

GST WEEKLY UPDATE : 39/2021-22 (26.12.2021)

1. CHANGES IN HSN CODES AS PER HS-2022 w.e.f 01.01.2022:

The WCO has announced the New (Seventh) edition of HSN - HS-2022 w.e.f 01.01.2022. India being party to HS Convention will also align its First Schedule of Customs Tariff Act with HS-2022. The necessary changes required were already in placed in the Finance Act, 2021.

The new HS-2022 have around 351 amendments at 6 Digit level whereas India follows 8 digit classification.

In order to ease the transition for Exporter and Import and making the co-relation between HS2021 and HS2022 at 8-digit level, Customs have provided a correlation document (at 8 digit level).

2. New amendment in GST law & rules & procedure as under w.e.f 01.01.2022:

- **The definition of supply to make 'Principle of Mutuality' redundant w.e.f 01.07.2017 retrospectively.**

An explanation has also been inserted in Section 7 to provide that the person and its members or constituents shall be deemed to be treated as two separate persons and the supply of activities or transactions inter-se shall be deemed to take place from one such person to another. The amendment provided that it would have an overriding effect over the other law, so now GST shall be payable on the supplies made by the club/association to their members w.e.f 01.07.2017.

- **Aadhaar Authentication:**

The existing registered persons are required to do Aadhaar Authentication of their registration in the following cases:

- (a) Revocation of cancellation of registration;
- (b) IGST refund on export of goods under Rule 96 of CGST Rules; or
- (c) Refund under rule 89 of CGST Rules

- **Now ITC can be availed if it has been reflected in GSTR-2A:**

It has been provided that ITC on invoice or debit note can be availed only when the details of such invoices/debit notes have been furnished by the supplier in its Form GSTR 1 and the same is communicated to the recipient in the manner specified in Section 37 of the CGST Act

- **Changes in e way bill provision:**

W.e.f. 01.01.2022 the proceedings initiated u/s 129 & 130 for E- way bill violations shall be independent proceedings and closure of parallel proceedings u/s 73 or 74. Amendment in the provision of section 129 & 130 as under:

If any deficiency has been found in E way bill then penal clause as under:

Scenario	Nature of Goods	Amendment made by the Finance Act 2021
If the owner comes forward	Taxable Goods	Penalty equal to 200% of tax payable on such goods
	Exempted Goods	Penalty 2% of the value of goods or Rs. 25000, whichever is lower
If the owner doesn't come forward	Taxable Goods	Penalty equal to 50% of the value of such goods or 200% of tax payable on such goods whichever is higher
	Exempted Goods	Penalty 5% of the value of goods or Rs. 25000, whichever is lower

- The option provided under clause (c) in terms of allowing furnishing of security equivalent to the aforementioned liabilities remains unchanged.
- Presently Sec. 129(2) provides for applying the provisions related to seizure and release of the goods given u/s 67(6) in the context of detention and seizure u/s 129. Hence the same often results in officers seeking another payment of tax/penalty in addition to the amounts provided u/s 129(1). This said anomaly has been corrected by way of omitting the said sub-section (2) w.e.f. 01.01.2022.
- Consequential amendments have been made u/s 129(3) and 129(4) to grant power to the officer to pass the order imposing the penalty mentioned in the above table and also grant a hearing to the concerned person before passing the order.

- **Now GST dealer has been liable for the payment tax as per details shown in GSTR-1, if short paid then gst officer will initiate recovery proceeding against such short tax paid dealer:**

The self- assessed tax has been defined to include the tax payable in respect of outward supplies furnished in Form GSTR-1, but not included in Form GSTR-3B. Therefore, if a person has furnished details of outward supplies in Form GSTR-1 but has not discharged the tax liability *i.e.*, not furnished the details of outward supplies in the GSTR-3B, then the same would qualify as self-assessed tax and recovery proceedings under section 79 of the CGST Act may be initiated by the proper officer.

- **Widening the scope of provisional attachment of property including bank account:**

Powers are expanded to permit provisional attachment on mere initiation of the proceedings and that too the proceedings covered under multiple Chapters (that includes assessment, inspection, search, seizure and arrest (that will include summons), demands and recovery).*i.e* Chapter XII: Assessment (Section 59 to 64), Chapter XIV: Inspection, Search, Seizure & Arrest (Section 67 to 72), Chapter XV: Demands & Recovery (Section 73 to 84).

- **Appeal pre-deposit has been increased to 25% of penalty in the case of appeal to be filed with Appellate Authority for the detention of Goods/Conveyance:**

The Finance Act 2021 has provided that the appeal may be filed by a taxable person against the order of detention of goods or conveyance by a proper officer only if the person has deposited 25% of penalty amount as mentioned under an order issued in Section 129 (3) of the CGST Act

- **Department can now call for the information by the gst officer:**

A general power to the Commissioner to issue an order and direct any person to furnish information relating to any matter connected with GST within such time, in such form, and in such manner, as may be specified therein u/s.151.

- **Changes in GST rate w.e.f: 01.01.2021.**

From January 2022, the GST rate on fabrics will be raised to 12 percent from 5 percent, and the GST rate on garments of any value has been raised to 12 percent, compared to the previous rate of 5 percent on items priced up to Rs 1,000.

Textiles (including woven fabrics, synthetic yarn, pile fabrics, blankets, tents, accessories such as tablecloths or serviettes, rugs and tapestries) have also seen their rates raised from 5% to

12%, while footwear of any value has seen its rate raised from 5% (up to Rs 1,000/pair) to 12%.

Composite supply of works contract to Govt. Entity or Govt. Authority will be taxable @18 percent

Job Work by way of Dyeing and Printing of Textile and Textile Products will be taxable @12 percent

Exemption removed for following services-

-Pure services and composite supply of goods and services where goods constitute not more than 25 percent value, provided to a Govt. Entity or Govt. Authority

-Non-AC contract Carriage or State Carriage or metered Cabs or Auto/e-rickshaws if supplied through e-commerce operators.

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THANKING YOU.