

CBIC vide notification 35/2021-CT dated 24th September, 2021 has amended following CGST Rules to be inserted from date to be notified:

Rule 10A – The registered person shall furnish the details of bank account which is in name of registered person & obtained (link) on PAN.

Further, In case of a proprietorship concern, the Permanent Account Number of the proprietor shall also be linked with the Aadhaar number of the proprietor.

Rule 10B – Aadhaar authentication for registered person - The registered person, other than a person notified under section 25(6D), who has been issued a certificate of registration under rule 10 shall, undergo authentication of the Aadhaar number of the proprietor, in the case of proprietorship firm, or of any partner, in the case of a partnership firm, or of the karta, in the case of a Hindu undivided family, or of the Managing Director or any whole time Director, in the case of a company, or of any of the Members of the Managing Committee of an Association of persons or body of individuals or a Society, or of the Trustee in the Board of Trustees, in the case of a Trust and of the authorized signatory, in order to be eligible for the purposes as specified in column (2) of the Table below:

Sr. No. Purpose

- 1 For filing of application for revocation of cancellation of registration in FORM GST REG-21 under Rule 23
- 2 For filing of refund application in FORM RFD-01 under rule 89
- 3 For refund under rule 96 of the integrated tax paid on goods exported out of India

Provided that if Aadhaar number has not been assigned to the person required to undergo authentication of the Aadhaar number, such person shall furnish the following identification documents, namely: –

- (a) her/his Aadhaar Enrolment ID slip; and
- (b) (i) Bank passbook with photograph; or
- (ii) Voter identity card issued by the Election Commission of India; or
- (iii) Passport; or
- (iv) Driving license issued by the Licensing Authority under the Motor Vehicles Act, 1988

Provided further that such person shall undergo the authentication of Aadhaar number within a period of thirty days of the allotment of the Aadhaar number.

Consequent amendment has been made in Rule 23, Rule 89 & Rule 96

- Rule 45 – From 1st October, 2021, the details of challans in respect of goods dispatched to a job worker or received from a job worker during the specified period shall be included in FORM GST ITC 04.

Explanation: For the purposes of this sub-rule, the expression “specified period” shall mean.-

- (a) the period of six consecutive months commencing on the 1st day of April and the 1st day of October in respect of a principal whose aggregate turnover during the immediately preceding financial year exceeds five crore rupees; and
- (b) a financial year in any other case

Before aforesaid amendment, the details of challans in respect of goods dispatched to a job worker or received from Job worker during the quarter were required to be furnished in FORM GST ITC 04.

- Rule 59 (6) – W.e.f. 1st January, 2022, 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.

Before aforesaid amendment, GSTR 1 was not allowed to be furnished if return in Form GSTR 3B for preceding 2 months has not been furnished.

Rule 59(6) (c) relating to a registered person, who is restricted from using amount available in Electronic credit ledger in excess of 99%, 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, shall be omitted from 1st January, 2022. –

- Rule 89 (1A) – New rule 89(1A) has been inserted which provide that

Any person, claiming refund under section 77 of the Act of any tax paid by him, in respect of a transaction considered by him to be an intra-State supply, which is subsequently held to be an inter-State supply, may, before the expiry of a period of two years from the date of payment of the tax on the inter-State supply, file an application electronically in FORM GST RFD-01 through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

Provided that the said application may, as regard to any payment of tax on inter-State supply before coming into force of this sub-rule, be filed before the expiry of a period of two years from the date on which this sub-rule comes into force.”

CBIC vide notification 36/2021-CT dated 24th September, 2021 provide that Aadhar authentication or furnishing proof of possession of Aadhar number as provided in Rule 25(6A) shall not apply to a person who is, -

- (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 sub-section (9) of section 25 of the said Act.

CBIC vide Notification 6/2021-CT (Rate) dated 30th September, 2021 has made following amendment (w.e.f. 1st October, 2021) in Notification 11/2017-CT (Rate) dated 28th June, 2017

- The GST rate of 6% shall also apply to Composite supply of works contract other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above, supplied by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration shall also apply to a building owned by an entity registered under section 12AA or 12AB of the Income Tax Act, 1961 (43 of 1961), which is used for carrying out the activities of providing, centralised cooking or distribution, for mid-day meals under the mid-day meal scheme sponsored by the Central Government, State Government, Union territory or local authorities.
- Entry 17(i) which provided GST rate of 6% for Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right in respect of goods other than Information Technology software shall be omitted.
- Entry 17(ii) has been substituted to provide GST rate of 9% for temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right.

Before aforesaid substitution the said entry read as “Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right in respect of Information Technology software”

- Entry 26(ica) has been inserted to provide GST rate of 9% for Services by way of job work in relation to manufacture of alcoholic liquor for human consumption.
- Entry 27(i) which provided GST rate of 6% for Services by way of printing of all goods falling under Chapter 48 or 49 [including newspapers, books (including Braille books), journals and periodicals], which attract CGST @ 6 per cent. or 2.5per cent. or Nil, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer shall be omitted.
- Entry 27(ii) has been substituted to provide GST rate of 9% for Other manufacturing services; publishing, printing and reproduction services; material recovery services.

Before substitution the said entry read as “Other manufacturing services; publishing, printing and reproduction services; materials recovery services, other than (i) above.”

- Entry 34 (iii) has been substituted to provide GST rate of 9% for Services by way of admission to;
- (a) theme parks, water parks and any other place having joy rides, merry-go rounds, go carting, or

(b) ballet, -

other than anyplace covered by (iiia) below

Before substitution the said entry read as "services by way of admission to amusement parks including theme parks, water parks, joy rides, merry-go rounds, go-carting and ballet"

- Entry 34(iiia) has been substituted to provide GST rate of 14% on Services by way of admission to

(a) casinos or race clubs or any place having casinos or race clubs or

(b) sporting events like Indian Premier League.

Before substitution the said entry read as "Services by way of admission to entertainment events or access to amusement facilities including casinos, race club, any sporting event such as Indian Premier League and the like.

- Explanation to Entry 38 shall be substituted to provide that "This entry shall be read in conjunction with serial number 201A of Schedule II of the notification No. 1/2017-Central Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated 28th June, 2017 vide GSR number 673(E) dated 28th June, 2017".

Before substitution the said entry read as "This entry shall be read in conjunction with serial number 234 of Schedule I of the notification No. 1/2017-Central Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated 28th June, 2017 vide GSR number 673(E) dated 28th June, 2017"

- In Annexure - Scheme of Classification of Services new entry 118a has been as follows:

(1)	(2)	(3)	(4)
"118a	Group 99654		Multimodal Transport of goods from a place in India to another place in India
118b		996541	Multimodal Transport of goods from a place in India to another place in India".

CBIC vide Notification 7/2021-CT (Rate) dated 30th September, 2021 has made following amendment (w.e.f. 1st October, 2021) in Notification 12/2017-CT (Rate) dated 28th June, 2017

- Exemption is granted to Services by an entity registered under section 12AA or 12AB of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities.

Before amendment, exemption was granted only to Services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities.

Consequent amendment has been made in Entry 9D, 74A

- Exemption is granted to Services provided by and to Fédération Internationale de Football Association (FIFA) and its subsidiaries directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020 to be hosted in India whenever rescheduled
- New exemption entry 9AB has been inserted which provide that Services provided by and to Asian Football Confederation (AFC) and its subsidiaries directly or indirectly related to any of the events under AFC Women's Asia Cup 2022 to be hosted in India.

Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under AFC Women's Asia Cup 2022.

- Exemption is extended to Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India till 30th September, 2022
- Exemption is extended to Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India till 30th September, 2022
- Exemption provided to Services of leasing of assets (rolling stock assets including wagons, coaches, locos) by the Indian Railways Finance Corporation to Indian Railways under Entry 43 has been omitted.
- Entry 61A has been inserted to grant exemption to Services by way of granting National Permit to a goods carriage to operate through-out India / contiguous States
- Exemption is granted under Entry 72 to Services provided to the Central Government, State Government, Union territory administration under any training programme for which 75% or more of the total expenditure is borne by the Central Government, State Government, Union territory administration.

Before Amendment, entry read as Services provided to the Central Government, State Government, Union territory administration under any training programme for which total expenditure is borne by the Central Government, State Government, Union territory administration.

- Entry 82B has been inserted to grant exemption to Services by way of right to admission to the events organised under AFC Women's Asia Cup 2022.

CBIC vide notification 8/2021 – CT (Rate) dated 30th Sept, 2021 has amended notification 1/2017-CT (Rate) dated 28th June, 2017 (Goods Rate), where by rate of GST on various goods has been amended so as to implement recommendations made by GST Council in its 45th meeting held on 17.09.2021.

CBIC vide notification 9/2021 – CT (Rate) dated 30th Sept, 2021 has amended notification 2/2017-CT (Rate) dated 29th June, 2017 (Goods Exemption- NIL Rate) as follows w.e.f. 1st October, 2021:

Entry 86 has been substituted to provide that NIL rate of Tax shall be applicable to Seeds, fruit and spores, of a kind used for sowing

Explanation: This entry does not cover seeds meant for any use other than sowing."

CBIC vide notification 10/2021-CT (Rate) dated 30th Sept, 2021 has amended notification 4/2017-CT (Rate) dated 28th June, 2017 (RCM Goods) as follows w.e.f. 1st October, 2021

Entry 3A shall be inserted which provided as follows:

Sr. No.	Tariff item, sub-heading, Heading or Chapter	Description of supply of Goods	Supplier of goods	Recipient of supply
s 3A.	33012400, 33012510, 33012520, 33012530, 33012540	Following essential oils other than those of citrus fruit namely: - a) Of peppermint (Mentha piperita); b) Of other mints : Spearmint oil (ex-mentha spicata), Water mint-oil (ex-mentha aquatic), Horsemint oil (ex-menthasylvestries), Bergament oil (ex-mentha citrate).	Any Unregistered Person	Any Registered Person

CBIC vide notification 11/2021 – CT (Rate) dated 30th Sept, 2021 has amended notification 39/2017-CT (Rate) dated 18th October, 2017 (reduced rate of GST i.e. 2.5%) as follows w.e.f. 1st October, 2021:

Entry 1 shall be substituted as follows

Sl. No.	Tariff item, sub- heading, heading or Chapter	Description of Goods	Condition
(1)	(2)	(3)	(4)
1.	19 or 21	(a) Food preparations put up in unit containers and intended for free distribution to economically weaker sections of the society under a programme duly approved by the Central Government or any State Government; (b) Fortified Rice Kernel (Premix) supply for ICDS or similar scheme duly approved by the Central Government or any State Government.	When the supplier of such goods produces a certificate from an officer not below the rank of the Deputy Secretary to the Government of India or the Deputy Secretary to the State Government or the Deputy Secretary in the Union Territory concerned to the effect that such 2[goods] have been distributed free to the economically weaker sections of the society under a programme duly approved by the Central Government or the State Government concerned, within a period of five months from the date of supply of such goods or within such further period as the jurisdictional commissioner of the Central tax or jurisdictional commissioner of the State tax, or jurisdictional officer of the Union Territory Tax as the case maybe, may allow in this reg

CBIC vide notification 12/2021 – CT (Rate) dated 30th Sept, 2021 has reduced the GST rate of following Covid-19 medicine from 1st October, 2021 to 31st December 2021

Sl. No.	Chapter, Heading, Sub- heading or Tariff item	Description of Goods	Rate
(1)	(2)	(3)	(4)
1	30	Tocilizumab	Nil
2	30	Amphotericin B	Nil
3	30	Remdesivir	2.5%
4	30	Heparin (anti-coagulant)	2.5%
5	30	Itolizumab	2.5%

6	30	Posaconazole	2.5%
7	30	Infliximab	2.5%
8	30	Bamlanivimab & Etesevimab	2.5%
9	30	Casirivimab & Imdevimab	2.5%
10	30	2-Deoxy-D-Glucose	2.5%
11	30	Favipiravir	2.5%

CBIC vide circular no. 159/15/2021-GST dated 20th September, 2021 has clarified that definition of “intermediary” under IGST Act as well as under Service Tax law, there is broadly no change in the scope of intermediary services in the GST regime vis-à-vis the Service Tax regime, except addition of supply of securities in the definition of intermediary in the GST Law.

Following are primary requirements for intermediary service

Minimum of Three Parties: By definition, an intermediary is someone who arranges or facilitates the supplies of goods or services or securities between two or more persons. It is thus a natural corollary that the arrangement requires a minimum of three parties, two of them transacting in the supply of goods or services or securities (the main supply) and one arranging or facilitating (the ancillary supply) the said main supply. An activity between only two parties can, therefore, NOT be considered as an intermediary service. An intermediary essentially “arranges or facilitates” another supply (the “main supply”) between two or more other persons and, does not himself provide the main supply.

Two distinct supplies: As discussed above, there are two distinct supplies in case of provision of intermediary services;

- (1) Main supply, between the two principals, which can be a supply of goods or services or securities;
- (2) Ancillary supply, which is the service of facilitating or arranging the main supply between the two principals. This ancillary supply is supply of intermediary service and is clearly identifiable and distinguished from the main supply.

A person involved in supply of main supply on principal-to-principal basis to another person cannot be considered as supplier of intermediary service.

Intermediary service provider to have the character of an agent, broker or any other similar person: The definition of “intermediary” itself provides that intermediary service provider means a broker, an agent or any other person, by whatever name called....”. This part of the definition is not inclusive but uses the expression “means” and does not expand the definition by any known expression of expansion such as “and includes”. The use of the expression “arranges or facilitates” in the definition of “intermediary” suggests a subsidiary role for the intermediary. It must arrange or facilitate some other supply, which is the main supply, and does not himself provides the main supply. Thus, the role of intermediary is only supportive.

Does not include a person who supplies such goods or services or both or securities on his own account: The definition of intermediary services specifically mentions that intermediary “does not include a person who supplies such goods or services or both or securities on his own account”. Use of word “such” in the definition with reference to supply of goods or services refers to the main supply of goods or services or both, or securities, between two or more persons, which are arranged or facilitated by the intermediary. It implies that in cases wherein the person supplies the main supply, either fully or partly, on principal-to-principal basis, the said supply cannot be covered under the scope of “intermediary”.

Sub-contracting for a service is not an intermediary service: An important exclusion from intermediary is sub-contracting. The supplier of main service may decide to outsource the supply of the main service, either fully or partly, to one or more sub-contractors. Such sub-

contractor provides the main supply, either fully or a part thereof, and does not merely arrange or facilitate the main supply between the principal supplier and his customers, and therefore, clearly is not an intermediary

The specific provision of place of supply of 'intermediary services' under section 13 of the IGST Act shall be invoked only when either the location of supplier of intermediary services or location of the recipient of intermediary services is outside India.

CBIC vide circular no. 160/16/2021-GST dated 20th September 2021 has clarified following

Question 1: Which of the following dates are relevant to determine the 'financial year' for the purpose of section 16(4):

- (a) date of issuance of debit note, or
- (b) date of issuance of underlying invoice

Clarification 1: w.e.f. 01.01.2021, in case of debit notes, the date of issuance of debit note (not the date of underlying invoice) shall determine the relevant financial year for the purpose of section 16(4) of the CGST Act.

Question 2 : Whether any availment of input tax credit, on or after 01.01.2021, in respect of debit notes issued either prior to or after 01.01.2021, will be governed by the provisions of the amended section 16(4), or the amended provision will be applicable only in respect of the debit notes issued after 01.01.2021?

Clarification 2: The availment of ITC on debit notes in respect of amended provision shall be applicable from 01.01.2021. Accordingly, for availment of ITC on or after 01.01.2021, in respect of debit notes issued either prior to or after 01.01.2021, the eligibility for availment of ITC will be governed by the amended provision of section 16(4), whereas any ITC availed prior to 01.01.2021, in respect of debit notes, shall be governed under the provisions of section 16(4), as it existed before the said amendment on 01.01.2021.

Question 3: Whether carrying physical copy of invoice is compulsory during movement of goods in cases where suppliers have issued invoices in the manner prescribed under rule 48 (4) of the CGST Rules, 2017 (i.e. in cases of e-invoice)?

Clarification 3 : It is clarified that there is no need to carry the physical copy of tax invoice in cases where invoice has been generated by the supplier in the manner prescribed under rule 48(4) of the CGST Rules and production of the Quick Response (QR) code having an embedded Invoice Reference Number (IRN) electronically, for verification by the proper officer, would suffice.

CBIC vide circular no. 161/17/2021-GST dated 20th September, 2021 has clarified that a company incorporated in India and a body corporate incorporated by or under the laws of a country outside India, which is also referred to as foreign company under Companies Act, are separate persons under CGST Act, and thus are separate legal entities. Accordingly, these two separate persons would not be considered as "merely establishments of a distinct person in accordance with Explanation 1 in section 8".

Therefore, supply of services by a subsidiary/ sister concern/ group concern, etc. of a foreign company, which is incorporated in India under the Companies Act, 2013 (and thus qualifies as a 'company' in India as per Companies Act), to the establishments of the said foreign company located outside India (incorporated outside India), would not be barred by the condition (v) of the sub-section (6) of the section 2 of the IGST Act 2017 for being considered as export of services, as it would not be treated as supply between merely establishments of distinct persons under Explanation 1 of section 8 of IGST Act 2017 .

Similarly, the supply from a company incorporated in India to its related establishments outside India, which are incorporated under the laws outside India, would not be treated as supply to merely establishments of distinct person under Explanation 1 of section 8 of IGST Act 2017. Such supplies, therefore, would qualify as 'export of services', subject to fulfilment of other conditions as provided under sub-section (6) of section 2 of IGST Act.

CBIC vide circular no. 162/18/2021-GST dated 25th September, 2021 has clarified that the refund under section 77 of CGST Act/ Section 19 of IGST Act, 2017 can be claimed before the expiry of 2 years from the date of payment of tax under the correct head, i.e. integrated tax paid in respect of subsequently held inter-State supply, or central and state tax in respect of subsequently held intra-State supply, as the case may be.

However, in cases, where the taxpayer has made the payment in the correct head before the date of issuance of notification No.35/2021-Central Tax dated 24.09.2021, the refund application under section 77 of the CGST Act/ section 19 of the IGST Act can be filed before the expiry of 2 years from the date of issuance of the said notification. i.e. from 24.09.2021.

CBIC vide Circular no. 164/20/2021-GST dated 6th October, 2021 has clarified as follows:

Services by cloud kitchens/central kitchens: Service provided by way of cooking and supply of food, by cloud kitchens/central kitchens are covered under 'restaurant service", as defined in notification No. 11/2017- Central Tax (Rate) and attract 5% GST [without ITC].

Supply of ice cream by ice cream parlours : It is clarified that where ice cream parlours sell already manufactured ice- cream and do not cook/prepare ice-cream for consumption like a restaurant, it is supply of ice cream as goods and not as a service, even if the supply has certain ingredients of service. Accordingly, it is clarified that ice cream sold by a parlour or any similar outlet would attract GST at the rate of 18%.

Coaching services supplied by coaching institutions and NGOs under the central sector scheme of 'Scholarships for students with Disabilities': It is clarified that services provided by any institutions/ NGOs under the central scheme of 'Scholarships for students with Disabilities' where total expenditure is borne by the Government is covered under entry 72 of notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017 and hence exempt from GST

Satellite launch services provided by NSIL: It is clarified that as the satellite launch services supplied by NSIL are similar to those supplied by ANTRIX Corporation Ltd, the said circular No. 2/1/2017-IGST dated 27.09.2017, is applicable to them.

Circular No. 2/1/2017-IGST dated 27.09.2017 clarifies that Place of Supply (PoS) of satellite launch services supplied by ANTRIX Corporation Ltd to customers located outside India is outside India and such supply which meets the requirements of section 2(6) of IGST Act, constitutes export of service and shall be zero rated. If the service recipient is located in India, the satellite launch services would be taxable.

GST on overloading charges at toll plaza: Entry 23 of notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017, exempts Service by way of access to a road or a bridge on payment of toll charges.

Vide notification dated 25th Sep. 2018, issued by Ministry of Road Transport And Highways, overloaded vehicles were allowed to ply on the national highways after payment of fees with multiplying factor of 2/4/6/8/10 times the base rate of toll. Therefore, in essence overloading fees are effectively higher toll charges.

As recommended by the GST Council, it is clarified that overloading charges at toll plazas would get the same treatment as given to toll charges.

Renting of vehicles to State Transport Undertakings and Local Authorities: it is clarified that the expression "giving on hire" in Sl. No. 22 of the Notification No. 12/2017-CT (Rate) includes renting of vehicles. Accordingly, services where the said vehicles are rented or given on hire to State Transport Undertakings or Local Authorities are eligible for the said exemption irrespective of whether such vehicles are run on routes, timings as decided by the State Transport Undertakings or Local Authorities and under effective control of State Transport Undertakings or Local Authorities which determines the rules of operation or plying of vehicles.

Services by way of grant of mineral exploration and mining rights: service by way of grant of mineral exploration and mining rights most appropriately fall under service code 997337, i.e. "licensing services for the right to use minerals including its exploration and evaluation".

Further, it is clarified that even if the rate schedule did not specifically mention the service by way of grant of mining rights, during the period 1.7.2017 to 31.12.2018, it was taxable at 18% in view of principle laid down in the 14th meeting of the Council for residuary GST rate. Post, 1st January, 2019 no dispute remains as stated above.

Admission to indoor amusement parks having rides etc.: It is clarified that 28% rate [entry 34 (iiia)] applies on admission to a place having casino or race club [even if it provides certain other activities] or admission to a sporting event like IPL.

On the other hand, Entry 34 (ii), having a rate of 18%, covers all other cases of admission to amusement parks, or theme park etc or any place having joy rides, merry- go rounds, go- carting etc, whether indoor or outdoor, so long as no access is provided to a casino or race club.

This clarification will also apply to Entries 34(ii) and 34(iiia) as they existed prior to their amendment w.e.f 01.10.2021.

Services supplied by contract manufacturers to brand owners for manufacture of alcoholic liquor for human consumption: It is clarified that the expression "food and food products" in the said entry excludes alcoholic beverages for human consumption. As such, in common parlance also alcoholic liquor is not considered as food. Accordingly, services by way of job work in relation to manufacture of alcoholic liquor for human consumption are not eligible for the GST rate of 5% prescribed under the said entry. GST Council recommended that such job work would attract GST at the rate of 18%.