

GST UPDATES

including May & June, 2021

By:

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An orange scroll graphic with a dark orange border and a lighter orange fill. The scroll is unrolled, showing the text in the center. The top and bottom edges of the scroll are slightly curved, and there are small circular details at the corners suggesting the binding of the scroll.

Fake Invoicing Transaction



Supplier



Mediator/
KINGPIN

- For Penalty - covered under **Sec 122(1A)**
- For Prosecution- under **Sec 132**
- Provisional Attachment- under **Sec 83(Budgetary)**

Retains the benefit of a transaction and at whose instance such transaction is conducted

Invoice Supply
 Invoice but G/S Bogus Bill
 ITC- without Receipt of G/S
 ISD



Receiver

- For Penalty -covered under **Sec 122(1)**
- For Prosecution- under **Sec 132**
- Provisional Attachment- under **Sec 83**

- For Penalty -covered under **Sec 122(1)**
- For Prosecution- under **Sec 132**
- Provisional Attachment- under **Sec 83**

GSTR 3B-
 GSTR 1- Filed
 GSTR 2A- Reflected

GSTR- 3B
 GSTR 1- Filed

Cannot file GSTR-1 if GSTR-3B is not filed for **2 months or 1 quarter**

If Liability in GSTR-3B < GSTR-1 will lead to :

- **Cancellation (Rule 21)**
- **Suspension (Rule 21 A)**

Rule 86B
 Pay 1% in Cash , credit can be utilised upto 99%

Fake Invoicing

1. No definition of Fake Invoicing is given in GST Law.

It is an Economic Offence . It can be Invoice ✗ Supply ✓ , ✓ Invoice but G/S ✗ Bogus Bill

2. Check Jurisdiction on receipt of summon and the other legal issues like DIN etc.

For the checking the Jurisdiction one must check :- Who is the Proper Officer? (He must be an authorized person).

Person cannot be put to prejudice by having multiple assessments by center and state

3. Confirm whether the invoice is indeed fake or not.

=> If it is indeed fake and credit is reversed with interest – Intimate the Department

=> If it is not fake – One can go for Writ Remedy in the High Court

- In this case question of penalty may arise later on even if reversed
- Income tax disallowance will arise in case of fake invoice.
- Question whether reversal=not availed is still a question mark(Partibha Processors, Bombay Dyeing - -If assessee reverses credit on his own without utilising then it will be presumed as never been taken.)

Fake Invoicing

- One should submit the evidences and documents on receipt of DRC-01.
- For goods you have to submit: E-way Bill, Vehicle No., Toll Receipts , Transport Documents, For Services, its difficult as it leaves no trail but e.g in advertisement Services, hoarding etc. documents can be furnished.
- Statements can be cross verified . Statements made under duress can be retracted within reasonable time of Receipt of copy. Statement made, can be retracted but within a reasonable time as held in VINOD SOLANKI (SC)(Civil Appeal FEMA matter)- SC says Statement retracted are relevant but becomes weak and need corroborative Evidences)
- If person alleges that Statement is made under coercion/ duress then it will not be presumed but he needs to establish.
- It is not mandatory for a person to make statement appearing for the summon. One has a Right of Silence during Summon proceedings.

Fake Invoicing

- *Presence of Tax Professional during Statement –There are contradictory views available in this regard in various judgements . In few custom and other cases, it allowed Visible Distance but not Hearing Distance.*
- *Burden of proof is on Department to prove Fake Invoicing. If assessee furnishes documents , the officer cannot ignore the submissions, against principle of Natural Justice.*
- *You have to evaluate arrest provisions- whether these are applicable or not. Decision as to Anticipatory Bail is to be carefully examined. Its very difficult to get anticipatory bail in Economic Offences involving high stakes.*
- *Check that Principle of Natural Justice is followed and adherence to norms concerning Ladies. Can refer to Human Right Commission.*

Other Points

1. Simultaneous Investigation by Center and State GST Authorities for same period is not allowed. A person cannot be put to adjudication under both.

Eg. If person has state jurisdiction then center cannot assess. It can be challenged as violation of Article 14 (Equality Before Law)

Sri Balaji Rice Mill, vs The State Of Andhra Pradesh (WRIT PETITION No.20786 of 2020)

Krishna ShivRam Hegde – Kerala High Court

Raj Metal Industries & Anr. Vs. Union of India & Ors (W.P.A. 1629 OF 2021)

Anurag Suri Vs. DGGSIT (WP (c) no. 158 of 2020)

2. Maximum detention under section 167 CRPC is 60 days

3. Bail is the rule, not the jail, if a person cooperates even if Cognizable + Non Bailable -> No Need to arrest, held in case of *Naresh Kumar Mangla-SC. In Vimal Yashwantgiri Goswami vs. State Of Gujarat (GHC)* -The powers of arrest under section 69 are to be exercised with lot of care and circumspection. Prosecution should normally be launched only after the adjudication is completed. To put it in other words, there must be in the first place a determination that a person is liable to a penalty. Till that point of time, the entire case proceeds on the basis that there must be an apprehended evasion of tax by the assessee.

4. Any professional filing Returns cannot be arrested directly, unless found involved and defending client in Fake Invoice cases as a counsel is not challengeable, as ones job is to defend.

Canon India (P.) Ltd. v. Commissioner of Customs [2021] 125 taxmann.com 188 (SC)[09-03-2021]



AMENDMENTS MAY & JUNE, 2021

Not. No.	Amendment Pertaining	Issues in Amendment
16/2021-CT	Sec 50 Proviso	Interest on Net Amount
17/2021-CT	Amendment in the Notification No. 83/2020-CT read with 168	GSTR 1 due date (April & May,2021)
18/2021-CT	Sec 50 read with Sec 148-Amendment in the Notification No. 13/2017- CT w.e.f 18 th May, 21	Interest Waivers for GSTR 3B (Monthly and Quarterly)
19/2021-CT	Amendment in the Notification No. 76/2018-CT w.e.f 20 th May, 2021	Late Fee waiver Amensty Scheme <u>July, 17 to April,2021</u> if filed from 01.06.21 to 31 st Aug,2021 Reduced Late Fee w.e.f June, 2021
20/2021-CT	Amendments in the Notification No. 4/2018– Central Tax, dated the 23rd January, 2018	GSTR-1 Late Fee capping
21/2021-CT	Amendments in the notification No. 73/2017– Central Tax, dated the 29th December, 2017	Composition GSTR-4 Late Fee Capping
22/2021-CT	Sec 47	GSTR-7 TDS/TCS Late Fee Capping
23/2021-CT	Amendment in notification No.13/2020 – Central Tax, dated the 21st March, 2020	E Invoicing Exclusion of Govt. Department & Local Authority

Not. No.	Amendment Pertaining	Issues in Amendment
24/2021-CT	Notification 14/2021 amended	Blanket Exemption
25/2021-CT	Amendments in the notification No. 21/2019-Central Tax, dated the 23rd April, 2019	GSTR-4 extension 2020-21
26/2021-CT	Amendment in the notification No. 11/2021-Central Tax, dated the 1st May, 2021	Due Date Extension for Form ITC-04 for Jan-March, 2021
27/2021-CT	CGST 5 th Amendment Rules ,2021	EVC, Rule 36(4), IFF for May

Summary of Notifications dated 02.06.2021

Particulars	CT	IT	UT
Reduced rate of DEC (Diethylcarbamazine) tablets .	1/2021-CT(R)	1/2021-IT(R)	1/2021-UT(R)
Specify ITC to Landowner and specify GST rate for Maintenance, repair and overhaul (MRO) services for ships and vessels.	2/2021-CT(R)	2/2021-IT(R)	1/2021-UT(R)
Amend time of supply for Developer (to enable availment of ITC to Landowner)	3/2021-CT(R)	3/2021-IT(R)	3/2021-UT(R)
To specify the Place of supply for MRO services for ships and vessels as location of recipient.	-	3/2021-IT	-

SECTION 50 (INTEREST)

Amendment in section 50

6 Interest on delayed payment of tax.

Budgetary Amendment (Notified on 1st June, 21 vide Not. 16/2021-CT Effective date 01.7.2017)

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.

~~4[Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.]~~

w.e.f. 01.07.2017

“Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger.”

Impact

- **Retrospective amendment** made that interest to be paid on Net liability and not on gross liability in case of short payment of Tax with effect from 01.07.2017.
- **Right to claim refund arises, wherever the interest has been paid on gross GST liability.**

Reason

- The said amendment was proposed to be retrospective in one of GST Council Meeting dated 14.03.2020 and later on the said proviso not being brought retrospectively , it was assured that no recovery would be made from the tax payers for the preceding periods.

Critical Analysis

This provision **does not give relief** on the following amounts:-

- On **Any unpaid tax amount, even if the balance is lying in electronic cash / credit ledger**. E.g Jan (Output Rs. 100000- 80000 credit) Rs. 15000 deposited in Cash Ledger on 24th Feb , return filed on 26th March , Interest will be on 20000 from 21st Feb to 26th March.
 - **Tax payable in one tax period but paid later with subsequent return, would not enjoy such relief even when paid through ITC** . As the words in proviso says, Payable and declared in the return for the said period.
- eg.** Jan return filed NIL. Jan (Output Rs. 100000- 80000 credit) added in Feb ,2021 return. The same was paid using the carried forward ITC in the month of Feb, 2021. But the interest on tax of Rs. 1,00,000/- for the period of delay is to be paid, even if the same is paid by ITC.
- **Return not filed and tax not paid upto initiation of any proceedings under Section 73/74** in respect of such tax period would not get this benefit even when amount is lying in Cash / Credit ledger of the taxpayer.

Due Dates for GSTR-3B

Turnover **More INR 5 Crores** in preceding FY

*Not. 18/2021-CT dated
01.06.2021
Not. 19/2021-CT dated
01.06.2021*

Tax Period	Due Date	Next 15 Days	Onwards
Mar-21	20/04/2021	05/05/2021	
Interest	Nil	9%	18%
Late Fees	Nil	Nil	Fees Applicable
Tax Period	Due Date	Next 15 Days	Onwards
Apr-21	20/05/2021	04/06/2021	
Interest	Nil	9%	18%
Late Fees	Nil	Nil	Fees Applicable
Tax Period	Due Date	Next 15 Days	Onwards
May-21	20/06/2021	05/07/2021	
Interest	Nil	9%	18%
Late Fees	Nil	Nil	Fees Applicable

1. Cumulative application of rule 36(4) for availing ITC for tax periods April, May and June, 2021 in the return for the period June, 2021. **(Not. 27/2021-CT dated 01.06.2021)**
2. Allowing filing of returns by companies using Electronic Verification Code (EVC), instead of Digital Signature Certificate (DSC) till **31.08.2021 (Not. 27/2021-CT dated 01.06.2021)**

Due Dates for GSTR-3B

Turnover **up to INR 5 Crores** in preceding FY- **MONTHLY OPTION**

*Not. 18/2021-CT dated
01.06.2021
Not. 19/2021-CT dated
01.06.2021*

Tax Period	Due Date	Next 15 Days	Next 45 Days	Onwards
Mar-21	20/04/2021	05/05/2021	19/06/2021	-
Interest	Nil	Nil	9%	18%
Late Fees	Nil	Nil	Nil	Fees Applicable
Tax Period	Due Date	Next 15 Days	Next 30 Days	Onwards
Apr-21	20/05/2021	04/06/2021	04/07/2021	-
Interest	Nil	Nil	9%	18%
Late Fees	Nil	Nil	Nil	Fees Applicable
Tax Period	Due Date	Next 15 Days	Next 15 Days	Onwards
May-21	20/06/2021	05/07/2021	20/07/2021	-
Interest	Nil	Nil	9%	18%
Late Fees	Nil	Nil	Nil	Fees Applicable

- Cumulative application of rule 36(4) for availing ITC for tax periods April, May and June, 2021 in the return for the period June, 2021. (Not. 27/2021-CT dated 01.06.2021)**
- Allowing filing of returns by companies using Electronic Verification Code (EVC), instead of Digital Signature Certificate (DSC) till 31.08.2021 (Not. 27/2021-CT dated 01.06.2021)**

Due Dates for GSTR-3B/PMT06

Turnover up to INR 5 Crores in preceding FY- **QUARTERLY OPTION**

Not. 18/2021-CT dated
01.06.2021
Not. 19/2021-CT dated
01.06.2021

Tax Period	Due Date	Next 15 Days	Next 45 Days	Onwards
Jan-March,21	22/04/2021	07/05/2021	21/06/2021	-
	24/04/2021	09/05/2021	23/06/2021	-
Interest	Nil	Nil	9%	18%
Late Fees	Nil	Nil	Nil	Fees Applicable
Tax Period PMT-06	Due Date	Next 15 Days	Next 30 Days	Onwards
Apr-21	25/05/2021	09/06/2021	09/07/2021	-
Interest	Nil	Nil	9%	18%
Late Fees	Not Applicable			
Tax Period-PMT-06	Due Date	Next 15 Days	Next 15 Days	Onwards
May-21	25/06/2021	10/07/2021	25/07/2021	-
Interest	Nil	Nil	9%	18%
Late Fees	Not Applicable			

Category I States:- Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep (22nd)

Category II States:- Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi (24th)

Due Dates for Other Returns

*Not. 18/2021-CT dated
01.06.2021*

CMP-08 (Composition)

Tax Period	Due Date	Next 15 Days	Next 45 Days	Thereafter
Jan-21 to Mar-21	18/04/2021	03/05/2021	17/06/2021	18 June Onwards
Interest	Nil	Nil	9%	18%

GSTR-04

Tax Period	Due Date	Extended Date
FY 20-21	30-04-2021 (extended 31-05-2021)	31/07/2021

*Not. 25/2021-CT dated
01.06.2021 w.e.f 31.05.2021*

GSTR-1

Tax Period	Due Date	Extended Date
April-21*	11/05/2021	26/05/2021
May-21#	11/06/2021	26/06/2021

**Notification No.12/2021
dated 01.05.2021
#Not. 17/2021-CT dated
01.06.2021*

Invoice Furnishing Facility (IFF)

Tax Period	Due Date	Extended Date
April-21*	13/05/2021	28/05/2021
May-21#	13/06/2021	28/06/2021

**Notification No.13/2021
dated 01.05.2021
Not. No. 27/2021 dated
01.06.2021*

ITC-04

Jan-21 to Mar-21	Due Date*	Extended Date#
FY 20-21	25-04-2021(extended 31/05/2021)	30/06/2021

*Notification No.11/2021
dated 01.05.2021
Not. No. 26/2021
dated 01.06.2021*

RULE – 36(4)

Month	ITC as per Books	Itc as per 2A	ITC availed in 3B
April 2021	3000	2400	3000
May 2021	2400	1600	2400
June 2021	2000	3000	2000 Reverse Rs. 50
Total	7400	7000	7350*

Note:- Adjustment of total shortfall of ITC as per Rule 36(4) shall be done in June, 2020 Return

***7000*105%= 7350**

- ITC Claimed= 7400
- Excess claimed=7400-7350=50 to be reversed in June month

Without Interest

Not. 24/2021-CT
dated 01.06.2021

Relaxation in time limits for completion or compliance under GST Law

Relaxation Period

15.04.2021

29.06.2021

30.06.2021

Start date

End date

Extended
date

Where, any time limit for completion or compliance of any action, by any authority or by any person, has been specified in the GST Act, 2017 which falls during the period **from 15th April, 2021 to 29th June, 2021**, and where such compliances has not been complied within such time, then, the time limit for such action, shall be **extended up to 30th June,2021.**

Relaxation Includes

- a) Completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval or such other action, by whatever name called, by any authority, commission or tribunal, by whatever name called, under the provisions of the Acts stated above; or
- b) Filing of any appeal, reply or application or furnishing of any report, document, return, statement or such other record, by whatever name called, under the provisions of the Acts stated above;
- c) **It has been further clarified that wherever the timelines for actions have been extended by the Hon'ble Supreme Court in its Order, the same would apply. (Part of Press Release)**

- d) Extended the time limit till **July 15, 2021**, for **verification of the Registration Application and approval under Rule 9** of the CGST Rules falling during the period of from **May 01, 2021 to June 30, 2021**
- e) Extended the time limit for issuance of **Refund Oder where notice for rejection has been issued** falling during the period of from **April 15, 2021 to June 29, 2021 till**
- 15 days after Receipt of reply
- Or **June 30, 2021**
- whichever is later,**

Exclusions to Blanket Extension

The following are Certain Exclusions provided under this notification, on which, Extension will not apply which are explained in the following Table:

Provisions	Explanation	Remarks
Chapter IV	Time and Value of Supply	Time and valuation of supply provision remains unaffected
Section 10(3)	Lapse of Option availed by Composition dealers	Option availed u/s 10(1) by a composition dealer wrt composition levy shall stand lapsed w.e.f. date on which his aggregate turnover exceeds the specified limits. If such date falls between 20.3.20 to 30.06.2020, there shall be no extension for such person for switching to regular person.
Section 25	Application for Registration	No extension for person liable to get himself registered u/s 22 and 24 within the time limits prescribed.
Section 27	Casual Taxable person and Non Resident taxable person	No extension in time limits for Registration by a Casual Taxable person and Non Resident taxable person liable to register.
Section 31	Tax invoices	No extension in time limits prescribed for issuance of a tax invoice as per provisions of Act. i.e. Tax Invoice has to be issued if any supply of Goods or Services are made between the specified period as per existing provisions only.
Section 37	Details of Outward Supplies GSTR	No extension shall apply to the provisions of furnishing of details of outward supplies on the common portal i.e. GSTR-1
Section 47	Late Fees	This notification shall not extend the levy of late fees applicable under the Act except for certain specific provisions under other notification issued.
Section 50	Interest	This notification shall not extend the levy of any interest chargeable @ 18% or 24% under the Act except for certain specific provisions under other notification issued. For eg: if any interest is chargeable for wrong availing of ITC and its subsequent reversal, the same shall be chargeable even if done within the specified period.

Particulars	Explanation	Remarks
Section 69	Power to Arrest	There is a provision for arrest u/s 132 and the accused is to be presented before the Magistrate within 24 hours in such cases. No extension shall apply in such cases also.
Section 90	Partners Liability	No extension to the liability of partners of firm to pay tax, interest or penalty.
Section 122	Penalty for offences	This extension shall not be applicable for any offences covered under section 122 covering TDS/TCS.
Section 129	Detention, Seizure and release of goods and conveyances	This notification excludes the provisions of the Act as specified u/s 129 wrt to detention of goods and conveyances in transit and its seizure and release
Section 39 Except sub section (3), (4), (5)	Furnishing of Returns u/s 39 [GSTR 3b, etc]	There is no extension for the returns specified u/s 39 and to be filed except for returns under sub sections: (3)- TDS Returns (4)-ISD Returns (5)-Return- Casual Person
Section 68	E Way Billing	No extension in E Way Bill provisions. The same have to be complied with before the movement of Goods as per relevant provisions of Act and Rules.

Further, there shall be no extension with respect to any rules made wrt to above provision of the Act

Capping of late fees- Amenity Scheme

Not. 19/2021-CT dated 01.06.2021

Late fees for delay in furnishing FORM GSTR-3B for the **tax periods(month/quarter) from July, 2017 to April, 2021** has been depicted in the table below:-

Category of taxpayers	Late fee
Taxpayers who do not have any tax liability during the respective tax period	Maximum of INR 500/- (INR. 250- each for CGST & SGST) per return
Other taxpayers	Maximum of INR 1000/- (INR 500- each for CGST & SGST) per return

The reduced rate of late fee would apply if GSTR-3B returns for these tax periods are furnished between 01.06.2021 to 31.08.2021

Rationalization of late fees- GSTR 3B* & GSTR 1# For Tax Period June, 2021 or Quarter ending June, 2021 onwards

**Not. 19/2021-CT dated 01.06.2021
#Not. 20/2021-CT dated 01.06.2021*

Category of taxpayers	Late fee
Taxpayers having NIL amount of Tax Payable* / Nil Outward Supplies# (Any Turnover)	<u>INR 500/-</u> - (INR 250- each for CGST & SGST)
<u>Other taxpayers :</u> ➤ For taxpayers having Aggregate Turnover in preceding FY upto INR 1.5 crores	✓ <u>INR 2000-</u> (INR 1000- each for CGST & SGST) per return
➤ For taxpayers having Aggregate Turnover in preceding FY between INR 1.5 crores to INR 5 crores	✓ <u>INR 5000-</u> (INR 2500- each for CGST & SGST) per return
➤ For taxpayers having Aggregate Turnover in preceding FY more than INR 5 crores	✓ <u>INR 10000-</u> (INR 5000- each for CGST & SGST) per return

Capping of Late fee for delay in filing GSTR 4

Not. 21/2021-CT dated 01.06.2021

Late fees for delay in furnishing **FORM GSTR 4 by composition taxpayers** to be capped to:

Category of taxpayers	Late fee
Taxpayers having NIL amount of Tax Payable	INR 500/- (INR 250- each for CGST & SGST) per return
Other taxpayers	INR 2000/- (INR 1000- each for CGST & SGST) per return

Rationalization of Late fee for delay in filing **GSTR 7(TDS/TCS)** for month of **June, 2021 onwards**

Not. 22/2021-CT dated 01.06.2021

Category of taxpayers	Late fee
Reduced to INR 50/- per day (Rs. 25 per Act) Maximum of INR 2000/- (1000+1000)	

Transaction => E-Invoice is not applicable -[Notification no. 23/2021-CT dated 01.06.2021]

Rule 48(4)

NOT. No 13/2020

- Generation of E-invoice is not applicable to certain transactions as prescribed under Not. No. 13/2020 dated 21.03.2021

NOT. No 61/2020

- This Not. is further amended via Not. No. 61/2020 dated 30.07.2020 so that to exempt SEZ unit

NOT. No 23/2021

- Now it is further amended to exclude Government department and a local authority from the requirement to issue e-invoice.

Not. No. 3/2021 CT (R)
w.e.f 2nd June 2021

**AMEND TIME OF SUPPLY FOR
DEVELOPER**
(TO ENABLE AVAILMENT OF ITC TO LANDOWNER)

Models

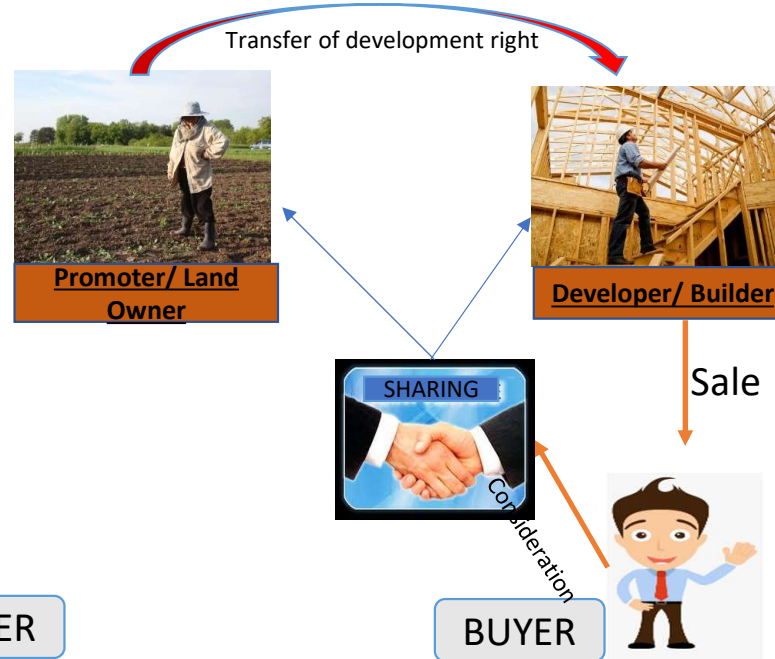
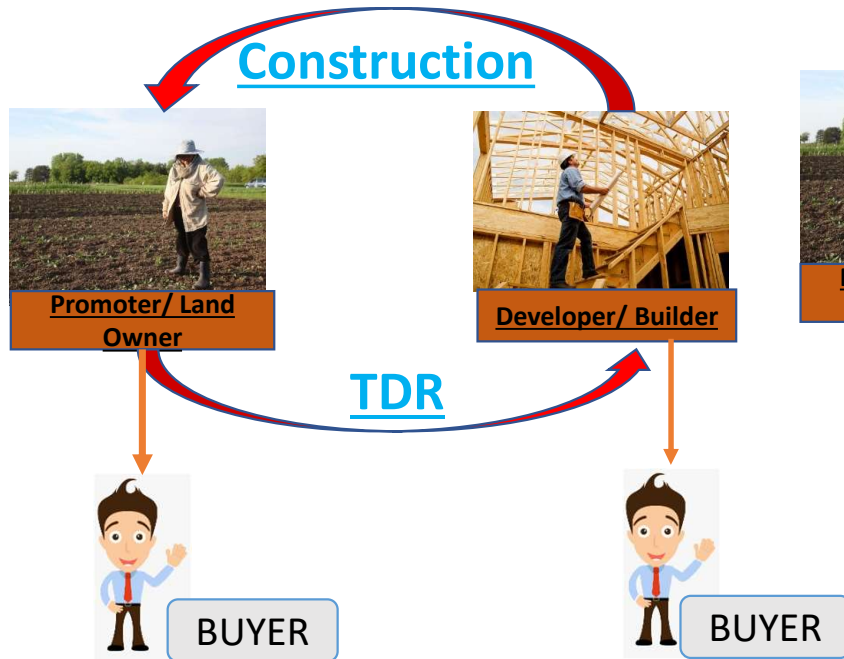
Township Project Model



Joint Development Agreement

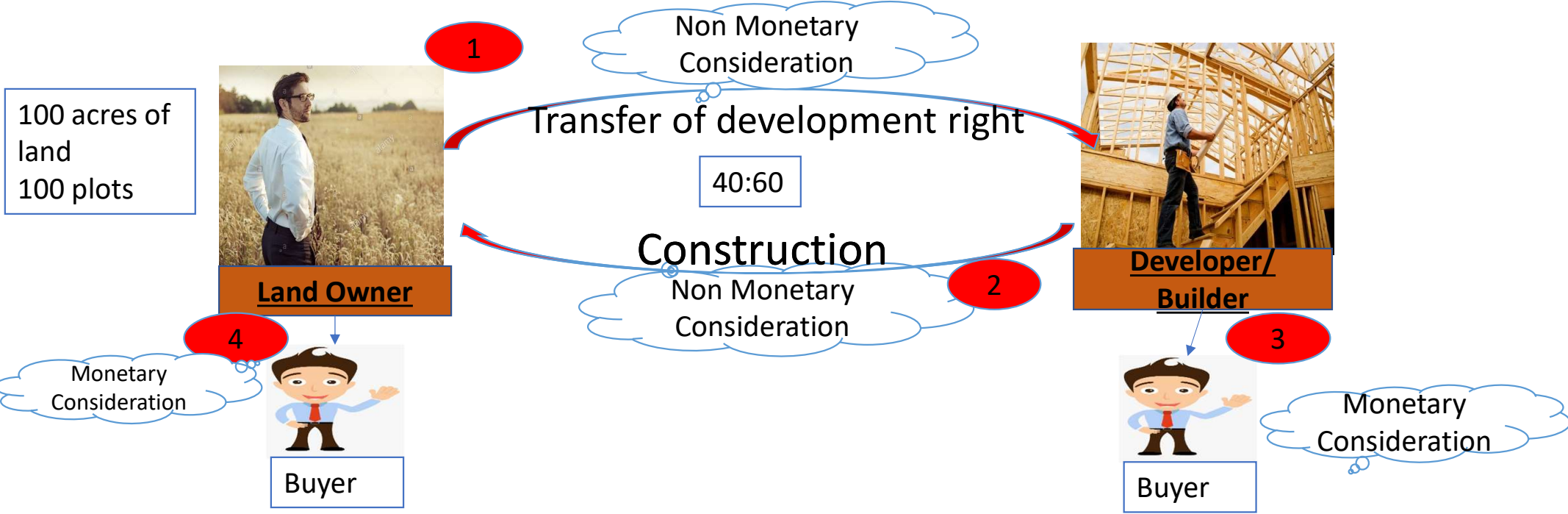
Area Sharing

Revenue Sharing



If In Revenue Sharing a separate Entity in form of JV,SPV is formed , then generally POA done in name of JV by Landowner as Capital Contribution and JV undertakes construction. Registry to final buyer done by Landowner mentioning name of JV. So, there is no joint development in this type of arrangement.

Joint Development Agreement



Particulars	Service Provider	Service Recipient
TDR	Land Owner	Developer
Construction	Developer	Land Owner

Transactions in JDA Agreement

Sr. No.	Nature of Supply	Supplier	Recipient	Consideration
1	Transfer of Development Rights (TDR)	Land Owner	Builder	Non Monetary
2	Construction Services	Builder	Land Owner	Non Monetary
3	Construction Services	Builder	End Buyer	Monetary
4	Construction Services	Land Owner	End Buyer	Monetary

Time of Supply



Time of Supply – for promoter



TDR Residential

TDR Commercial

Construction Service

Promoter pay GST under RCM

Monetary

Non Monetary

Monetary

Non Monetary

Promoter

Other

Date of Completion or first occupation whichever is earlier

Date of payment or 61st day from date of invoice whichever is earlier

Date of Completion or first occupation whichever is earlier

Residential or commercial both

Date of Completion or first occupation whichever is earlier

Time of Supply of Continuous Supply of Service

NOT LATER THAN Tax Period in which Date of OC/CC whichever is earlier FALLS

- If land owner is registered & pay tax on final sales can take credit of construction services.

TDR



Land Owner



Developer/ Builder

Construction

INPUT

Pay tax on supply of construction apartment to land owner

Credit Before OC/ CC



Buyer

Tax pay

Not less than charged from him on construction



TOS of construction (Input) is OC/CC
Sale of Flat (Output before OC/CC)

Output first Input Second

- If land owner is registered & pay tax on final sales can take credit of construction services.

TDR



Land Owner



Developer/ Builder

Construction

INPUT

Pay tax on supply of construction apartment to land owner

Credit Before OC/ CC



Buyer

Tax pay

Not less than charged from him on construction

TOS of construction (Input) is NOT LATER THAN Tax Period in which Date of OC/CC whichever is earlier FALLS Sale of Flat(Output before OC/CC)

Eligible to use ITC
Not. 2/2021-CT(R)
dt. 2.6.21

Now, Tax on Construction can be paid earlier to OC/CC . Hence, credit can be utilized by Land Owner

Reduction in rate of 'DEC' Tablets Not. No. 1/2021-CT(R)

DEC tablets is used in treatment of Lymphatic Filarisis (an endemic)

GST Rate reduced from 12% to 5%

Shipping Industry – POS And Rate Change

GST reduced from 12% to 5% on MRO services in respect of ships and other vessel

[Not. No. 2/2021-CT(R)]

Place of Supply in case of such services specified as '*Location of the recipient of service*'

[Not. No. 3/2021-IT]

It will give competitive advantage to shipping industry
Similar benefit was already granted to Aircraft industry.

It Implies that foreign vessels availing such services in India may qualify as Export of Services and thus, entitled to claim benefit of Zero-rating

Other Measures proposed in the 43rd Council Meeting

GST Council recommended amendments in certain provisions of the Act so as to make the present system of GSTR-1/3B return filing as the default return filing system in GST.

GSTR 9C format to be modified to include self certification

Section 35 and Section 44

- Section 35(5): Audit by a chartered accountant/cost accountant
- Section 44: Furnishing of annual return in FORM-9 and reconciliation statement in FORM-9C certified by Chartered accountant/cost accountant

**Before
FA, 2021**

Amendment vide Finance Act, 2021

Section 35(5): Omitted

Section 44: Annual return to be furnished which may include a self certified reconciliation statement

**After FA,
2021**

Recommendations made
in 43rd GST Council
Meeting

~~(5) Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed.~~

~~1[Provided that nothing contained in this sub-section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.]~~

In section 35 of the Central Goods and Services Tax Act, sub-section (5) shall be omitted.

Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person **shall furnish an annual return which may include a self certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year,** with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed:

Provided that the Commissioner may, on the recommendations of the Council, by notification, **exempt any class of registered persons from filing annual return under this section:**

Provided further that **nothing contained in this section shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force."**

Analysis



Annual Return + Self Certified Reconciliation Statement

- Section 35 and 44 has been amended to **remove the Mandatory requirement of GST audit by professionals.**
- The requirement for audited reconciliation has been **replaced by a self certified reconciliation statement** reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically.
- Thus, every person required to file annual return would be required to file a self certified reconciliation of his as well.
Shift of responsibility from auditor to taxpayer.
- This proposition although is a loss of opportunity for the professionals, but on the other side of the coin, it is **lesser responsibility on the part of professional** and more on the part of taxpayers. This may further **lead to loss of revenue to the government** and **more tax burden at the time of assessment to the taxpayers.** Need to **compare tax cost vs. compliance cost.**
- This proposed amendment is **not applicable for F.Y. 2019-20.**

Recommendations made in 43rd GST Council meeting

- ✓ Amendments in Section 35 and Section 44 of CGST Act made through Finance Act, 2021 to be notified
- ✓ Reconciliation statement in FORM GSTR-9C to be self certified
- ✓ This changes will apply for Annual return for FY 2020-21

Relief to small taxpayers in filing annual return and reconciliation statement for FY 2020-21

FORM	Turnover limits	Optional / Mandatory
Annual return (GSTR-9/9A)	Aggregate turnover <= Rs.2 crore	Optional
Reconciliation (GSTR-9C)	Aggregate turnover <= Rs.5 crore	Optional

Recommendations made in 43rd GST Council meeting

Exemption from GST wrt. Covid-19 related Medical items

S.No	Specified Covid-19 Goods which are used for free distribution/donation to the government or on recommendation of state authority to any relief agency	Type of import	Present taxability	Proposed taxability as per 43 rd GST Council Meeting	Date till when exemption is available
1	Medical oxygen, oxygen concentrators and other oxygen storage and transportation equipment, certain diagnostic markers test kits and COVID-19 vaccines, etc.	Goods are imported free of cost	Exempted	NA	31-Aug-21
2	Same as above	Goods are imported on payment to the supplier	Taxable - Import IGST needs to be paid	Exempted (Conditional)	31-Aug-21

- ✓ These goods are already exempted from Basic Customs duty
- ✓ Similar to above, exemption has been extended to Black Fungus drug **Amphotericin B**
- ✓ For various other individual items related to Covid-19, it has been decided to constitute a Group of Ministers (GoM). **The GoM shall evaluate the need for further relief in the GST rates for Covid-19 related items and shall submit its report latest by 08th June 2021.**

Reduction in rate of 'DEC' Tablets Not. No. 1/2021-CT(R)

DEC tablets is used in treatment of Lymphatic Filarisis (an endemic)

GST Rate reduced from 12% to 5%

Recommendations made in 43rd GST Council meeting

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Ad hoc Exemption from IGST on imports of specified COVID-19 relief material donated from abroad

As customs duty is already exempt , these imports will not attract any customs duty or IGST

In view of the COVID-19 pandemic, the Central Government has issued notifications exempting Basic Customs Duty and/or Health cess on imports of a number of COVID-19 related relief materials, for a limited period. These include-

S. No.	Notification	Purpose
1.	27/2021-Customs dated 20.04.21 (as amended by notification No.29/2021-Customs dated 30.4.21)	Remdesivir injection/ API and Beta Cyclodextrin (SBEB CD), Inflammatory diagnostic (markers) kits, till 31 st October,2021
2.	28/2021-Customs dated 24.04.21	Medical grade Oxygen, oxygen therapy related equipment such as oxygen concentrators, cryogenic transport tanks, etc, and COVID-19 vaccines till 31 st July, 2021

Notification No. 30/2021 – Customs dated 1st May, 2021

Applicable
upto 30th
June, 2021

Import of Oxygen
Concentrator

For Personal Use

By Business Entity

~~IGST @28%~~

IGST @12%

IGST @12%

Ad hoc Exemption from IGST on imports of specified COVID-19 relief material donated from abroad

Ad hoc Exemption **Order No. 4/2021-Custom** dated 3rd May, 2021 read with **Instruction No. 09/2021-Customs** dated 3rd May, 2021

Major Coverage of goods are-

- Remdesivir and related items
- Oxygen and related items
- Ventilators
- Masks
- Covid 19 Vaccine etc.

Apply to all the such consignments pending clearance from Customs as on date of issue of order, i.e., the 3rd May, 2021

It shall remain in force upto and inclusive of the **30th day of June, 2021**

The Central Government had received a number of representations from charitable organizations, corporate entities, and other Associations/ entities outside India seeking exemption from IGST on the import of Covid-19 relief material (already exempted from customs duty), donated/received free of cost from outside India for free distribution.

Accordingly, the Central Government has vide Ad hoc exemption Order number 4/2021 dated 3rd May, 2021 has granted exemption from IGST on import of such goods received free of cost for free distribution for covid relief.

This exemption shall apply till 30th June, 2021. It would also covers goods already imported but lying uncleared on the date of its issuance of exemption i.e. today.

The exemption shall be subject to the following conditions:

- 1.State Government shall appoint a nodal authority in the State for the purpose of this exemption. As per section 2 (103) of the Central Goods and Services Tax Act, 2017, state include a Union territory with Legislature.
- 2.The Nodal authority so appointed shall authorise any entity, relief agency or statutory body, for free distribution of such Covid-relief material.
- 3.The said goods can be imported free of cost by a State Government or, any entity/ relief agency/ statutory body, authorized in this regard for free distribution anywhere in India.
- 4.The importer shall before clearance of goods from Customs produce a certificate from the said nodal authorities that goods are meant for free distribution for Covid relief.
- 5.After imports, the importer shall produce, to the Deputy or Assistant Commissioner of Customs at the port within a period of six months from the date of importation or within such extended period not exceeding nine months, a simple statement containing details of goods imported and distributed free of cost. This statement shall be certified by the said nodal authority of the State Government.

Conditions



1 Appoint



Nodal Officer

2 Authorise
Any entity for free distribution

RELIEF AGENCY

3 Import Goods free of Cost for distribution anywhere in India



Customs

4 Produce a certificate before clearance from customs from the said nodal authorities



Deputy/Asstt. Comm. of Customs

5 After Import, produce Statement (certified by nodal officer) containing - Goods Imported, distributed free of cost

Exemption on import of Covid relief items

BCD

- **Unconditional exemption** of BCD has been granted on import of COVID -19 relief materials
- For Few materials (eg. Beta Cyclodextrin etc.) procedure laid down under Custom Rules 2017 are required to be followed.
- Exemption would be available in all the cases.
- Details of Covid relief items and time period upto which exemption is available is mentioned in annexure 2

Health Cess

- Health Cess has also been exempted similar to BCD

IGST

- IGST exemption is available to State Govt. or, any entity, or relief agency or statutory body authorized by the State Govt. for import of donated items when distributed on free of cost basis in India for Covid Relief.

Imposition of IGST on import of oxygen concentrators as gift for personal use unconstitutional: [Gurcharan Singh vs UOI]

Held

STAYED

Delhi High Court on Friday held that the **imposition of Integrated Goods and Services Tax (IGST) on the import of oxygen concentrators as gift for personal use is unconstitutional**. The High Court has accordingly quashed the May 1 Notification levying 12% IGST on Oxygen Generators imported as gifts for personal use.

- As per the Court's direction, such importers would now have to furnish a letter of undertaking to the authority concerned, stating that the oxygen concentrator is for personal use and not for commercial usage.
- The petitioner before Court was an 85-year-old COVID-19 patient whose nephew sent an oxygen generator as gift from the United States of America.
- The petitioner, through Senior Advocate Sudhir Nandrajog, had argued that the imposition of IGST by the Centre on the import of oxygen/oxygen generators as gift for personal use not only violated Article 14, but also abridged the right to have oxygen, which was part of the right to life under Article 21 of the Constitution of India.
- It was also highlighted that certain imports had already been exempted from IGST levy till July 31.
- Senior Advocate Arvind Datar, who was appointed as Amicus Curiae by the Court, had argued that singling out oxygen concentrators imported as gifts for personal use with respect to non-grant of IGST exemption was arbitrary and not correct.
- Unless the government showed that there would be an enormous loss of revenue which is detrimental to the public interest, oxygen concentrators should also be included in list of exempted articles, he stated.
- In response, counsel for the respondent contended that there was no "omnibus direction" to exempt life saving medicines and drugs.
- He argued that imposition of taxes could not be subject to judicial review, and that the IGST at the rate of 12% was imposed in the present case to maintain parity with a commercial user and to avoid black marketing and profiteering.
- Pending a final decision in the petition, the Court had directed that the oxygen concentrator being imported by the petitioner be released by the custom authorities, subject to his depositing with the Court an amount equivalent to the IGST payable.

Notification No. 27/2021–Customs

Exempts goods when imported into India, from whole of Duty of custom leviable thereon

S.No.	Chapter or heading or sub-heading or tariff item	Description of goods
1	29	Remdesivir Active Pharmaceutical Ingredients.
2	29	Beta Cyclodextrin (SBEB CD) used in manufacture of Remdesivir, subject to the condition that the importer follows the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017.
3	30	Injection Remdesivir.

SEQUENCE OF EVENTS FOR IGST EXEMPTION TO THE IMPORT OF OXYGEN CONCENTRATORS

April 24, 2021,

Central Government issued a notification no.28/2021-Cus. granting full exemption from payment of customs duty and Health Cess to the oxygen concentrators imported into India. This notification shall remain in force till July 31, 2021

However, at the same time, the imports of oxygen concentrators for personal use attracted IGST @ 28% as against its imports for commercial use that attracted the IGST @ 12%. Needless to say, this illogical and unjustified differential tax treatment led to wide scale resentment and protests. Obviously, it was a sheer absurdity that a person who is desperately in the need of oxygen concentrator and who somehow manages to arrange for one from abroad for his personal use, would still end up coughing up 28% IGST on its import! Finally, sensing the growing discontentment amongst the people, the Central Government issued a notification no.30/2021-Cus on May 01, 2021 providing for a concessional rate of IGST at 12% on the oxygen concentrators imported for personal use. This was done ostensibly to bring a parity between the import of this equipment for commercial use and personal use.

May 3, 2021,

The Central Government issued an Exemption Order no.04/2021-Customs dated May 3, 2021, inter alia, granting full exemption from payment of IGST to the oxygen concentrators, when imported into India, by the specified agencies, subject to the conditions specified in the Order.

Here, it is necessary to point that the aforesaid customs notifications and exemption Order have been issued by the Central Government under S.25(1) or S.25(2), as the case may be of the Customs Act,1962 and the same are not based on any recommendations of the GST Council.

- Due to this discriminatory tax treatment , a Delhi based octogenarian Mr. Gurcharan Singh, who has been fighting Covid-19 battle having been affected by it, knocked the doors of the Delhi High Court and challenged the constitutionality of the levy of IGST @ 12% on the import of the subject equipment and received as gift from his nephew for his treatment.
- On May 21, 2021, the High Court delivered its judgement and with piercing observations and concise but critical and profound analysis, declared the aforesaid customs notification no.30/2021Cus.ibid as unconstitutional. However, as was expected, the judgement was immediately challenged by the Government and the Supreme Court has, on June 1, 2021, stayed the said judgement of the High Court.
- It may be noted here that that the power to grant exemption from IGST in respect of the import of the oxygen concentrator or any imported goods is vested in the Central Government under S. 25 of the Customs Act, 1962. The Central Government is neither dependent upon nor does it require the recommendation of the GST Council for exercising this power vested in it. As a matter of fact, if one were to closely and critically examine the relevant Constitutional provisions and the provisions of the IGST Act, 2017, the Customs Tariff Act, 1975 and the Customs Act,1962, then it would become clear that in the matter of the grant of exemption from any customs duty including IGST on the import of any goods, the GST Council has no role to play whatsoever nor any such role is envisaged by the lawmakers.
- One therefore fails to comprehend as to on what basis the GST Council is „deliberating“ the issue of grant of the IGST exemption to the Oxygen Concentrator, amongst other goods, and „constituting“ the „Group of Ministers“ to look into this issue and make its recommendations.

Recommendation: Leviability of IGST on Repair value of goods re-imported after repairs

- 1) Case Name : **Interglobe Aviation LTD. Vs Commissioner of Customs (CESTAT Delhi)**
- 2) Date of Judgement/Order : 15/01/2021
- 3) **Held:** Assessee was justified in claiming exemption of integrated tax under the General Exemption Notification No. 45/2017 dated June 30, 2017, as amended by Corrigendum Notification dated July 22, 2017 on re-import of repaired parts/ aircrafts into India during the period from August, 2017 to March, 2019 as the absence of mention of **integrated tax and compensation cess** in column (3) under serial no. 2 of the Exemption Notification would mean that only the basic customs duty on the fair cost of repair charges, freight and insurance charges were payable and **integrated tax and compensation cess** were wholly exempted.
- 4) The repaired parts/ aircrafts were thereafter reimported into India and at the time of re-import, Bills of Entry were filed. These Bills of Entry were assessed to basic customs duty and integrated tax at the applicable rates. The dispute in all these appeals was as to whether assessee was justified in claiming exemption of integrated tax under the Exemption Notification on re-import of repaired parts/ aircrafts into India during the period from August, 2017 to March, 2019. It was held that **Notification No. 94/96 dated December 16, 1996 refers to the duties of customs** leviable thereon which was specified in the said first schedule, the additional duty leviable thereon under section 3 of the Tariff Act and special duty of customs leviable under section 68(1) of the Finance Act, whereas the instant General Exemption Notification No. 45/2017 dated June 30, 2017, as amended by **Corrigendum Notification dated July 22, 2017 refers to duty of customs leviable thereon which is specified in the said First Schedule and the integrated tax, compensation cess leviable thereon respectively under sub-sections (7) and (9) of section 3 of the Tariff Act.** Thus, the additional duty leviable thereon under Section 3 of the Tariff Act and special duty of customs leviable under section 68(1) of the Finance Act had been replaced by the integrated tax under section 3(7) and compensation cess under section 3(9) of the Tariff Act. **It could not therefore, be contended that "duty of customs" referred to in the condition against serial no. 2 of the Exemption Notification would include integrated tax.** Thus, in the absence of mention of **integrated tax and compensation cess** in column (3) under serial no. 2 of the Exemption Notification would mean that only the basic customs duty on the fair cost of repair charges, freight and insurance charges were payable and **integrated tax and compensation cess** were wholly exempted.
- 5) The Exemption Notification does not define the phrase **duty of customs**. However, section 2(15) of the Customs Act defines "duty" to mean duty of customs leviable under the Customs Act.

Recommendations made in 43rd GST Council meeting

Exemption Provided- for certain goods and services

Sr. No	Nature of recommendation	Supplier of services	Recipient of services	Nature of service	Existing	Recommendation
1	Clarification	Outdoor caterer	Educational institution including anganwadi(which provide pre-school education also)	Serving of food including mid-day meals under any midday meals scheme	Exemption: when sponsored by Central Govt., State Govt., Union territory	Exemption would be available irrespective of funding of such supplies from Government grants or corporate donations
2	Clarification	Educational institution	Students	Service by way of conduct of entrance examination against consideration in the form of entrance fee	Exempt	1.Exemption would be available when such services are provided by National board of examination, or similar Central or State Educational Boards 2. Related Input service would also be exempt
3	Not. issued Change in Notification	Developer promoter	Landowner promoter	Construction services in respect of units transferred to landowner promoter under Area sharing model	Liability to pay tax arises at the time of issuance of completion certificate	The developer promoter shall be allowed to pay GST at any time before or at the time of issuance of completion certificate. This would enable the landowner promoter to utilise input tax credit charged to them by developer promoter when apartments are subsequently sold
4	Not. issued Change in Notification	MRO service providers	Shipping companies	Service of maintenance, repair and overhauling of ships/vessels	Taxable at 18%	Tax rate to be reduced to 5%. Earlier rate of 5% was available for MRO services in relation to aircraft, aircraft engines and other aircraft components or parts
5	Not. issued Change in Act	MRO service providers	Shipping companies	Service of maintenance, repair and overhauling of ships/vessels	-	Recommendation to provide place of supply at location of recipient of services

Recommendations made in 43rd GST Council meeting

Exemption Provided- for certain goods and services

Sr. No	Nature of recommendation	Supplier of services	Recipient of services	Nature of service	Existing	Recommendation
6	Change in Notification	Millers	Government, local authority etc	Services of milling of wheat/paddy into flour/rice for distribution of such flour or rice under PDS	-	<ol style="list-style-type: none"> Exempt from GST if the value of goods in such composite supply does not exceed 25% Otherwise, such services would attract GST @5% if supplied to any person registered in GST, including a person registered for payment of TDS
7	Clarification	Contractor	Government, local authority etc	Service of construction of road	-	<p>To be clarified that</p> <ol style="list-style-type: none"> GST is payable on annuity payments received as deferred payments for construction of road Exemption is available to those annuities which are paid for services by way of access to a road or bridge
8	Clarification	Contractor	Government entity	Construction of rope- way	-	Clarification to be issued w.r.t taxability of these services at 18%
9	Clarification	Government	Govt. Undertaking/PSU	Service of guaranteeing of loans taken by undertakings/PSU	-	Clarification w.r.t. such exemption to be issued

**Recommendations made in 43rd
GST Council meeting**

EDUCATIONAL INSTITUTIONS

Supplier of services	Recipient of services	Nature of service
Outdoor caterer	Educational institution including anganwadi(which provide pre-school education also)	Serving of food including mid-day meals under any midday meals scheme
Educational institution	Students	Service by way of conduct of entrance examination against consideration in the form of entrance fee

Educational Institution

As per [Definition 2\(y\) mentioned in notification 12/2017-CT Rate](#)

“Educational institution” means an institution providing services by way of,-

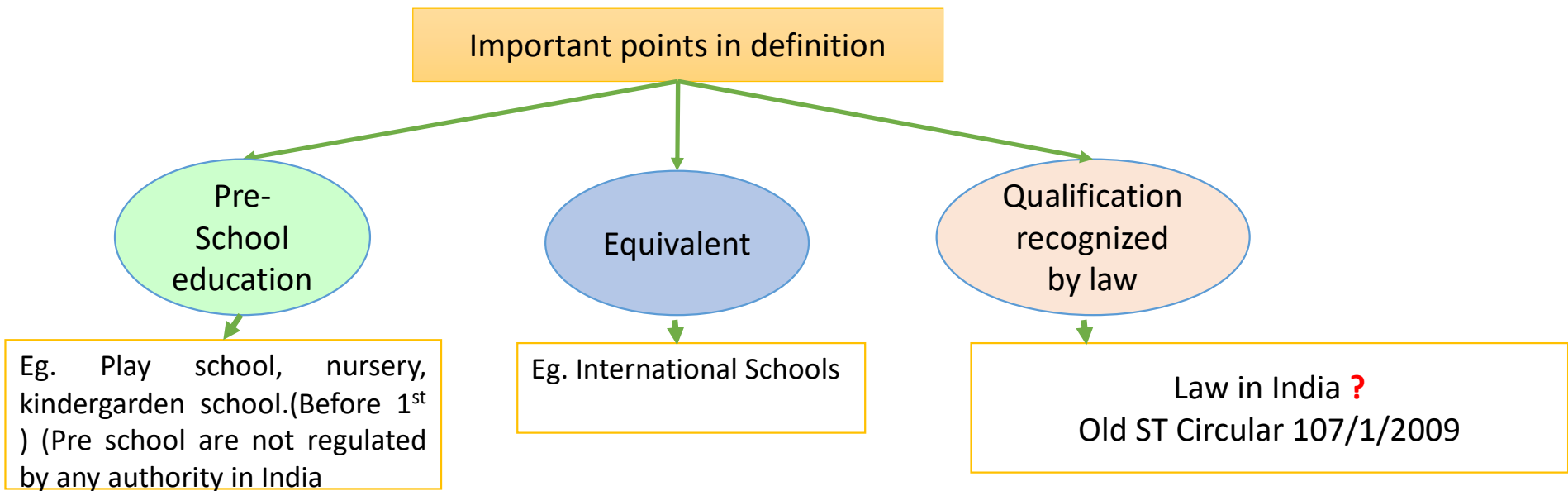
- i. pre-school education and education upto higher secondary school or equivalent;
- ii. education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force,
- iii. education as a part of an approved vocational education course ;

Schools

Colleges, Institutes
like ICAI, IIT's

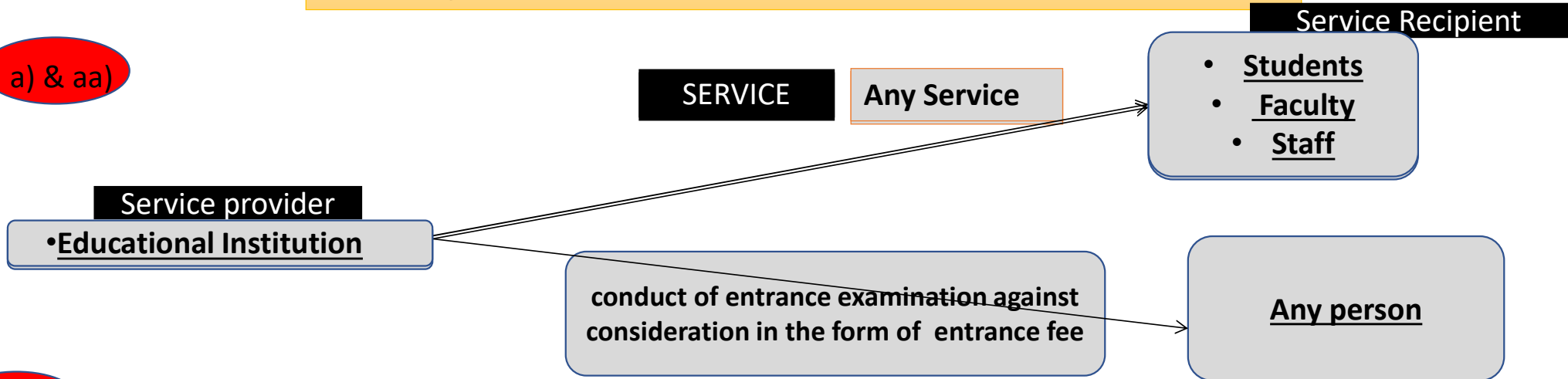
Defined in law

Industrial Training
Institutes

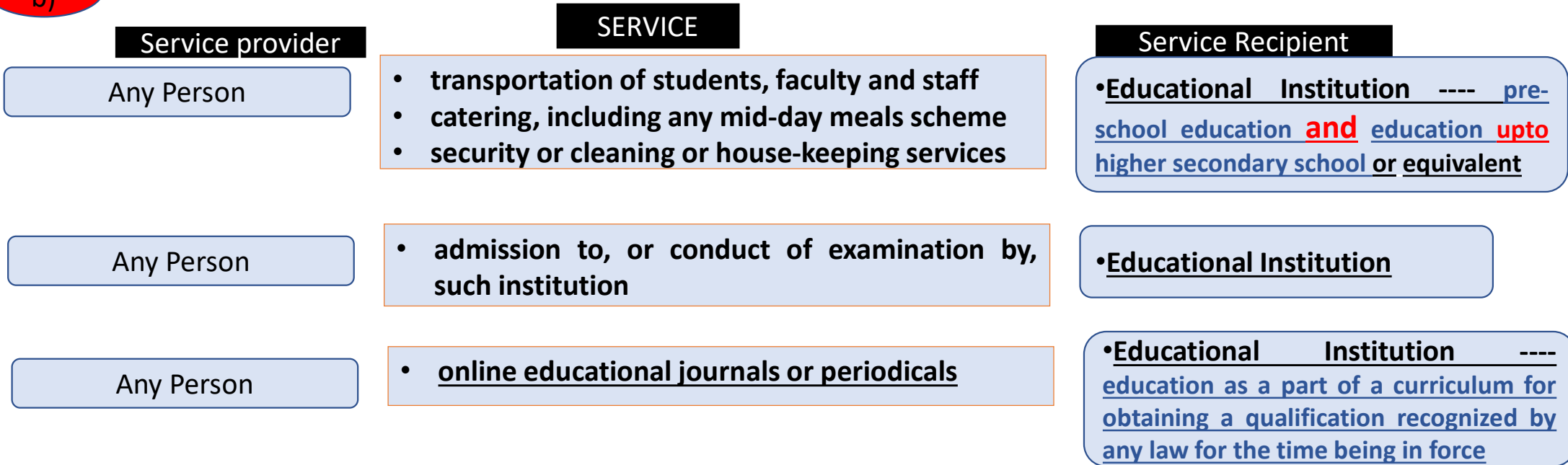


Entry No. 66 of Notification No. 12/2017 CT Rate

a) & aa)



b)



**Recommendations made in 43rd
GST Council meeting**

**Exemption Provided- for certain goods and services
(Contd.)**

Sr. No	Nature of goods	Existing Tax position	Recommendation
1	Not. issued Diethylcarbamazine (DEC) tablets	Taxable at 12%	Tax rate to be reduced to 5%
2	Re-Import of goods after repair	Tax levied on complete value of imported goods	Tax to be levied only at repair value
3	Nozzle/laterals (Parts of sprinkler/drip irrigation system falling under tariff heading 8424)	Tax is levied in accordance with classification of goods when such goods are sold separately	Tax rate of 12% to be levied even if such goods are sold separately

1. REAL TIME TRACKING OF EWB & VEHICLE AT THE FIELD

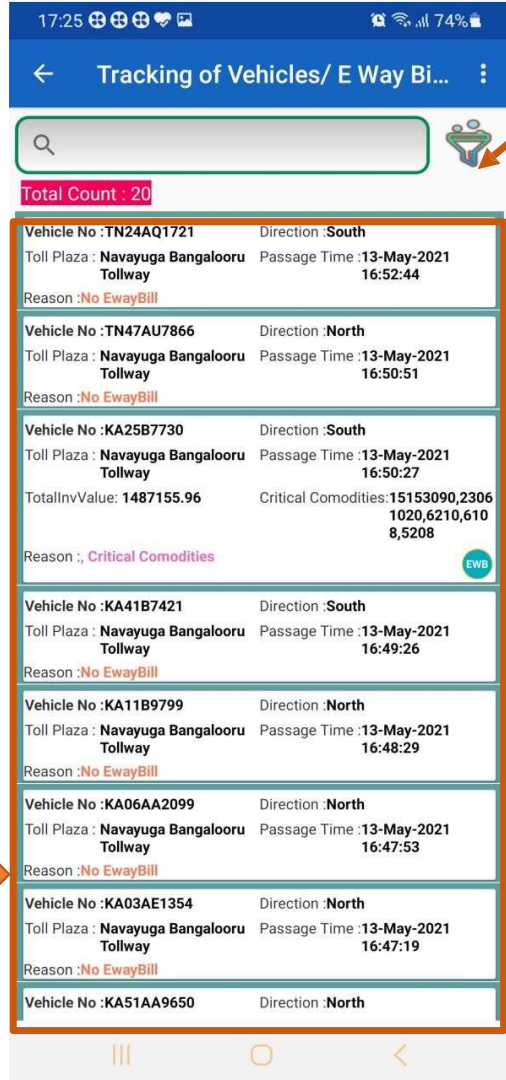
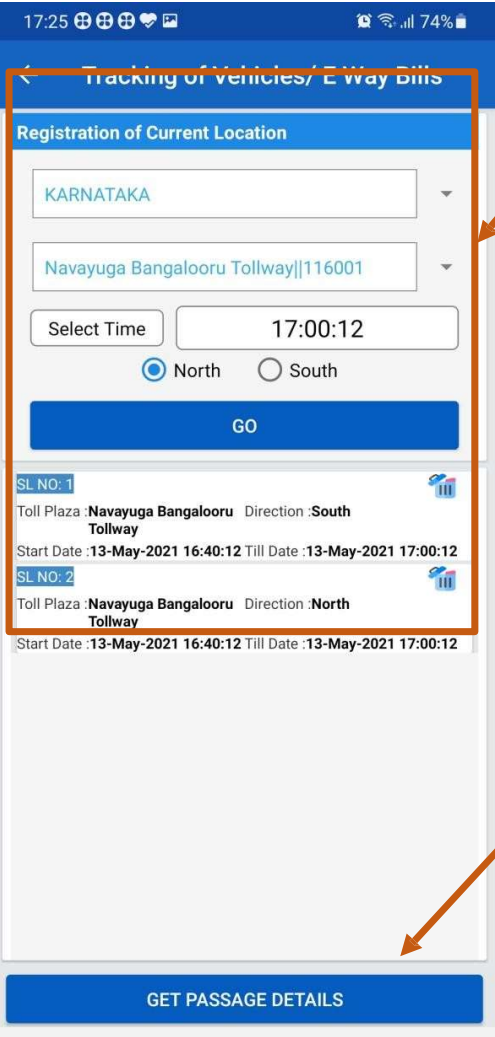
1. REAL TIME TRACKING OF EWB & VEHICLE

Officer has to register for the tolls and the directions such that the vehicles passing through these tolls come towards the place where the officer is currently positioned. Officer can register for multiple tolls and directions such that vehicles passing through all of them are coming towards the officer's current location

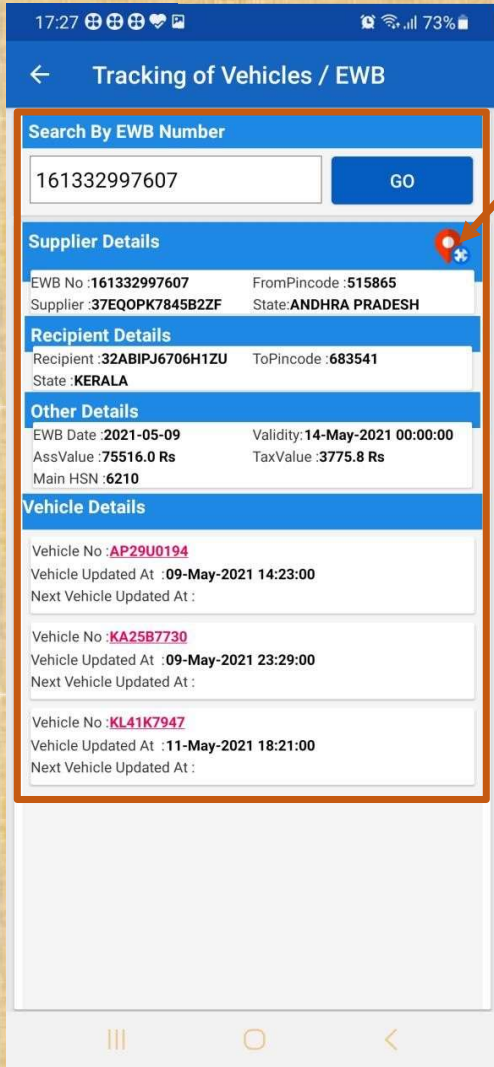
After registering the required tolls, direction and setting the time, this button has to be clicked to get the vehicle passage details

Filter option

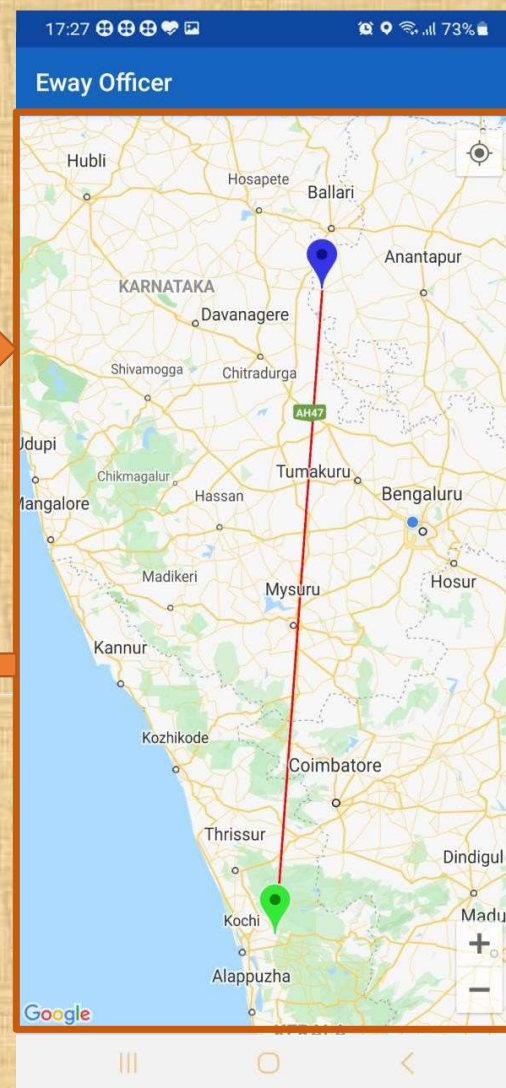
The list shows the vehicles passing through the selected toll plazas. The EWBs having assessable amount greater than certain amount are considered. If no EWBs are found for a vehicle, that is indicated as 'No EwayBill'. If EWB found, it is indicated as either carrying critical commodity or having watch listed GSTIN or watch listed vehicle number. This list can be filtered based on these criteria using the filter options in the top right corner.



1. REAL TIME TRACKING OF EWB & VEHICLE



Clicking on the EWB no. as shown in previous slide, shows the basic details of the EWB and its vehicle details. Clicking on the map icon, from and to locations as mentioned in the EWB are shown on the map



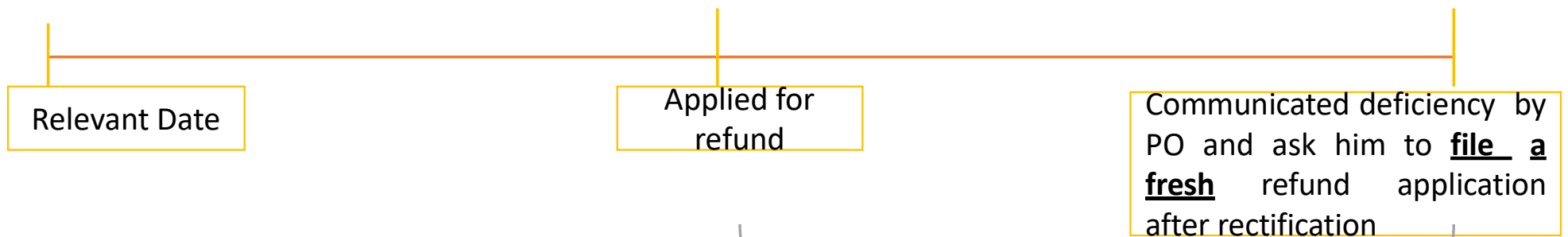
Clicking on the map icon shows the from and to locations as per EWB. Click back button to go back to earlier screen

Notification No. 15/2021 – CT

dated 18th May, 2021

Notification No. 15/2021 – Central Tax dated 18th May, 2021

Limitation period of 2 years shall exclude period from date of filing of refund application to date of deficiency memo [Rule 90(3)]



This gap has resulted in loss of Refund due to lapse of time of 2 years.

Therefore, this time period has been excluded from the period of two years as specified under Section 54(1)

The CBIC vide **Notification No. 15/2021-Central Tax, dated May 18, 2021** has issued 'the Central Goods and Services Tax (Fourth Amendment) Rules, 2021' to further amend the Central Goods and Services Tax Rules, 2017 ("**CGST Rules**"), in a following manner:

Acknowledgement

➤ **Inserted proviso under Rule 90(3) of the CGST Rules** – The time period from the date of filing of the refund claim in **FORM GST RFD-01** till the date of communication of the deficiencies in **FORM GST RFD-03** by the proper officer, is to be excluded from the period of 2 years in case, fresh refund claim is filed after rectification of the deficiencies.

FROM **date of filing of the refund claim**
To **date of communication of the deficiencies**
in **FORM GST RFD-03**

➤ e.g Refund Time Barring 19th Jan
Application made 4th Jan

Case 1 ::::RFD-03 issued on 19th jan (Max 15 days)

Old law : Refund Time Barred as could not be Reapplied (Fresh Application) till 19th jan

New Law: Refund application can be made till 19th jan plus 15 days (Extended time allowed).

Case 2 ::::RFD-03 issued on 15th jan

Old law : Refund Time for making Fresh Application till 19th jan (Only 4 days)

New Law: Refund application can be made till 19th jan plus 11 days (Extended time allowed).

Notification No. 15/2021 – Central Tax dated 18th May, 2021

New Provision: Withdrawal of Refund application

The applicant may withdraw the application for refund by filing an application in **FORM GST RFD-01W** at any time **before** issuance of -

- Provisional refund sanction order in FORM GST RFD-04 or
- Final refund sanction order in FORM GST RFD-06 or
- Payment order in FORM GST RFD-05 or
- Refund withhold order in FORM GST RFD-07 or
- Notice in FORM GST RFD-08

Once the said application for withdrawal is submitted the **amount** which was **debited** from electronic credit/cash ledger at the time of filing refund application **shall be credited back** to electronic Credit/cash ledger from which such debit was made

Various amendments in registration, refund and e-way bill Rules

The CBIC vide **Notification No. 15/2021-Central Tax, dated May 18, 2021** has issued 'the Central Goods and Services Tax (Fourth Amendment) Rules, 2021' to further amend the Central Goods and Services Tax Rules, 2017 ("**CGST Rules**"), in a following manner:

- **Inserted sub-rule (4) to Rule 90 of the CGST Rules**– Allowed registered person to **withdraw the application of refund claim**, by filing application in **FORM GST RFD-01W** before issuance of provisional refund sanction order in **FORM GST RFD-04** or final refund sanction order in **FORM GST RFD-06** or payment order in **FORM GST RFD-05** or refund withhold order in **FORM GST RFD-07** or notice in **FORM GST RFD-08**.
- **Inserted sub-rule (5) to Rule 90 of the CGST Rules**- On submission of application in **FORM GST RFD-01W**, any amount debited from electronic credit ledger or electronic cash ledger, shall be **credited back to the ledger from which such debit was made**.
- **Inserted FORM GST RFD-01W** i.e., the application for withdrawal of refund application.

GSTR-7 (Form relating Withholding Refund and Release of Withheld Refund)

- **Omitted proviso to Rule 92(1) of the CGST Rules** which dealt with the order giving details of the adjustment in Part A of **FORM GST RFD-07**, where the amount of refund is completely adjusted against any outstanding demand.
- **Substituted 'Part B' in Rule 92(1) of the CGST Rules with 'Part A'**- The proper officer or the Commissioner shall pass an order in 'Part A' instead of 'Part B' of **FORM GST RFD-07**, informing the person, the reasons for withholding the refund.
- **Inserted new proviso to Rule 92(2) of the CGST Rules** w.r.t. passing of an order for release of withheld refund in Part B of **FORM GST RFD-07**, where the proper officer or the Commissioner is satisfied that the refund is no longer liable to be withheld.
- **Amended Rule 96(6) of the CGST Rules** w.r.t. passing of an order in 'Part A' instead of 'Part B' of **FORM GST RFD-07**, upon transmission of the intimation for withholding refund.
- **Amended Rule 96(7) of the CGST Rules**- Now, the jurisdictional officer, shall proceed to refund the amount by passing an order in **FORM GST RFD-06** after passing an order for release of withheld refund in Part B of **FORM GST RFD-07**, where the registered person becomes entitled to refund of the amount withheld.

Notification No. 15/2021 – Central Tax dated 18th May, 2021

Earlier

- Not allowed to generate E-way bill where Registered Person (Supplier or Recipient) who-
- Fails to furnish GSTR 3B/GSTR 1/ GST CMP -08 for 2 months/quarters

Now

- Not allowed to generate E-way bill in respect of *outward movement of goods of Registered Person (Supplier)* who-
- Fails to furnish GSTR 3B/GSTR 1/ GST CMP -08 for 2 months/quarters

OLD

	GSTIN	E-Way Bill
A	Active	Active
B	Suspended	Blocked
C	Active	Active

	From	To	Movement Status	
E-way Bill	A	B	Outward	Blocked
	B	C	Outward	Blocked

New

	From	To	Movement Status	
E-way Bill	A	B	Outward	Permitted
	B	C	Outward	Blocked

Notification No. 15/2021 – Central Tax dated 18th May, 2021

Rule 23. Revocation of cancellation of registration

1) A registered person, whose registration is cancelled by the proper officer on his own motion, may submit an application for revocation of cancellation of registration, in FORM GST REG-21, to such proper officer, within a period of 30 days from the date of the service of the order of cancellation of registration **or within such time period as extended by the Additional Commissioner or the Joint Commissioner or the Commissioner, as the case may be, in exercise of the powers provided under the proviso to sub-section (1) of section 30**, at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

Finance Act, 2020 has made amendment in the CGST Act to allow filing of such applications even after 30 days. The below officers may allow filing such applications even after 30 days on sufficient cause being shown to them:

Additional/Joint Commissioner	Extension of 30 days
Commissioner	Extension of next 30days

Now the CGST Rules are in alignment of CGST Act.

Circular No. 148/04/2021-GST dated 18th May, 2021

SOP for implementation of the provision of extension of time limit to apply for revocation of cancellation of registration under section 30 of the CGST Act, 2017 and rule 23 of the CGST Rules, 2017

As functionality for extension of time limit is developed on the GSTN portal, the Board provides the following guidelines for implementation:

- 1) Person applies for revocation beyond a period of 30 days within 60 days of from the date of service of the order of cancellation of registration, the said person may request, through letter or e-mail, for extension of time limit to the proper officer.
- 2) The proper officer shall forward the request to the jurisdictional Joint/Additional Commissioner for decision
- 3) AC/JC shall communicate to PO whether the extension is allowed
- 4) In case extension is not allowed, an opportunity of being heard shall be given before taking the decision in matter
- 5) Where extension request is rejected, grounds of such rejection may be communicated to the tax payer through PO

Procedure shall be followed mutatis-mutandis in case a person applies for revocation of cancellation of registration beyond a period of 60 days but within 90 days of such date.

The circular shall cease to have effect once the independent functionality for extension of time limit for applying in FORM GST REG-21 is developed on the GSTN portal

THANK YOU

Disclaimer

The views expressed are solely of the author and the content of this document is solely for information purpose and not to be construed as a professional advice. In cases where the reader has any legal issues, he/she must in all cases seek independent legal advice.



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