

A background image showing a business meeting. Several people in white shirts are gathered around a table, looking at documents and a laptop. One person is holding a pen over a document with a flowchart. The scene is brightly lit, suggesting an office environment.

Changes in GST effective from Jan 1, 2022

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07.01.2022

Today's Coverage

General amendments applicable to all:

- ITC matching based on GSTR 2B – Insertion of Sec 16(2)(aa) & Amendment of Rule 36(4);
- Blocking of GSTR 1;
- Widening of recovery provision;
- Provisional Attachment – scope widened;
- E-way bill restriction;
- Other key amendments viz., Aadhar authentication etc.

Sector specific amendments:

- Concept of mutuality for clubs/ associations;
- Passenger transportation service supplied through e-commerce platform;
- Restaurant service supplied through e-commerce platform;
- Governmental project works;
- Textile & Footwear industry.



**ITC matching
with GSTR-2B**

ITC restriction based on GSTR 2B

Section Sec 16(2)(aa) - (39/2021):

- *(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;*

Rule 36(4) as amended:

- No input tax credit shall be availed by a registered person in respect of invoices or debit notes the details of which are required to be furnished under sub-section (1) of section 37 unless,-
 - a) the details of such invoices or debit notes have been furnished by the supplier in the statement of outward supplies in FORM GSTR-1 or using the invoice furnishing facility; and
 - b) the details of such invoices or debit notes have been communicated to the registered person in FORM GSTR-2B under sub-rule (7) of rule 60.

ITC restriction based on GSTR 2B

- Subject to the provisions of section 41 or section 43A, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilization of input tax credit admissible in respect of the said supply;

Period	Relevant Law	Implications
July 2017 to 8 th October 2019	Section 16(2)(c)	No restrictions other than section 16 subject to section 17(5)
9 th October 2019 till December 2020	Rule 36(4)	Rule ultra – vires section 16 Section 43A is yet to be notified
01 st January 2021 till Finance Act 2021 being notified	Introduction of GSTR-2B	There is no linkage between 36(4) vs 2A/2B No transitional procedures described for 2A to 2B
After notifying Finance Act 2021	Section 16(2)(aa) -	The amendment proposed in section 16 is to overcome the legal lacuna of rule 36(4)

Introduction of clause (aa) in Finance Act, 2021

- (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.
- If rule 36(4) was valid and GSTR 2A was serving the purpose, then why there is a need to enact clause (aa) to sec 16 (2) of the CGST Act - Whether rule 36(4) would become redundant upon implementation of clause (aa) to sec 16;
- Runs contrary to the express provisions of Sec. 38 by permitting the genuine recipients to declare the missing invoices and claim the ITC – Harmonious construction must be adopted.
- “Lex non cogit ad impossibilia - law cannot compel a man to do what he cannot possibly do;
 - ✓ Not making the provisional claim of ITC by filing GSTR 2 and asking the vendors to accept the liability;
 - ✓ Determining the eligibility solely based on filings done by the said vendors which are not in the control of the recipient.

Introduction of clause (aa) in Finance Act, 2021

- Clause (aa) does not apply to documents other than invoice and debit notes;
 - ✓ Bill of entry for import of goods;
 - ✓ Distribution of credit based on ISD;
 - ✓ ITC availed based on the tax paid under reverse charge.
- Unjust profiteering by the department still not addressed;
- Scenario where supplier has filed returns and paid taxes but after the due date prescribed for availing the credit – Interplay with Sec 16(4) not addressed;

Constitutional validity of matching principle

- Denying ITC to a buyer of goods and services would tantamount to treating both the 'guilty purchasers' and the 'innocent purchasers' at par whereas they constitute two different classes. This is violative of Article 14 of the Constitution inasmuch as it treats both the 'innocent purchasers' and the 'guilty purchasers' alike. Therefore it punishes both the perpetrator of the fraud and the victim and treat both of them on an equal footing which is totally in contradiction with the mandate contained under Article 14 of the constitution, which provides that the equals are to be treated equally. ***(K.T. Moopil Nair v. State of Kerala and State of Kerala v. Haji and Haji)***
- Denial of ITC to the buyer of goods or services for default of the supplier of goods or services, will severely impact working capital and therefore substantially diminishes ability to continue business. Therefore, it is a serious affront to his right to carry on his trade or business guaranteed under Article 19(1)(g) of the Constitution – ***[Global Ltd. v. UOI - 2014 (310) E.L.T. 833 (Guj.)]***

Constitutional validity of matching principle

- Denial of ITC to the buyer of goods or services for default of the supplier of goods or services, is wholly unjustified and this causes the deprivation of the enjoyment of the property. Therefore, this is positively violative of the provision of Article 300A of the Constitution of India - ***Central Excise, Pune v. Dai Ichi Karkaria Ltd., SC on 11 August, 1999 [1999 (112) E.L.T. 353 (S.C.)]***
- Article 265 of the Constitution provides that no tax shall be levied or collected except by authority of law.
- Denial of ITC to the buyer of goods or services for default of the supplier of goods or services, clearly frustrates the underlying objective of removal of cascading effect of tax as stated in the Statement of object and reasons of the Constitution (One Hundred And Twenty-Second Amendment) Bill, 2014. it is an established principle of law that it is necessary to look into the mischief against which the statute is directed, other statutes in parimateria and the state of the law at the time.

ITC matching based on GSTR 2B

ITC Matched with GSTR 2B:

- What if GSTR 3B is not filed by the supplier – whether ITC can be availed based on GSTR 2B – Interplay of conditions in sec 16(2)(b) vis-à-vis 16(2)(aa);
- What if later CN is issued by the supplier & reported in the subsequent GSTR 2B – Whether recipient required to reverse the ITC – whether interest payable – mechanism of re-availment;
- Strict reading of section 16(2)(aa) read with rule 36(4), the reversal of ITC based on supplier's credit note is not required based on GSTR 2B meaning thereby that the ITC reversal on CN's to be considered based on books – Can be highly conflicting.
- Recommended to perform matching for both invoices and also Credit notes. Data of books uploaded to the software must also contain the details of Credit notes.

ITC matching based on GSTR 2B

ITC reflecting in GSTR 2B but not reflecting in the Books:

- Airline bills, CHA bills, Bank charges etc. – Non-possession of the tax invoice can lead to denial of credit;
- Deeper manual matching must be performed – complete reliance on the software's for matching can lead to leakage of genuine credits;
- Internal systems must be strengthened – Expense Accounting, Delay in posting, Obtaining bills for employee reimbursements, Vendor masters clean up etc.
- Deep review/ sanitisation of the data from the books being uploaded for the ITC matching – Completeness & correctness.
- Matching to be carried out as on date including for the date with previous years/ subsequent years spill over transactions.
- Credit Notes reflecting in GSTR 2B and not reflecting in Books – Tax treatment??;

ITC matching based on GSTR 2B

ITC reflecting in Books but not reflecting in GSTR 2B:

- Transaction reported as B2C by the supplier – Declaration from the supplier;
- Upload of incorrect details by the supplier – Amendment of GSTIN, value, tax etc.
- Holding suppliers payment – PO/ Contract terms;
- Debiting tax cost to the supplier – If ITC availed subsequently – leads to undue profiteering;
- Keeping ITC in the wait list for review in the GSTR 2B of the subsequent months;
- Availing ITC challenging the Constitutional vires of Section 16(2)(aa) & rule 36(4);
- Avail the ITC without utilisation of the same keeping the buffer lying in the Electronic credit ledger – System does not allow for storage of IGST balances.
- Credit Note reflecting in books but not reflecting in GSTR 2B.

ITC matching based on GSTR 2B

Other issues:

- Relevance of GSTR 2A – Circular 135 continues the reference of GSTR 2A for refunds claim;
- GSTR 1 to be filed on or before 13th of the subsequent month;
- What is the timing of availing credit – Invoice date or GSTR 2B reflection date;
- ITC availed based on books and later reflecting in GSTR 2B – whether interest applicable;
- Implication of 16(aa) [ITC restriction] vis-à-vis 16(4) [Time-limit for availing ITC];
- Whether ITC in GSTR-3B should be equal to ITC auto-populated in GSTR-2B month on month basis;
- ITC matching to be effectively carried out within 6 days i.e., 14th to 20th of each month;

ITC matching based on GSTR 2B

Other issues:

- Tax treatment in case of spillover transactions:
 - ✓ Invoice date prior to Jan 1, 2022 but ITC availed in Jan 2022 or later;
 - ✓ Re-availment of earlier reversed ITC post amendment;
 - ✓ Treatment for the additional buffer 5% ITC claimed based on erstwhile rule 36(4);
 - ✓ Invoices prior to Jan 2022 not availed due to non-reflection in GSTR 2A;
- ITC not available tab providing the ineligible ITC based on PoS being the different state;
- Tiff between supplier & recipient – Dominating party in the transaction wins;
 - ✓ Interest / penalty levied by the recipient for delay in uploading of invoice by the supplier;
 - ✓ Working capital blockage for the supplier if tax component is delayed based on GSTR 2B;
 - ✓ Working capital blockage / cost for the recipient if tax component is delayed reported or not reported in GSTR 1;
 - ✓ Availability of ITC in case of minor mismatches viz., Invoice No., Date, Amount etc.

Possible Reasons for diff in 2B & 3B

- Purchase - Goods in transit
- Wrong invoice in GSTR-2B – amount or particulars (impact in the month of amendment).
- ITC not claimed on purchases (e.g. goods not received) – instead of cancelling invoice, vendor raised CN.
- Goods returned by customer on DC and ITC reversed in month 1. vendor raises CN in month 2
- Wrong PoS
- Courier imports – will not be auto populated in 2B
- Reverse charge payable – auto populated from GSTR-1 of vendors – even if we are paying more than auto populated – it shows error. No regard to ToS provisions which allow 60 days or payment date – more reconciliations?
- RCM payable would also contain Import of services - difference to this extent
- RCM ITC > GSTR-2B Auto population – even if we have paid more.



**Blocking of
GSTR 1**

Restriction in filing of GSTR 1 – Rule 59 (6)

Notwithstanding anything contained in this rule, -

- (a) a registered person shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1**, if he has not furnished the return in **FORM GSTR-3B** for the preceding month;
- (b) a registered person, required to furnish return for every quarter under the proviso to sub-section (1) of section 39, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1** or using the invoice furnishing facility, if he has not furnished the return in **FORM GSTR-3B** for preceding tax period.

Declaration in GSTR 1 - Self Assessed Tax - Sec 75

- 75 (12) 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 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.
- **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.
- Violation of Article 19(1)(g), 301 & 304 of the COI;
- Taxes may and do amount to restrictions; but it is only such taxes as directly and immediately restrict trade that would fall within the purview of Art. 301. - **Atiabari Tea Co., Ltd. vs The State Of Assam AIR 1961 SC 232;**
- Rule 86A invoking similar restriction is already under a challenge;



**Provisional
Attachment –
Scope widened**

Provisional Attachment of property – Scope widened

- “83(1) Where, after the **initiation of any proceeding** under **Chapter XII, Chapter XIV or Chapter XV**, 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.”
 - ✓ **Self Assessment – Sec 59**
 - ✓ **Provisional Assessment – Sec 60**
 - ✓ **Scrutiny of Returns – Sec 61**
 - ✓ **Assessment of non-filers of returns – Sec 62**
 - ✓ **Assessment of unregistered persons – Sec 63**
 - ✓ **Summary assessment in some special case – Sec 64**
 - ✓ **Inspection, Search & Seizure – Sec 67**
 - ✓ **Inspection of goods in movement – Sec 68**
 - ✓ **Arrest – Sec 69**
 - ✓ **Summons – Sec 70**
 - ✓ **Demand u/s 73 or 74.**

Provisional Attachment of property – Scope widened

- Type of cases where provisional attachment can be resorted:
 - ✓ Supply of goods/ services without issue of invoice;
 - ✓ Issue of invoice without supply of goods/ services;
 - ✓ Fraudulently availing ITC without supply of goods/ services;
 - ✓ Tax collected and not paid for more than 3 months;
 - ✓ Fraudulently obtained refund;
 - ✓ Passed on ITC fraudulently to the recipient but has not paid the tax to the government
[GSTR 1 filed but GSTR 3B not filed]

[Guidelines for Provisional Attachment – CBEC-20/16/05/2021-GST/359 Dated 23.02.2021]

- Proceedings in the nature of summons issued u/s 70 are not specified u/s 83, the provisional attachment of the bank account was illegal - ***Kaish Impex Private Limited v. UOI 2020 (34) G.S.T.L. 3 (Bom.)***;
- Provisional attachment can not be done in respect of the proceedings under section 71(1) of the said Act. - ***Ankit Lokesh Gupta 2019 (10) TMI 204 Gujarat High Court***;

Provisional Attachment of property – Scope widened

- Decision of ***Radha Krishan Industries 2021 (4) TMI 837 SC*** as under:
 - ✓ In the absence of issuance of notice under Section 74 of the Act or any other Sections quoted in Section 83 of the Act, one cannot draw inference that there is pendency of any proceedings under Section 74 of the Act in the present case.
 - ✓ *The power to levy a provisional attachment is draconian in nature. The attachment will bring the business to standstill Even the further collections will be affected.*
 - ✓ *By utilizing the expression “it is necessary so to do” the Legislature has evinced an intent that an attachment is authorized not merely because it is expedient to do so (or profitable or practicable for the revenue to do so) but because it is necessary to do so in order to protect interest of the government revenue.*
 - ✓ *Proportionality mandates the existence of a proximate or live link between the need for the attachment and the purpose which it is intended to secure.*
 - ✓ *Commissioner must in the formation of the opinion act on the basis of tangible material on the basis of which the formation of opinion is based in regard to the existence of the statutory requirement.*

Provisional Attachment of property – Scope widened

- ✓ *Under the provisions of Rule 159(5), the person whose property is attached is entitled to dual procedural safeguards :*
 - a) *An entitlement to submit objections on the ground that the property was or is not liable to attachment; and*
 - b) *An opportunity of being heard;*
- Guidelines for Provisional Attachment – CBEC-20/16/05/2021-GST/359 Dated 23.02.2021
- Order of attachment to be communicated by Commissioner to the concerned revenue authority via GST DRC-22, along with a copy with the person concerned;
- Objection to such an attachment can be filed by the person concerned via GST DRC-22A and the time limit of seven days from the attachment has been done away with;



**Detention,
Seizure &
Confiscation of
Goods &
Conveyance in
transit**

Detention, seizure and release of goods and conveyances in transit – Sec 129

Section 129(1) – In order to get the goods released:

- If the owner of the goods accepts for payment of penalty – then amount shall be:
 - ✓ In case of taxable goods – 200% of the tax payable;
 - ✓ In case of exempted goods – 2% of value of the goods;
- If the Owner of the goods doesn't accept for payment of penalty – then amount shall be:
 - ✓ In case of taxable goods – Higher of 50% of taxable value of goods or 200% of tax payable on such goods;
 - ✓ In case of exempted goods – Lower of 5% of value of the goods or Rs.25,000/-
- A big change as earlier the provisions stated for 100% and 100% penalty leading to double tax and many appeals/ Writs were filed for refund of tax paid twice.
- Deletion of clause (2) to sec 129, however the option provided under clause (c) in terms of allowing furnishing of security equivalent to the aforementioned liabilities remains unchanged.

Detention, seizure and release of goods and conveyances in transit – Sec 129

- Time-line provided for issuance of notice and order by the proper officer:
 - Notice to be served – 7 days from detention/seizure;
 - Order to be passed – 7 days from service of notice.
- Whether this gives a reasonable opportunity of being heard to the person concerned??
- If payment of penalty not made by the person within 15 days from the receipt of such order then the goods/ conveyance can be sold/ disposed off.
 - Independent powers given u/s 129 and delinked with proceedings of confiscation u/s 130;
 - Further, a transporter is allowed to release the conveyance upon paying the penalty levied u/s 129(3) or Rs. 1,00,000/- whichever is lower;
 - Equal amount must also be paid towards SGST.

Detention, seizure and release of goods and conveyances in transit – Sec 74, 107 & 130

- The liability against the transporter to pay penalty u/s 129 or 130 shall not be said to be concluded upon conclusion of the proceedings against the main person liable to pay tax. **[Section 74]**
- If the assessee wants to prefer an appeal against the order u/s 129, then 25% of the such penalty has to be paid prior to filing the same. **[Section 107]**
- Confiscation can now be made only if the ingredients of sec 130 are present and cannot be undertaken for detention & seizure of goods or conveyances u/s 129.
- Presently Sec. 130(3) provides that even if the fine is imposed u/s 130(2), still the owner of goods/conveyance shall in addition pay the tax, penalty and charges in respect of the given goods/conveyance. Such double payment of tax, interest and penalties over and above the fine is done away with.

Procedure for recovery of penalty by sale of goods or conveyance detained or seized in transit - [Rule 144A]

- Procedure prescribed for disposal of goods (e-auction) and vehicle if the penalty has not been paid by the person concerned within 15 days from the date of receipt of order u/s 129(3);
- In case of perishable/hazardous goods 15 days may be reduced by the proper officer;
- The goods or conveyance shall be sold through a process of auction, including e-auction, for which a notice shall be issued in FORM GST DRC-10 clearly indicating the goods or conveyance to be sold and the purpose of sale.
- In case of appeal against the order u/s 129(3), the proceedings of disposal of goods/conveyance shall be deemed to be stayed – Appeal must be filed immediately within 15 days – Original period of 3 months + 1 month becomes redundant
- However, such stay provisions does not apply for perishable/hazardous nature of goods – [Goes against the statutory remedy of appeal granted u/s 107];



**Other Key
Amendments**

Mandatory Aadhar Authentication

- Aadhar Authentication to be carried out for the following purposes:
 - ✓ For filing of application for revocation of cancellation of registration in **FORM GST REG-21** under Rule 23;
 - ✓ For filing of refund application in **FORM RFD-01** under rule 89;
 - ✓ For refund under rule 96 of the integrated tax paid on goods exported out of India.
- If Aadhaar number has not been assigned then, following documents must be furnished: –
 - a. her/his Aadhaar Enrolment ID slip; and
 - b. (i) Bank passbook with photograph; or
 - c. (ii) Voter identity card issued by the Election Commission of India; or
 - d. (iii) Passport; or
 - e. (iv) Driving license issued by the Licensing Authority under the Motor Vehicles Act, 1988 (59 of 1988):
- Aadhar authentication with an Aadhaar number shall be undergone within a period of thirty days of the allotment of the Aadhaar number.

Mandatory Aadhaar Authentication

- Aadhaar authentication or e-KYC verification before filing of refund may be completed by navigating to "Dashboard > My Profile > Aadhaar Authentication Status".
- Following persons are exempted from the aforesaid requirement of Aadhaar authentication:
 - a) not a citizen of India; or
 - b) a Department or establishment of the Central Government or State Government; or
 - c) a local authority; or
 - d) a statutory body; or
 - e) a Public Sector Undertaking; or
 - f) a person applying for registration under the provisions of Section 25(9) of the Act (viz. any specialized agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries or any other persons as may be notified by the Commissioner)

Other Key Amendments

- Extension in filing of Form GSTR 9 & GSTR 9C up to Feb 28, 2022;
- Periodicity in the Intimation of job work details in Form ITC-04 is shifted from present quarterly to the following:
 - ✓ Principal whose Aggregate Turnover in a financial year exceeds Rs. 5 Crores – Half yearly i.e., Apr to Sep and Oct to Mar;
 - ✓ In any other case – Once in a financial year.**[Effective from Oct 1, 2021]**
- Time-limit of 2 years prescribed for filing the refund claims in cases where incorrect type of tax paid i.e., CGST & SGST paid in case of IGST or vice-versa – **[Effective from Sept 24, 2021]**

Other Key Amendments

- Refund claims filed by the foreign diplomatic missions and embassies in FORM GST RFD-10 in respect of the tax charged on the invoice for their inward supplies shall be supported by the copy of the invoice, duly attested by the authorized representative of the applicant if the said invoice do not bear the Unique Identity Number of the applicant – **[Rule 95]**
- Presently under sec. 151 of the CGST Act, 2017 Commissioner is granted with the power to issue a notification to collect statistics relating to any matter connected with GST. Now, a general power is given to the Commissioner to direct any person to furnish information relating to any matter connected with GST by issue an order. **[Section 151]**
- Any information gathered u/s 150 or 151 can now be used for any proceedings under the law but only after giving an opportunity of being heard to the concerned person. **[Section 152]**



**Concept of
mutuality**

Concept of Mutuality – Taxability of Associations, clubs

- “(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.
- **Explanation.**—For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, **the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;**”.
- Retrospective levy from 01.07.2017 – section 7(1) (aa) + Sch II entry omitted.
- One cannot do business with oneself - Association are the same as members. Calcutta Clubs case - Apex Court - ST levy struck down in 2019 on clubs and assns. Led to closure of 1000s of cases + refund by some. Doubts in GST regime.

Concept of Mutuality – Taxability of Associations, clubs

Impact:

- a. Implication beyond association/ clubs – Wide interpretation;
- b. Some who have stopped paying/ not paying GST – may have to start.
- c. Examine paying on the gross less 7,500/ member.
- d. Some paying GST after taking 7,500/ member can continue to do so.
- e. Interest applicability for the past?? - **Star India Pvt. Ltd. (1) STR 73 (S.C.), Shoeline 2017 (6) G.S.T.L. 226 (S.C.)**
- f. Availability of Input Tax credit for the past??
- g. Constitutional challenge on mutuality may continue but would be a long drawn-out battle - Can be paid under protest.



**passenger
Transportation
service
through E-
Comm**

Passenger transport services provided through E-Commerce Operators - Section 9(5)

- *The tax on intra-State supplies shall be paid by the electronic commerce operator –*
 - ✓ *(i) Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab, motor cycle, **omnibus** or any other motor vehicle;*

Removal of exemption:

- *Following services now taxable @ 5% or 12% as the case may be, if supplied through an electronic commerce operator and taxable u/s 9(5) in the hands of E-commerce operator:*
- *Transport of passengers, with or without accompanied belongings, by –*
 - ✓ *(b) non-airconditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or*
 - ✓ *(c) stage carriage other than airconditioned stage carriage;*
- *Service of transportation of passengers, with or without accompanied belongings, by—*
 - *(e) metered cabs or auto rickshaws (including e-rickshaws) if such services are supplied through an electronic commerce operator. [Uber India Systems Pvt. Ltd 2021-TIOL-2301-HC-DEL-GST;]*

Passenger transport services provided through E-Commerce Operators - Section 9(5)

The screenshot shows a ride-sharing app interface. At the top, a map displays the starting location at 93 ITI Road, Aundh, Pune, Maharashtra. The destination is marked with a green dot. Below the map, the starting point is listed as "93 ITI Road, Aundh, Pune, Maharashtra, In...". A "Now" button is visible. The "Recommended for you" section lists three options:

Service	Duration	Description	Price Range
Book Any	2 min	Get nearest Mini or Prime	₹108 - ₹137
Mini	2 min	Comfy, economical cars	₹108
Auto	1 min	Get autos at your doorstep	₹146

The "Auto" option is highlighted with a blue border. Below the list, there is a link for "More available rides".



**Restaurant
supplies
through E-
comm
operator**

Restaurant service provided through an E-commerce Platform

– Section 9(5)

- *Tax liability shifted on the E-Commerce Operators (ECO) u/s Section 9(5) on the following service:*
 - ✓ *“(iv) 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.*
- *(5) The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator **as if he is the supplier liable for paying the tax** in relation to the supply of such services:*

Restaurant service provided through an E-commerce Platform

– Section 9(5)

Impact on the Restaurants:

- Taxability in the following business scenarios:
 - ✓ In house Dining;
 - ✓ Take aways – Direct kitchen or Cloud Kitchen/ Central kitchen;
 - ✓ Home Delivery.
 - Directly by the restaurant; or
 - Through the E-comm platform.
 - ✓ All of the above;
- Restaurants in the specified premises are covered under forward charge even when supplied through E-comm – (unit of accommodation above Rs. 7,500/- 4 star/ 5 star category);
- Restaurants supplying goods are covered under forward charge even when supplied through E-comm – Bakery products, Packed food, Ice-cream – **Distinguishing between Sale of goods & service??**;
- Supply of goods and services in the same transaction – tax implication??

Restaurant service provided through an E-commerce Platform

– Section 9(5)

Impact on the Restaurants:

- Whether the supplies through e-comm to be considered in the aggregate turnover for the purpose of registration threshold limit. For ex: Total Turnover of 50 lacs and 35 lacs through E-comm platform and balance Rs. 15 lacs through direct service – whether registration under GST needed?? What if below Rs. 20 lacs??
- Whether Tax invoice needs to be raised by the restaurant or the E-comm platform;
- Whether the supplies through E-comm be considered as an exempt supply for the purpose of reversal of ITC by the restaurant;
- Restaurants covered under composition scheme – Taxability in the hands of E-Comm platform.
- Disclosure/ reporting of supplies made by restaurants through the E-Comm platform – Disclosure in GSTR 1, GSTR 3B by the restaurants - Table 8 of GSTR-1 and Table 3.1 (c) of GSTR-3B, for the time being.

Restaurant service provided through an E-commerce Platform

– Section 9(5)

Impact on the E-Comm Platform:

- Whether TCS is required to be deducted for restaurants on which tax is paid u/s 9(5) – How about ‘goods’ supplied by such restaurants through an e-comm platform??
- Whether mandatory registration needed for the E-Comm platform even though the aggregate turnover being below the threshold limit;
- Whether tax liability arises in the hands of E-Comm operator on supplies from restaurants that are unregistered under the CGST Act, 2017;
- 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’?
- Whether E-Comm operator utilize the ITC for payment of tax on supplies taxable u/s 9(5) or whether the payment to be made in Cash;

Restaurant service provided through an E-commerce Platform

– Section 9(5)

Impact on the E-Comm Platform:

- Taxability of Delivery charges – whether taxable as a composite supply @ 5% or an independent supply @ 18%;
- Taxability of Commission charges, packing charges levied by the E-Comm Operator on the restaurant;
- Invoicing by the e-comm operator;
 - ✓ Delivery charges billed to customer;
 - ✓ Packing charges/ commission billed to the restaurant;
 - ✓ Restaurant services covered u/s 9(5);
 - ✓ Other goods/ services supplied by the restaurant not covered u/s 9(5).
- Disclosure/ reporting by E-Comm platform in GSTR 1, GSTR 3B for supply goods/ services supplied restaurants;
- Implication on account of incorrect disclosure of HSN code by the restaurants..??



**Governmental
Projects**

Rate Changes for services to Government Authority and Government Entity

- Rate rationalization i.e., increase in the tax rate and removal of exemption for supplies to Government Authority or Governmental Entity;
- **“Governmental Authority”** means an authority or a board or any other body, -
 - i. set up by an Act of Parliament or a State Legislature; or
 - ii. established by any Government,with 90per cent. or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243W of the Constitution or to a Panchayat under article 243G of the Constitution.
- **“Government Entity”** means an authority or a board or any other body including a society, trust, corporation,
 - i. set up by an Act of Parliament or State Legislature; or
 - ii. established by any Government,with 90per cent. 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.

Rate Changes for services to Government Authority and Government Entity

- **Examples of “Governmental Authority” or “Government Entity”**
 - ✓ HP Tourism Development Board, Shimla;
 - ✓ Tamil Nadu Generation and Distribution Corporation Ltd.
 - ✓ City and Industrial Development Corporation of Maharashtra Ltd
 - ✓ Amaravathi metro rail corporation limited
 - ✓ National Institute of design
 - ✓ Kochi Metro rail ltd.
 - ✓ Tamil Nadu water investment company limited

Services to Governmental Authority & Governmental Entity - Removal of exemptions

- *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 ~~Governmental Authority or Governmental Entity~~ 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.*
- *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 ~~Governmental Authority or Governmental Entity~~ 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.*
- **[Exemption removed – Now taxable @ 18%]**

Services to Governmental Authority & Governmental Entity – Increase in Rate of Tax

- Composite supply of works contract supplied to the Central Government, State Government, Union territory or a local authority, ~~a Governmental Authority or a Government Entity~~ by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, -
 - ✓ a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);
 - ✓ canal, dam or other irrigation works;
 - ✓ pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.
- Above supplies provided by the main contractor to the sub-contractor.
- **[Rate of tax increased from 12% to 18%]**

Services to Governmental Authority & Governmental Entity – Increase in Rate of Tax

- Composite supply of works contract provided to the Central Government, State Government, ~~Governmental Authority or Governmental Entity~~ Union territory or a local authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –
 - a. a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;
 - b. a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or
 - c. a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central Goods and Services Tax Act, 2017.
- Above supplies provided by the main contractor to the sub-contractor.
- **[Rate of increased from 12% to 18%]**

Services to Governmental Authority & Governmental Entity – Increase in Rate of Tax

- Composite supply of works contract involving predominantly earth work (that is, constituting more than 75per cent. of the value of the works contract) provided to the Central Government, State Government, ~~*a Governmental Authority or a Government Entity*~~ *or* Union territory or a local authority;
- Above supplies provided by the main contractor to the sub-contractor.
- **[Rate of increased from 5% to 18%]**

Rate Changes for services to Government Authority and Government Entity

- Section 14 i.e., 2 out of 3 rule must be applied for determining the tax rate on-going existing contracts.
- **Impact & Action points:**
 - ✓ Reviewing the existing tax clauses – Cum Tax or Ex-tax;
 - ✓ RA Bill for the work done up to Dec 2021;
 - ✓ Communication and appropriate consent from the customer for levy of taxes;
 - ✓ Project viability assessment;
 - ✓ Availability of ITC on stocks, Capital Goods for exempt supplies now becoming taxable – Section 18;
 - ✓ Procurement planning;
 - ✓ Faster utilization of ITC – Reduced accumulation of ITC;
 - ✓ Representation before the respective governmental authority/ entity for change in terms of the agreement, tax clause, pricing terms;
 - ✓ Representation before the CBIC/ MOF.



**Textile &
Footwear
industry**

Tax rate on Textile products & Footwear

- Hon'ble Apex Court has directed the GST Council, in the case of VKC Footsteps to seriously consider the anomalies in the working of the refund of accumulated ITC on inverted rated supplies. Taking advantage instead of increasing the rate only where IDS products are there - across the board - revenue augmentation measure suggested by the GST Council.
- Rate increased from 5% to 12% on Readymade Garments, Chudidhar, Sarees, Apparels, Silk Sarees, Woven Fabrics, Blankets, Footwear, etc. whose sale value less than Rs. 1,000/-. Few products rates reduced from 18% to 12% to align (Synthetic Yarn, Artificial Yarn, etc.).
- GST rate on job work by way of dyeing or printing of the said textile and textile products increased from 5% to 12%. Same activity for unregistered persons liable at 18%.
- However, all the above amendments have been deferred by the decision of the GST Council in its 46th Council Meeting made effective vide Notification No. 22/CT(R) dated 31.12.2021.
- Tax rate on footwear of sale value not exceeding Rs. 1,000/- per pair increased from 5% to 12% – Notification No. 21/CT(R) dated 31.12.2021 – Effective from 01.01.2022

Questions?

THANK YOU

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