppliers can also be identified during GSTR-2B reconciliations.
- Issues may arise for the recipient to ensure whether the supplier has included such supplies while filing GSTR-3B;
- CBIC required to issue clarification for **period for calculation of Interest**, whether it will be taken from 1<sup>st</sup> Dec of following FY or the date from which ITC was initially claimed
- Intimation issued to supplier for difference in tax liability reported in GSTR-1 vs. GSTR-3B under Rule 88C may help in controlling such situation.



# Input Tax Credit under GST

## Clarification to remove ambiguity and legal disputes pertaining to claim of ITC as per GSTR-2A for FY 2017-18 and FY 2018-19

**Background:** Lot of Notices has been issued to Registered person in respect of Non compliance of Sec 16(2)(c) of CGST Act in cases where the inward supplies are not reflected in GSTR-2A.

However, neither Commissionerate's nor assessee are finding the correct process of validation of the above Non compliance

### Clarification issued through Circular No. 183/15/2022-GST dated 27-12-2022

- CBIC has acknowledged that there may be genuine reasons for supplies for not being reflected in GSTR-2A during the initial stages of implementation of GST.
- Further Rule 36(4) was inserted only from 09<sup>th</sup> Oct, 2019.
- However, the eligibility to claim ITC only after payment of tax by supplier u/s 16(2) (c) was in the CGST Act w.e.f. 01-07-2017.

# Input Tax Credit under GST

- Thus, CBIC has prescribed the procedure for *validation of Payment of Tax by supplier* in respect of cases where inward supplies are not reflected in GSTR-2A in FY 2017-18 & FY 2018-19.
- The four reasons for non reflection in GSTR-2A where the above procedure can be applied are as follows;
  - Where the supplier has *failed to file FORM GSTR-1* for a tax period but has filed the return in FORM GSTR-3B for said tax period
  - Where the supplier has filed FORM GSTR-1 as well as return in FORM GSTR-3B for a tax period, but has *failed to report a particular supply in FORM GSTR-1*
  - Where supplies were made to a registered person and invoice is issued as per Rule 46 of CGST Rules containing GSTIN of the recipient, but supplier has *wrongly reported the said supply as B2C supply, instead of B2B supply*, in his FORM GSTR-1
  - Where the supplier has filed FORM GSTR-1 as well as return in FORM GSTR-3B for a tax period, but he has declared the supply with *wrong GSTIN of the recipient* in FORM GSTR-1.

# Input Tax Credit under GST

- In all above cases, the difference in ITC claimed by the registered person in his return in FORM GSTR-3B and that available in FORM GSTR-2A will be handled as below;
  - In case of difference in ITC as per GSTR-2A and ITC claimed in GSTR-3B , the proper officer shall first seek the details of invoices which are not reflecting in GSTR-2A of the recipient.
  - He shall then ascertain whether the recipient is in possession of all tax invoices of debit notes and whether he has received the goods or services and whether he has made the payment to the supplier or not.
  - In order to verify whether the tax in respect of a supply has been paid by the

Difference between the ITC in FORM GSTR-3B and in FORM GSTR 2A for the said financial year exceeds Rs 5 lakh (supplier-wise)

- The proper officer shall ask the registered person to produce a certificate for the concerned supplier from the Chartered Accountant (CA) or the Cost Accountant (CMA).

In other cases

- The proper officer shall ask the claimant to produce a certificate from the concerned supplier.

# Input Tax Credit under GST

## CGA Legal Comments

- As lot of notices / proceedings in respect of GSTR-2A Reconciliation are kept pending by various Commissionerate's for want of clear instructions.
- The Legal grounds that whether such reconciliation with GSTR-2A is legally tenable for FY 2017-18 & FY 2018-19 when Rule 36(4) was introduced in Oct 2019 still holds true.
  - Period Prior to 09<sup>th</sup> Oct 2019
  - Period between 09<sup>th</sup> Oct 2019 to 31<sup>st</sup> Dec 2021 – Rule 36(4)
  - W.e.f. 01<sup>st</sup> Jan 2022 – Section 16(2)(aa)
- The CBIC Circular is *not applicable on completed proceedings is unfair on the part of the assessee since the Circulars are always clarificatory in nature* and should be uniformly applicable.
- Clarification provided by Circular on the GSTR-2A which was not there at all in Law is against the spirit of the law and not expected from the Government.





# Input Tax Credit under GST

## Clarification on the entitlement of ITC where the place of supply of services by way of transportation of goods, including by mail or courier is to a place outside India - Sec 12(8) of IGST Act

### Background:

- The freight forwarders have been facing the issue that in case of transportation services provided for goods sent out of India through air or ship, tax is being levied @ 5% ( in case of Ship) and 18% ( in case of air ) post the discontinuance of exemption on such transactions w.e.f. 01-10-2022.
- Thus, the transaction was Inter-state supply on which IGST was levied. The place of supply in this case as per Sec 12(8) of IGST Act was *Other Territory or Foreign Country*
- The major issue in this case was whether recipient of service can claim ITC on tax paid on such services since the place of supply was not the state in which the recipient is registered but it was Other Territory or Foreign Country.

**Circular No. 184/16/2022-GST dated 27-12-2022**

# Input Tax Credit under GST

In this regard, following issues have been clarified as hereunder:

Transaction to be considered as inter-state supply

Recipient Eligible to Claim ITC even if Place of Supply is not the state in which recipient is Registered

Supplier of service shall report place of supply of such service by selecting State code as '96-Foreign Country' in GSTR-1

**Circular No. 184/16/2022-GST dated 27-12-2022**

## CGA Legal Comments

- These Instructions have brought a big relief to Freight Forwarding Industry who have been in dilemma of claiming ITC on such transactions.
- The registered persons who are the recipient of such transactions may ensure that the State code as specified in the instruction may be used by Supplier in the Tax invoices and while filing their GSTR-1/ IFF.
- Since these clarifications are being provided by way of Circular, it will have the retrospective effect.
- GSTC recommended the omission of proviso to section 12(8) – May be taken up in the upcoming budget



# Changes with respect to filing of returns under GST



## Amendment made in Section 75 of CGST Act

- **Insertion of explanation to Sub-section 12 of Section 75 of CGST Act, 2017 through THE FINANCE ACT, 2021 dated 28-03-2021 w.e.f. 01-01-2022**

➤ As per Section 75(12) of CGST Act, *Notwithstanding anything contained in section 73 or section 74, where any amount of self-assessed tax in accordance with a return furnished under section 39 [GSTR-3B] remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79 [ Recovery Proceedings].*

➤ **Explanation**—*For the purposes of this sub-section, the expression “self-assessed tax” shall include the tax payable in respect of details of outward supplies furnished under section 37, but not included in the return furnished under section 39.*



- An opportunity to be provided for the following situations to explain the reason for difference between GSTR-1 & GSTR-3B before any action under Section 79 to be undertaken
  - Typographical error in furnishing details in GSTR-1 vis-à-vis GSTR-3B;
  - Reporting of supplies in GSTR-1 of earlier period, the tax on such supplies had been paid in such earlier period;





## Mismatch

- In case, it is found amount of tax, in GSTR-I is found to be short paid or not paid by the said person through his GSTR-3B

## Communication to Taxpayer

- proper officer may send a communication (with DIN)
- to the registered person to pay the amount short paid or not paid, or
- to explain the reasons for such short payment or non payment of self-assessed tax, within a reasonable time, as prescribed in the communication

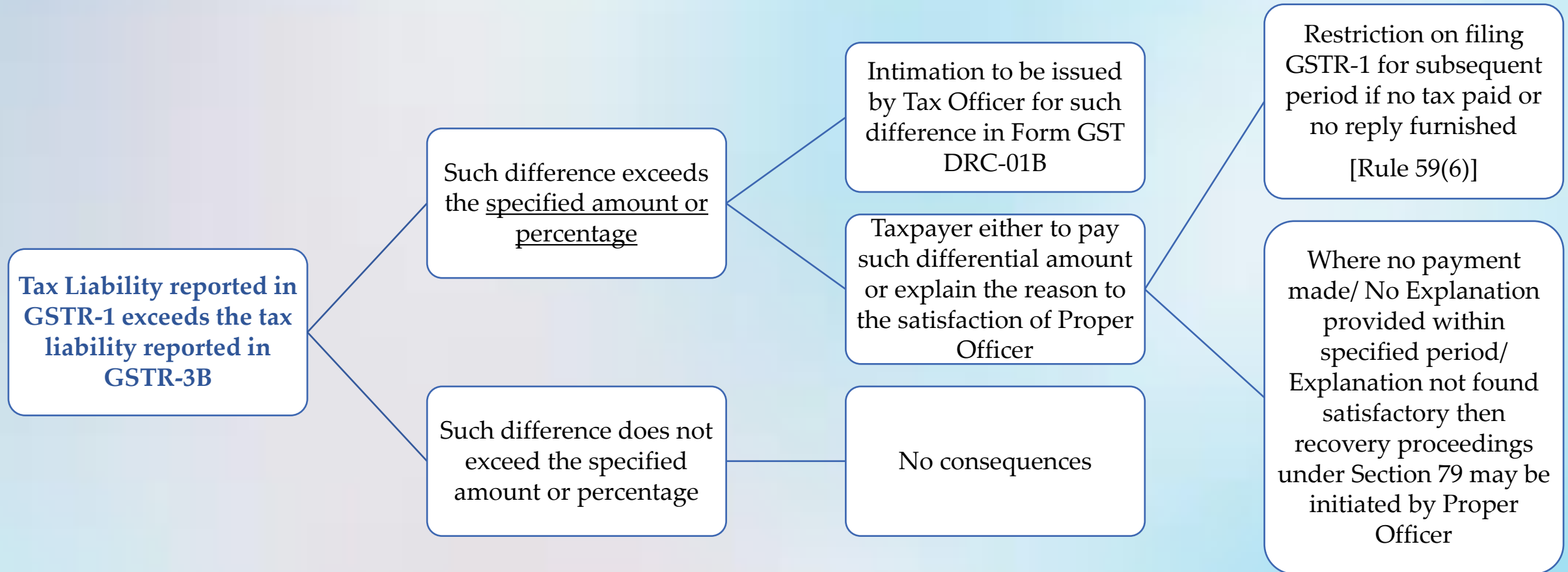
## Action by Tax payer

- If, the concerned person is able to
- justify the differences between GSTR-I and GSTR-3B, or
- is able to explain the reasons of such short-payment or non-payment of tax, to the satisfaction of the proper officer, or
- pays the amount such short paid or not paid,
- then there may not be any requirement to initiate proceedings for recovery under section 79.

## Initiation of Recovery Proceedings

- If RP fails to reply within specified time frame
- Fails to make the payment within time
- Fails to explain the reason for mismatch

# Insertion of Rule 88C - Manner of dealing with difference in liability reported in statement of outward supplies and that reported in return



Issue: Can this rule be applied in case of Sec 61 of CGST Act- Scrutiny of Returns

Notification No. 26/2022-Central Tax dated 26-12-2022

# Changes with respect to refunds under GST



# Refunds under GST

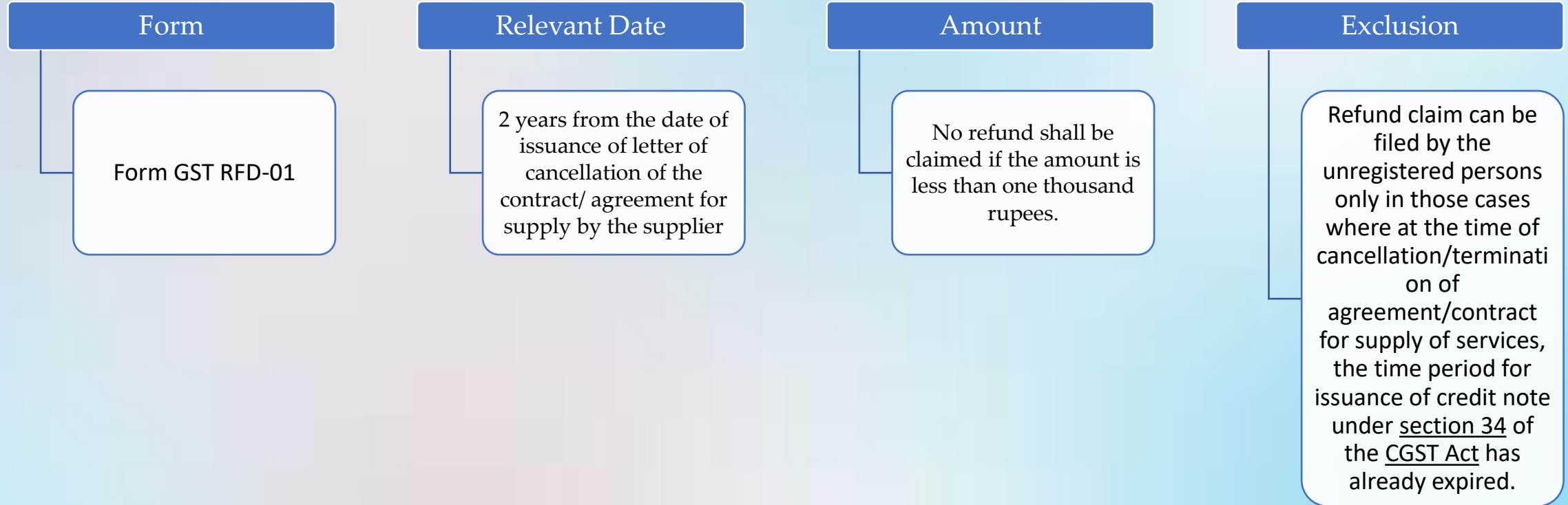
## Refund to unregistered persons in case of cancelled service contracts

- There is no procedure for claim of refund of tax borne by the unregistered buyers in cases where the contract/ agreement for supply of services, like construction of flat/house and long-term insurance policy, is cancelled and the time period of issuance of credit note by the concerned supplier is over.
- The Council recommended amendment in CGST Rules, 2017, along with issuance of a circular, to prescribe the procedure for filing application of refund by the unregistered buyers in such cases.

# Refunds under GST

## Refund to unregistered persons in case of cancelled service contracts

- Rule 89(2) has been amended vide NN 26/2022-CT to provide the documents for filing refund in case of refund by unregistered persons.
- Also, vide Circular No. 188/20/2022-GST a manner has been provided for claim of such refund.



# Changes with respect to Appeals under GST





# Appeals under GST

## Furnishing of certified copy of Order appealed against

- Rule 108(3) has been amended to provide that where the decision or order appealed against is uploaded on the common portal, a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal.
- Rule 109 which provides the procedure to file an appeal with the Appellate Authority has been amended consequent to amendment in Rule 108(3) of CGST Rules, 2017.

## Facility of Withdrawal of Appeal

- Rule 109C has been inserted in CGST Rules to provide a manner for Withdrawal of Appeal in FORM GST APL-01/03W by an appellant.
- This would help in reducing litigations at the level of appellate authorities

**Notification No. 26/2022-Central Tax dated 26-12-2022**

# Changes with respect to Demand and Recovery under GST



# Demand and Recovery under GST

## Clarification with regard to applicability of provisions of section 75(2) of CGST Act, 2017 and its effect on limitation

- **Charges of Fraud not established:** As per section 75(2) of the CGST Act, 2017 , in cases where the appellate authority or appellate tribunal or court concludes that the notice issued by proper officer under sub-section (1) of section 74 is not sustainable for reason that the charges of fraud or any willful-misstatement or suppression of facts to evade tax have not been established against the person to whom such notice was issued, then the proper officer shall determine the tax payable by the noticee, deeming as if the notice was issued under sub-section (1) of section 73.
- **Order required to be issued in pursuance of the direction of the Tribunal or Court etc.:** As per section 75(3), in cases any such direction is issued by appellate authority or appellate tribunal or court, the proper officer is required to issue the order of re-determination of tax, interest and penalty payable within a period of two years from the date of communication of the said direction by appellate authority or appellate tribunal or the court, as the case may be.

**Circular No. 185/17/2022-Central Tax dated 27-12-2022**

# Demand and Recovery under GST

## Clarification with regard to applicability of provisions of section 75(2) of CGST Act, 2017 and its effect on limitation

- **Time limit for issuing notice under section 73 got expired:** Similarly, in case, where the show cause notice under sub-section (1) of section 74 was issued beyond a period of 2 years and 9 months from the due date of furnishing of the annual return for the financial year to which such demand relates to, and the appellate authority concludes that the notice is not sustainable under sub-section (1) of section 74 of CGST Act thereby deeming the notice to have been issued under sub-section (1) of section 73, the entire proceeding shall have to be dropped, being hit by the limitation of time as specified in section 73.
- **Show cause notice for multiple FY:** Where the show cause notice under sub-section (1) of section 74 was issued for multiple financial years, and where notice had been issued before the expiry of the time period as per sub-section (2) of section 73 for one financial year but after the expiry of the said due date for the other financial years, then the amount payable in terms of section 73 shall be re-determined only in respect of that financial year for which show cause notice was issued before the expiry of the time period as specified.

# Changes with respect to Exemption on Services under GST





# Exemption under GST

## Refinement in scope of Services of Renting of Residential Dwelling to Unregistered Person

- As per S. No. 12 of NN 12/2017-CT(R), exemption has been provided to services by way of renting of residential dwelling for use as residence except where the residential dwelling is rented to a registered person.
- Further, w.e.f. 18.07.2022, the services provided by way of renting of residential dwelling to a registered person has been made taxable under reverse charge and the registered person shall be liable to pay the tax on such services.
- Thus, there was an ambiguity regarding the scope of this exemption in case the residential unit has been rented to a proprietorship concern (registered under GST) for the residence of such proprietor in his person capacity.
- Thus, in order to remove this ambiguity, an explanation has been added to the exemption notification to clarify that this exemption entry shall cover services by way of renting of residential dwelling to a registered person where the registered person is proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence and such renting is on his own account and not that of the proprietorship concern.

**Notification No. 15/2022-Central Tax (Rate) applicable w.e.f. 01-01-2023**



# Exemption under GST

## **Omission of Exemption on Service by way of access to a road or a bridge on payment of annuity**

- Annuity projects provide that all the costs are borne by the government in the form of deferred budgetary payments. In BOT -Annuity, the developer constructs the road, maintains it and gets fixed payment from the government.
- Exemption had been provided till 31-12-2022 on the service by way of access to a road or a bridge on payment of annuity.
- However, w.e.f. 01-01-2023, such exemption has been withdrawn.
- Now, the service by way of access to a road or a bridge on payment of annuity shall be taxable under GST.

**Notification No. 15/2022-Central Tax (Rate) applicable w.e.f. 01-01-2023**

# Changes in Exemption and Rate of Goods



# Changes in Rate of Goods

Existing Entry	Revised Entry	Rate of Tax	Summary of Change
Ethyl alcohol supplied to Oil Marketing Companies for blending with motor spirit (petrol)	Ethyl alcohol supplied to Oil Marketing Companies <b>or Petroleum refineries</b> for blending with motor spirit (petrol)	5%	<ul style="list-style-type: none"> <li>• Earlier Ethyl alcohol supplied to oil marketing companies was taxable @ 5%.</li> <li>• Now, Ethyl alcohol supplied to petroleum refineries, as well, shall be taxable @ 5%.</li> </ul>
Ethyl alcohol and other spirits, denatured, of any strength other than ethyl alcohol supplied to Oil Marketing Companies for blending with motor spirit (petrol)	Ethyl alcohol and other spirits, denatured, of any strength other than ethyl alcohol supplied to Oil Marketing Companies or Petroleum refineries for blending with motor spirit (petrol)	18%	<ul style="list-style-type: none"> <li>• Consequential amendment to the above change.</li> <li>• Ethyl alcohol and other spirits, denatured, of any strength other than ethyl alcohol supplied to Oil Marketing Companies or Petroleum refineries for blending with motor spirit (petrol) shall be taxable @ 18%.</li> </ul>

**Notification No. 12/2022-Central Tax (Rate) applicable w.e.f. 01-01-2023**

# Changes in Rate of Goods

Existing Entry	Revised Entry	Rate of Tax	Summary of Change
Fruit pulp or fruit juice based drinks	Fruit pulp or fruit juice based drinks [other than Carbonated Beverages of Fruit Drink or Carbonated Beverages with Fruit Juice]	12%	<ul style="list-style-type: none"><li>Carbonated Beverages of Fruit Drink or Carbonated Beverages with Fruit Juice shall not be taxable @ 12%.</li><li>Only Fruit pulp or fruit juice based drinks shall be taxable @ 12%</li></ul>
Mathematical boxes, geometry boxes and colour boxes, pencil sharpeners	Mathematical boxes, geometry boxes and colour boxes	12%	<ul style="list-style-type: none"><li>Pencil and sharpeners are not taxable @ 12%.</li></ul>

**Notification No. 12/2022-Central Tax (Rate) applicable w.e.f. 01-01-2023**

# Changes in Rate of Goods

Existing Entry	Revised Entry	Rate of Tax
Bran, sharps and other residues, whether or not in the form of pellets, derived from the sifting, milling or other working of cereals or of leguminous plants [other than aquatic feed including shrimp feed and prawn feed, poultry feed and cattle feed, including grass, hay and straw, supplement and husk of pulses, concentrates and additives, wheat bran and de-oiled cake	Bran, sharps and other residues, whether or not in the form of pellets, derived from the sifting, milling or other working of cereals or of leguminous plants [other than aquatic feed including shrimp feed and prawn feed, poultry feed and cattle feed, including grass, hay and straw, supplement and additives, husk of pulses <b>including chilka</b> , concentrates <b>including chuni or churi, khanda</b> , wheat bran, de-oiled cake	5%

Notification No. 12/2022-Central Tax (Rate) applicable w.e.f. 01-01-2023

# Changes in Exemption of Goods

Existing Entry	Revised Entry
Aquatic feed including shrimp feed and prawn feed, poultry feed & cattle feed, including grass, hay & straw, supplement & husk of pulses, concentrates & additives, wheat bran & de-oiled cake [other than rice-bran].	Aquatic feed including shrimp feed and prawn feed, poultry feed and cattle feed, including grass, hay and straw, supplement and additives, wheat bran and de-oiled cake [other than rice bran].
NA	Husk of pulses including Chilka, Concentrates including chuni or churi, Khanda.

**Notification No. 13/2022-Central Tax (Rate) applicable w.e.f. 01-01-2023**



# Other Clarifications and Changes under GST



# Other Clarifications and Changes under GST

Notification/ Circular	Change w.r.t.	Summary of Change
NN 26/2022-CT dated 26-12-2022	Invoicing under GST	<ul style="list-style-type: none"> <li>• <b>Invoice in case of supply made through e-commerce operator and in case of OIDAR Services supplied to unregistered person:</b> Invoices shall contain the complete details of the recipient i.e. name and address of the recipient along with its PIN code and the name of the State and the said address shall be deemed to be the address on record of the recipient.</li> </ul>
		<ul style="list-style-type: none"> <li>• <b>Rule 46A:</b> An invoice cum bill of supply shall contains the particulars of Tax Invoice, Bill of Supply and Invoice issued in other cases like by ISD, Banking Co, etc.</li> </ul>
NN 26/2022-CT dated 26-12-2022	Payment of Tax	<ul style="list-style-type: none"> <li>• <b>Validation of payment with e-scroll of RBI:</b> Rule 87(6) has been amended to provide that in case where the bank fails to communicate details of Challan Identification Number to the Common Portal, the Electronic Cash Ledger may be updated on the basis of e-Scroll of the Reserve Bank of India in cases where the details of the said e-Scroll are in conformity with the details in challan generated in FORM GST PMT-06 on the Common Portal.</li> </ul>

# Other Clarifications and Changes under GST

Notification/ Circular	Change w.r.t.	Summary of Change
NN 26/2022-CT dated 26-12-2022	E-way Bill	<ul style="list-style-type: none"> <li><b>Requirement of e-way bill:</b> Rule 138(14) has been amended to provide that e-way bill shall not be required in case of transportation of Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71) excepting Imitation Jewellery (7117).</li> </ul>
Circular No. 186/18/2022-GST	Tax on No Claim Bonus under Insurance Policy	<ul style="list-style-type: none"> <li>There is <b>no supply provided by the insured to the insurance company</b> in form of agreeing to the obligation to refrain from the act of lodging insurance claim as No Claim Bonus cannot be considered as a consideration for any supply provided by the insured to the insurance company.</li> <li><b>No Claim Bonus (NCB) is a permissible deduction under clause (a) of sub-section (3) of section 15 of the CGST Act</b> for the purpose of calculation of value of supply of the insurance services provided by the insurance company to the insured.</li> </ul>
Circular No. 186/18/2022-GST	Exemption from E-Invoice	<ul style="list-style-type: none"> <li><b>Exemption from mandatory generation of e-invoices</b> is for the entity as a whole and is not restricted by the nature of supply being made by the said entity e.g. Banking Companies.</li> </ul>

## Other Recommendations yet to be Notified



# Transactions not to be treated as supply of goods or supply of services

- ❖ Paras 7, 8(a) and 8(b) were inserted in Schedule III of CGST Act, 2017 with effect from 01.02.2019 to keep certain transactions/ activities, such as;
  - ❖ *supplies of goods from a place outside the taxable territory to another place outside the taxable territory,*
  - ❖ *high sea sales and*
  - ❖ *supply of warehoused goods before their home clearance,*outside the purview of GST.
- ❖ In order to remove the doubts and ambiguities regarding taxability of such transactions/ activities during the period 01.07.2017 to 31.01.2019, the Council has recommended to make the said paras effective from 01.07.2017.
- ❖ However, no refund of tax paid shall be available in cases where any tax has already been paid in respect of such transactions/ activities during the period 01.07.2017 to 31.01.2019.

# Decriminalization under GST

## Increase in minimum threshold limit for launching prosecution

- Increase in limit from 1 Crore to 2 Crores
- Except for the offence of issuance of invoices without supply of goods or services or both

## Reduction in Compounding Amount

- From the present range of 50% to 150% of tax amount
- To range of 25% to 100% of the tax amount

## Decriminalize certain offences under Section 132(1)

- Obstruction or preventing any officer in discharge of his duties;
- Deliberate tempering of material evidence;
- Failure to supply the information.

# Facilitate e-commerce for micro enterprises

## E-Commerce for Unregistered persons /

GST Council in its 47th meeting had granted in-principle approval for *allowing unregistered suppliers and composition taxpayers to make intra-state supply of goods through E-Commerce Operators (ECOs)*, subject to certain conditions.

## Composition taxpayer

The Council approved the amendments in the GST Act and GST Rules, along with issuance of relevant notifications, to enable the same.

Considering the time required for development of the requisite functionality on the portal, Council has recommended that the scheme may be implemented **w.e.f. 01.10.2023.**



# Amendment in certain definitions

## Amendment in definition of Non-Taxable Online Recipient and OIDAR Services

- Amendment in definition of **“Non-taxable online recipient”** under section 2(16) of IGST Act, 2017 and definition of **“Online Information and Database Access or Retrieval Services (OIDAR)”** under section 2(17) of IGST Act, 2017 so as to reduce interpretation issues and litigation on taxation of OIDAR Services.



**OIDAR Services**  
under GST

# QUESTIONS



Thank  
you!!!

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