

CBIC vide notification 13/2021-CT (Rate) dated 27th October, 2021 has amended notification 1/2017-CT (Rate) dated 28th June, 2017 as to omit entry no. 243 under schedule II which provided CGST rate of 6% on Permanent transfer of Intellectual Property (IP) right in respect of goods other than Information Technology software.

Entry 452P under schedule III has been substituted to provide CGST rate at 9% for Permanent transfer of all Intellectual Property (IP) right. Before substitution the said entry read as "Permanent transfer of Intellectual Property (IP) right in respect of Information Technology software"

CBIC vide notification 14/2021-CT (Rate) dated 27th October, 2021 has amended notification 1/2017-CT (Rate) dated 28th June, 2017 as to prescribe CGST rate of 6% on certain Textile & textile products & garments falling under chapter 50,51,52, 53, 54, 55,56, 58, 59, 60, 63 & 64.

The said notification will come into effect from 1st January, 2022.

CBIC vide notification 15/2021-CT (Rate) dated 18th November 2021 has amended notification 11/2017-CT (Rate) dated 28th June, 2017 as follows:

1) The benefit of reduction of GST rate at 6% or 2.5%, as the case may be in case of composite supply of works contract service under serial number (iii), (vi),(vii), (ix) & (x) of Entry 3, supplied to a Governmental Authority or a Government Entity is omitted.

Further, condition that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be under serial number (iii), (vi),(vii), (ix) & (x) of Entry 3 shall be omitted.

Thus, with this amendment, the composite supply of work contract service provided to governmental authority or Government entity will attract GST at rate of 9%.

2) Entry 26(i)(b) has been amended to provide that Services by way of job work in relation to Textiles and textile products falling under Chapter 50 to 63 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975); except services by way of dyeing or printing of the said textile and textile products

Thus, with this amendment, job work service of dyeing or printing of textile or textile products will attract GST at rate of 6%.

The above said notification shall come into effect from 1st January 2022.

CBIC vide notification 16/2021-CT (Rate) dated 18th November 2021 has amended notification 12/2017-Ct (Rate) dated 28th June, 2017 ad follow:

1) Entry 3 has been amended to omit the word "Governmental authority or a Government Entity" as appearing in said entry.

Thus, with this amendment, exemption granted for pure services (excluding works contract service or other composite supplies involving supply of any goods) provided to governmental authority or a government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution has been done away with.

Similar amendment has been carried for Entry 3A.

2) In Entry 15, proviso has been inserted to provide that nothing contained in items (b) and (c) above shall apply to services supplied through an electronic commerce operator, and notified under sub-section (5) of Section 9 of the Central Goods and Services Tax Act, 2017.

Thus, with this amendment, exemption granted to Transport of passengers, with or without accompanied belongings, by

b) non-airconditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or

c) stage carriage other than air-conditioned stage carriage.

Shall not apply in case services supplied through an electronic commerce operator, and notified under Section 9(5).

d) In Entry 17, proviso has been inserted to provide that nothing contained in items (e) above shall apply to services supplied through an electronic commerce operator, and notified under sub-section (5) of Section 9 of the Central Goods and Services Tax Act, 2017.

Thus, with this amendment, exemption granted to Service of Transport of passengers, with or without accompanied belongings, by

e) metered cabs or auto rickshaws (including e-rickshaws)

shall not apply in case services supplied through an electronic commerce operator, and notified under Section 9(5).

The above said notification shall come into effect from 1st January 2022.

CBIC vide notification 17/2021-CT (Rate) dated 18th November 2021 has amended notification 17/2017-CT (Rate) dated 28th June, 2017 (categories of services, the tax on intra-State supplies shall be paid by the electronic commerce operator) to include following services:

Services by way of transportation of passengers by motor cycle, omnibus or any other motor vehicle

Supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.

Explanation: Specified premises means premises providing hotel accommodation service having declared tariff of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.

The said notification shall come into force from 1st January 2022

CBIC vide circular 165/21/2021-GST dated 17th November 2021 has provided clarification in respect of applicability Dynamic Quick Response (QR) Code on B2C invoices where the service recipient is located outside India and place of supply of service is in India as per the IGST Act 2017, and the payment is received by the service provider located in India not in foreign exchange, but through other modes approved by RBI.

Vide this circular, Circular 156/21/2021-GST stands modified to this extent to clarify wherever an invoice is issued to a recipient located outside India, for a supply of services for which the place of supply is in India, and the payment is received by the supplier in convertible foreign exchange or in Indian Rupees wherever permitted by the RBI, such invoice may be issued without having a Dynamic QR Code, as such dynamic code cannot be used by the recipient located outside India for making payment to the supplier.

CBIC vide circular 166/21/2021-GST dated 17th November 2021 has provided clarification on certain refund related issues.

1) The provisions of Section 54(1) of the CGST Act regarding time period, within which an application for refund can be filed, would not be applicable in cases of refund of excess balance in electronic cash ledger.

2) Furnishing of certification/declaration under Rule 89(2)(l) or Rule 89(2)(m) of the CGST Rules, 2017 for not passing the incidence of tax to any other person is not required in cases of refund of excess balance in electronic cash ledger as unjust enrichment clause is not applicable in such cases.

3) The amount deducted/collected as TDS/TCS by TDS/TCS deductors under the provisions of section 51/52 of the CGST Act, and credited to electronic cash ledger of the registered person, is equivalent to cash deposited in electronic cash ledger. It is not mandatory for the registered person to utilise the TDS/TCS amount credited to his cash ledger only for the purpose of discharging tax liability. The same can be refunded as excess balance in cash ledger.

4) Clause (b) of explanation (2) under Section 54 of the CGST Act is applicable for determining relevant date in respect of refund of amount of tax paid on the supply of goods regarded as deemed exports, irrespective of the fact whether the refund is claimed by the supplier or the recipient. The Circular further clarifies that as the tax is paid by the supplier in his return, the relevant date for the purpose of filing of refund claim for refund of tax paid on such supplies would be the date of filing of return, related to such supplies, by the supplier.