

# CA FINAL GST & CUSTOMS AMENDMENTS FOR MAY 2021 EXAMS BY BG SIR



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## DEFINITIONS

### Sec 2(114): Union Territory

“Union territory” means the territory of—

- (a) the Andaman and Nicobar Islands;
- (b) Lakshadweep;
- (c) Dadra and Nagar Haveli and Daman and Diu;**
- (d) Ladakh**
- (e) Chandigarh; and
- (f) other territory.

*Explanation.*—For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory;



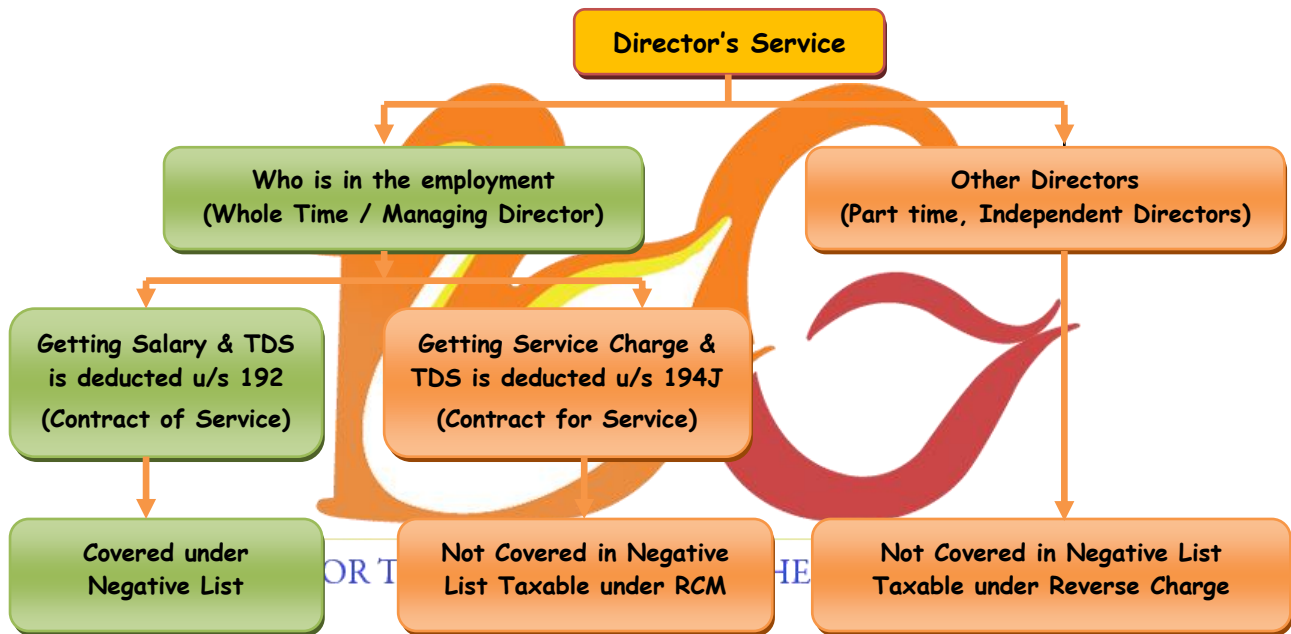
FOR THE ROUND PEGS IN THE SQUARE HOLES

# LEVY

## Notified supply of Services under RCM [N/N 13/2017 of CT] (Amended)

Sl. No	Nature of Service	Supplier of service	Recipient of Service (located in TT)
(6)	<b>DIRECTOR SERVICE</b>	A DIRECTOR of a company or BODY CORPORATE	Company or Body corporate located in TT

Circular No: 140/10/2020 - GST dt 10<sup>th</sup> June, 2020



*Question: Arpan Singhania is a director in Narayan Limited. The company paid him the sitting fee amounting to ₹ 25,000, for the month of January. Further, salary was paid to Arpan Singhania amounting to ₹ 1.5 lakh for the month of January on which TDS was also deducted as per applicable provisions under Income-tax law. Tapasya & Associates, in which Arpan Singhania is a partner, supplied certain professional services to Narayan Limited in the month of January for an amount of ₹ 2 lakh. Discuss the person liable to pay tax in each of the supplies involved in the given case. (ICAI Study Material)*

Answer:

Payment	Treatment
Sitting fee paid to director	As per reverse charge notification (13/2017 CT), tax on services supplied by a director of a company/ body corporate to the said company/ body corporate, located in the taxable territory, is payable under reverse charge. Hence, in the present case, the sitting fee amounting to ₹ 25,000, payable to Arpan Singhania by Narayan Limited, is liable to GST under reverse charge and thus, recipient of service - Narayan Limited – is liable to pay GST on the same.
Salary paid to director	As per Circular No.140/10/2020 GST dated 10.06.2020, the part of director's remuneration which is declared as salary in the books of a company and subjected to TDS u/s 192 of the Income-tax Act, are not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III. Therefore, in the given case, the salary received by Arpan Singhania of ₹ 1.5 lakh is not liable to GST.
Services provided by Tapasya & Associates	Tapasya & Associates have rendered certain professional services to Narayan Limited. The fact that Arpan Singhania is a partner in Tapasya & Associates and a director in Narayan Limited does not have any impact on the taxability of the professional services supplied by Tapasya & Associates to Narayan Limited. The professional services provided by Tapasya & Associates to Narayan Limited are liable to GST under forward charge and thus, supplier - Tapasya & Associates - is liable to pay GST on the same.

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# Sec 10: COMPOSITION SCHEME

## Composition Rates (Rule 7 of CGST Rules, 2017)

Particulars	CGST/SGST each	Effective rate (CGST + SGST)
Manufacturers	0.5% of Total Turnover	1%
Restaurant & Catering Service	2.5% of Total Turnover	5%
Others suppliers / Traders (Goods & Service)	0.5% of Taxable Turnover	1%
Persons covered u/s 10(2A) [New Composition Scheme]	3% of Total Turnover	6%
In case of RCM	Normal Rate	Normal Rate



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# EXEMPTION

Entry 19A	Services by way of transportation of goods by an aircraft from customs station of clearance in India to a place outside India. [Exempt upto 30.09.2020 2021]
Entry 19B	Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India. [Exempt upto 30.09. 2020 2021]
Entry 19C	<p>Satellite launch services supplied by</p> <ul style="list-style-type: none"> <li>• Indian Space Research Organisation</li> <li>• Antrix Corporation Limited</li> <li>• New Space India Limited</li> </ul> 



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# REGISTRATION

## REGISTRATION PROCEDURE - Sec 25 read with Rule 8, 9 & 25 of CGST Rules 2017

### Rule 8(4A): Application for Registration

Where an applicant, other than a person notified u/s 25(6D), opts for authentication of Aadhaar number, he shall, while submitting the application, undergo authentication of Aadhaar number & the date of submission of the application in such cases shall be

- the date of authentication of the Aadhaar number, or
- 15 days from the submission of the application in Part B of FORM GST REG-01, whichever is earlier.”

### Rule 9: Verification of the application and approval. -

- (1) The application shall be forwarded to the PO who shall examine the application and the accompanying documents and if the same are found to be in order, approve the grant of registration to the applicant within a period of 3 working days from the date of submission of the application.

Provided that where a person, other than those notified u/s 25(6D) fails to undergo authentication of Aadhaar number or does not opt for authentication of Aadhaar number, then the registration shall be granted only after physical verification of the place of business in the presence of the said person, in the manner provided in Rule 25.

Further for above person the notice in FORM GST REG-03 may be issued not later than 21 days from the date of submission of the application.”

*Provided further that the PO may, for reasons to be recorded in writing and with the approval of an officer not below the rank of Joint Commissioner, in lieu of the physical verification of the place of business, carry out the verification of such documents as he may deem fit.”;*

- (2) Where the application submitted is found to be deficient PO may issue a notice within a period of 3 working days from the date of submission of the application and the applicant shall furnish such clarification, within a period of 7 working days from the date of the receipt of such notice.

Provided that where a person, other than a person notified u/s 25(6D), fails to undergo authentication of Aadhaar number or does not opt for authentication of Aadhaar number, the notice in FORM GST REG-03 may be issued not later than 21 days from the date of submission of the application.”

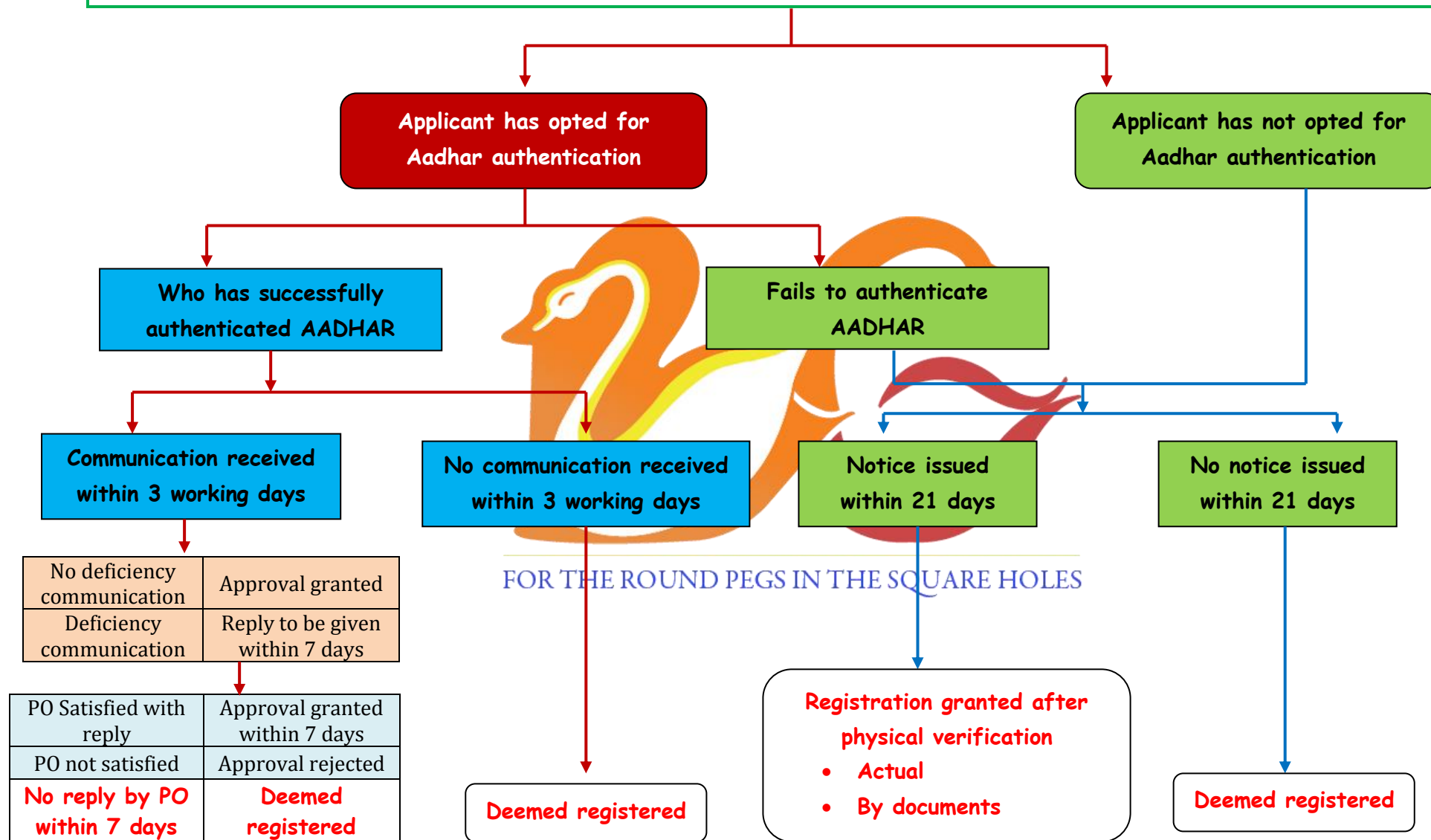


- (3) Where the PO is satisfied with the clarification, information or documents furnished by the applicant, he may approve the grant of registration to the applicant within a period of 7 working days from the date of the receipt of such clarification or information or documents.
- (4) Where no reply is furnished by the applicant in response to the notice or where the PO is not satisfied with the clarification, information or documents furnished, he may, for reasons to be recorded in writing, reject such application and inform the applicant in FORM GST REG-05.
- (5) If the proper officer fails to take any action, -
- (a) within a period of 3 working days from the date of submission of the application where a person successfully undergoes authentication of Aadhaar number or is notified u/s 25(6D) ; or
  - (b) within the time period prescribed under the proviso to sub-rule (2), in cases where a person, other than a person notified u/s 25(6D), fails to undergo authentication of Aadhaar number; or
  - (c) within a period of 21 days from the date of submission of the application in cases where a person does not opt for authentication of Aadhaar number; or
  - (d) within a period of 7 working days from the date of the receipt of the clarification, information or documents furnished by the applicant,
- the application for grant of registration shall be deemed to have been approved.

#### Rule 25: Physical verification of business premises

Where the PO is satisfied that the physical verification of the place of business of a person is required due to failure of Aadhaar authentication or due to not opting for Aadhaar authentication before the grant of registration, or due to any other reason after the grant of registration, he may get such verification of the place of business, in the presence of the said person, done and the verification report along with the other documents, including photographs, shall be uploaded in FORM GST REG-30 on the common portal within a period of 15 working days following the date of such verification.

New registration Procedure & Aadhar Authentication [Sec 25 read with Rule 8 & 9]



# INVOICING

## Rule 46: Information Required in a GST Invoice (General Contents)

The tax invoice issued must clearly mention information under the following 16 headings:

- (17) Quick Reference code, having embedded Invoice Reference Number (IRN) in it, in case invoice has been issued in the manner prescribed u/ r 48(4).**

Provided that the Board may, on the recommendations of the Council, by notification, specify-

- (i) the number of digits of HSN code for goods or services that a class of registered persons shall be required to mention; or
- (ii) a class of supply of goods or services for which specified number of digits of HSN code shall be required to be mentioned by all registered taxpayers; and
- (iii) the class of registered persons that would not be required to mention the HSN code for goods or services

### Tax Invoice with QR Code (5<sup>th</sup> & 6<sup>th</sup> proviso):

Provided also that the Government may, by notification, on the recommendations of the Council, and subject to such conditions and restrictions as mentioned therein, specify that the tax invoice shall have Quick Response (QR) code. [Notified date 1<sup>st</sup> Oct, 2020]

### Notified Person:

An invoice issued by a registered person, whose aggregate turnover in a financial year exceeds ₹ 500 crores, to an unregistered person (herein after referred to as B2C invoice), shall have Quick Response (QR) code. **PEGS IN THE SQUARE HOLES**  
 Provided that where such registered person makes a Dynamic Quick Response (QR) code available to the recipient through a digital display, such B2C invoice issued by such registered person containing cross-reference of the payment using a Dynamic Quick Response (QR) code, shall be deemed to be having Quick Response (QR) code.

**Rule 48: Manner of Issuing Invoice****E-Invoicing****(4) The invoice shall be prepared by**

- such class of registered persons as may be notified by the Government, on the recommendations of the Council, by including such particulars contained in FORM GST INV-01
- after obtaining an Invoice Reference Number by uploading information contained therein on the Common GST Electronic Portal in such manner and subject to such conditions and restrictions as may be specified in the notification.

**(1) Notified Person:** Registered person other than 54(2)/(3)/(4)/(4A) or SEZ whose aggregate turnover in any preceding financial year from 2017-18 onwards exceeds ₹ 500 crore in respect of supply of goods or services or both to a registered person or for exports [w.e.f 1<sup>st</sup> Oct, 2020]

**(2) Notified common GST Electronic Portals managed by GSTN:**

[www.einvoice1.gst.gov.in](http://www.einvoice1.gst.gov.in); [www.einvoice2.gst.gov.in](http://www.einvoice2.gst.gov.in); [www.einvoice3.gst.gov.in](http://www.einvoice3.gst.gov.in);  
[www.einvoice4.gst.gov.in](http://www.einvoice4.gst.gov.in); [www.einvoice5.gst.gov.in](http://www.einvoice5.gst.gov.in); [www.einvoice6.gst.gov.in](http://www.einvoice6.gst.gov.in);  
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[www.einvoice10.gst.gov.in](http://www.einvoice10.gst.gov.in)

Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt a person or a class of registered persons from issuance of invoice under this sub-rule for a specified period, subject to such conditions and restrictions as may be specified in the said notification.

- (5) Every invoice issued by a person to whom sub-rule (4) applies in any manner other than the manner specified in the said sub-rule shall not be treated as an invoice.**
- (6) The provisions of sub-rules (1) and (2) shall not apply to an invoice prepared in the manner specified in sub-rule (4).'**

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# E-Way Bill Rules

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**Rule 138A: Documents and devices to be carried by a person-in-charge of a conveyance**

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- (1) The person in charge of a conveyance shall carry—
- (a) the **invoice or bill of supply or delivery challan**, as the case may be; and
  - (b) a **copy of the e-way bill or the e-way bill number**, either physically or mapped to a Radio Frequency Identification Device embedded on to the conveyance.
- [In case of imported goods, bill of entry to be carried]
- (2) In case, invoice is issued in the manner prescribed u/r 48(4), **the Quick Response (QR) code having an embedded Invoice Reference Number (IRN) in it, may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice.**



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# RETURNS

## Rule 67A (New): Manner of furnishing of return by short messaging service facility. -

A registered person who is required to furnish a **Nil return u/s 39** in FORM GSTR-3B or a **Nil details of outward supplies u/s 37** in FORM GSTR-1 or a **Nil statement in FORM GST CMP-08** for a tax period,

- ➔ any reference to electronic furnishing shall include furnishing of the said return or the details of outward supplies through a short messaging service (SMS) using the registered mobile number and
- ➔ the said return or the details of outward supplies shall be verified by a registered mobile number based One Time Password facility.

*Explanation. - For the purpose of this rule, a Nil return or Nil details of outward supplies shall mean a return u/s 39 or details of outward supplies u/s 37, for a tax period that has nil or no entry in all the Tables in FORM GSTR-3B or FORM GSTR-1 or FORM GST CMP-08, as the case may be."*

### Indication of HSN details

Minimum number of digits of HSN code that a filer has to mention in a tax invoice and upload depend on his turnover in the PY.

Annual Turnover in PY	No. of digits of HSN Code
Upto ₹ 5 crore	4
More than ₹ 5 crore	6

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Particulars	Sec 44: Annual Return
For FY 2018-19 & file 2019-20	The requirement of getting accounts audited and furnishing of reconciliation statement in form GST - 9C is applicable only when aggregate turnover exceeds ₹ 5 crore.

# PAYMENT

## Sec 50: Interest on Delayed Payment of Tax

### Normally (payment of tax) - 18% p.a.

(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 18%, as may be notified by the Government on the recommendations of the Council.

### Interest liability applicable only on Net Liability i.e, after reducing ITC

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 u/s 73 or 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.

*Question: M/s Rajendra Dyeing Pvt. Ltd. supplied goods worth ₹ 10,00,000 to M/s Y Ltd in the month of of September, 2020 plus GST 12%. M/s Rajendra Dyeing Pvt. Ltd. paid the GST on 5th December 2021. The amount of input tax credit is 70,000 is available in the books. Calculation of interest payment if any u/s 50 of the CGST Act, 2017. Would your answer change if Rajendra Dyeing Pvt. Ltd. Made payment of GST after issuance of notice by the PO.*

*Answer: As per proviso to Sec 50, Interest shall be payable on GST payable in cash i.e, after adjusting ITC if the taxable person makes payment on its own.*

*Net Tax liability = ₹ 1,20,000 - ₹ 70,000 = ₹ 50,000*

*Interest shall be calculated from the next day of the due date of payment from 21st October 2020 to the actual date of payment i.e. 5<sup>th</sup> December 2021.*

*Interest is ₹ 50,000 × 18% × 411/365 = ₹ 10,134/-*

### In case payment was made after issuance of notice by PO

*In such cases interest would be payable on the gross liability of ₹ 1,20,000*

*Interest = 1,20,000 × 18% × 411/365 = ₹ 26,349*

## DEMAND & RECOVERY

Tax, interest & penalty payable to be intimated by the PO before issuance of SCN  
N/N 49/2019 dt 09.10.2019

PO **shall may**, before serving of such a notice, communicate the details of any tax, interest and penalty as ascertained by him. Further, where such person has made partial payment of amount communicated to him or desires to file any submission against the proposed liability. Taxpayer will be able to take advantage of nil or reduced penalty u/s 73 or 74. Where any person makes payment of tax, interest, penalty or any other amount due in accordance with the provisions of the Act whether on his own ascertainment or, as communicated by the PO, he shall inform the PO of such payment and the PO shall issue an acknowledgement, accepting the payment made by the said person.



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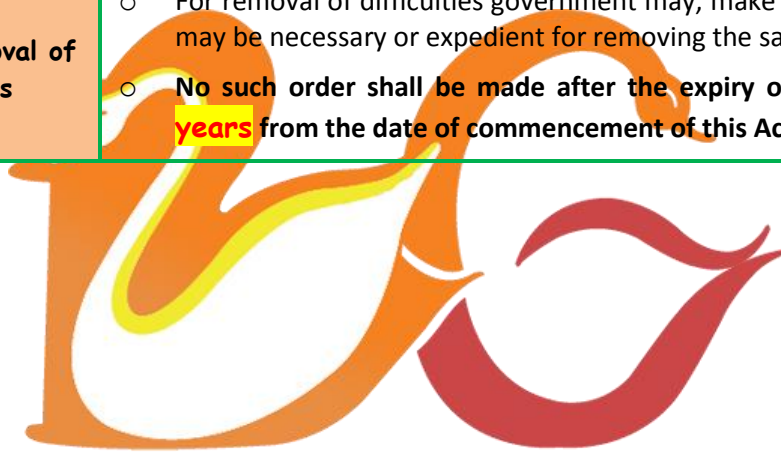
# MISCELLANEOUS PROVISIONS

**Doubt:** Whether IRP would be required to take a fresh registration even when they are complying with all the provisions of the GST Law under the registration of Corporate Debtor (CD) (earlier GSTIN) i.e. all the GSTR-3Bs have been filed by the CD / IRP prior to the period of appointment of IRPs and they have not been defaulted in return filing.

**Clarification:** **NO**, IRP/RP would not be required to take a fresh registration in those cases where statements in FORM GSTR-1 under section 37 and returns in FORM GSTR-3B under section 39 of the CGST Act, for all the tax periods prior to the appointment of IRP/RP, have been furnished under the registration of Corporate Debtor (earlier GSTIN).

## Sec 172: Removal of Difficulties

- For removal of difficulties government may, make such provisions as may be necessary or expedient for removing the said difficulty:
- **No such order shall be made after the expiry of a period of 3 5 years** from the date of commencement of this Act.




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# PLACE OF SUPPLY

Consequent to new entry 19C of N/N 122/2017 CT, the circular earlier issue with respect to satellite launch service (Circular No. 2/1/2017) becomes redundant.

## Clarification on supply of satellite launch services by ANTRIX Corporation Ltd: (Circular 2/1/2017)

<b>Issue</b>	<p>How is the taxability of satellite launch services provided to both international and domestic customers by ANTRIX Corporation Limited, which is a wholly owned Government of India Company under the administrative control of Department of Space (DOS), determined?</p>
<b>Clarification</b>	<p><b><u>Satellite launch service to International Customers - Sec 13(9): PoS - outside India (Export)</u></b></p> <p>In view of the above, <b>place of supply of satellite launch services</b> supplied by ANTRIX Corporation Limited to <b>international customers would be outside India</b> in terms of sec 13(9) and such supply which meets the requirements of sec 2(6), thus <b>constitutes export of service and shall be zero rated in accordance with sec 16 of the IGST Act.</b></p> <p><b><u>Satellite launch service to Indian Customers - Sec12(8): PoS - India (Taxable)</u></b></p> <p>Where <b>satellite launch service is provided</b> by ANTRIX Corporation Limited to a <b>person located in India, the place of supply of satellite launch service would be governed by sec 12(8) and would be taxable</b> under CGST Act, UTGST Act or IGST Act, as the case may be.</p> 

# AMENDMENTS IN CUSTOMS

FOR THE ROUND PEGS IN THE SQUARE HOLES

# TYPES OF DUTY

## Section 8B of CTA, 1975: Power of CG to impose Safeguard Duty

- (1) If the CG, after conducting such enquiry as it deems fit, is satisfied that any article is imported into India
- In such **INCREASED QUANTITY** and under such conditions
  - So as to cause or threatening to cause serious injury to domestic industry.

then CG may by notification in OZ **apply such safeguard measures on that article as it deems appropriate.**

(2) *The safeguard measures referred to in sub-section (1) shall include*

- imposition of safeguard duty,**
- application of tariff-rate quota or**
- such other measure,**

**as the CG may consider appropriate, to curb the increased quantity of imports of an article to prevent serious injury to domestic industry:**

### EXEMPTION FROM SAFEGUARD DUTY (DE-MINIMUS LEVEL)

Provided that such duty shall not be imposed on

- ⇒ An article originating from a **DEVELOPING COUNTRY** So long as the share of imports of that article from that country **does not exceed 3% of total imports of that article into India.**

### FOR THE ROUND PEGS IN THE SQUARE HOLES

- ⇒ An article originating from **MORE THAN ONE DEVELOPING COUNTRIES** so long as the aggregate of imports of that article from developing countries each with less than 3% import share taken together **does not exceed 9% of total imports of that article into India.**

**Provided further** that CG may, by notification in the OZ, **exempts** such quantity of any article as it may specify in the notification, when imported from any country into India, from payment of the safeguard duty leviable thereon.

- (3) Where tariff-rate quota is used as a safeguard measure, the CG shall not fix such quota lower than the average level of imports in the last 3 representative years for which statistics are available, unless a different level is deemed necessary to prevent or remedy serious injury.
- (4) The CG may allocate such tariff-rate quota to supplying countries having a substantial interest in supplying the article concerned, in such manner as may be provided by rules.

**Period of imposition:**

Initially it can be imposed for a maximum period of **4 years** (including provisional imposition) and further it can **be extended, however the TOTAL PERIOD of imposition shall be restricted to 10 years**

**[4years + extension = Max 10 years]**

**Provisional Imposition:**

Pending final determination of injury, Safeguard duty may be imposed provisionally **for 200 days**.

→ *Safeguard duty on articles imported by a 100% EOU/unit in a SEZ that are **cleared as such into DTA or are used in the manufacture of goods that are cleared into DTA. In such cases safeguard duty shall be levied on that portion of the article so cleared or so used as was leviable when it was imported into India.***



FOR THE ROUND PEGS IN THE SQUARE HOLES

# IMPORT PROCEDURE

## Section 47: Clearance of goods for home consumption

### Deferred Payment of Import Duty Rules, 2016

#### Rule 2: Definitions

(c) “eligible importer” means any class of importers notified under proviso to sec 47(1) of the Act.

N/N 135/2016 – CBIC permits following class of importers to make deferred payment

- *Importer certified under Authorised Economic Operator Programme as AEO (Tier two/three).*
- **Authorised Public Undertakings (APUs)**

## FACELESS ASSESSMENT

**Faceless Assessment is a major Customs Reforms where a Bill of Entry that is identified for scrutiny (non-facilitated Bill of Entry) is assigned to an assessing officer who is physically located at a Customs station, which is not the Port of Import in the Customs Automated System.** It separates the assessment process from the physical location of Port of Import, using a technology platform.

Faceless Assessment (also referred to as virtual assessment or anonymised assessment) uses a technology platform to separate the Customs assessment process from the physical location of a Customs officer at the port of arrival. This measure will bolster efforts to ensure an objective, free, fair and just assessment.

From an importer’s perspective, there will be no changes to the process of filing a Bill of entry. He will continue to file his documentation including bill of entry and supporting documents on the ICEGATE portal.

#### **Key objectives of Faceless Assessment:**

- i. Anonymity in assessment for reduced physical interface between trade and Customs
- ii. Speedier Customs clearances through efficient utilisation of manpower
- iii. Greater uniformity of assessment across locations
- iv. Promoting sector specific and functional specialisation in assessment

# EXPORT PROCEDURE

## Section 51B: Ledger for duty credit - Customs

### Remission & other benefits to be provided by way of duty credit

- (1) *The CG may, by notification in the Official Gazette, specify the manner in which it shall issue duty credit,--*
- (a) **in lieu of remission of any duty or tax or levy, chargeable on any material used in the manufacture or processing of goods or for carrying out any operation on such goods in India that are exported; or**
  - (b) **in lieu of such other financial benefit subject to such conditions and restrictions as may be specified therein.**
- (2) *The duty credit issued under sub-section (1) shall be maintained in the customs automated system in the form of an electronic duty credit ledger of the person who is the recipient of such duty credit, in such manner as may be prescribed.*

### Duty credit to be used for making payment of customs duty

- (3) *The duty credit available in the electronic duty credit ledger may be used by the person to whom it is issued or the person to whom it is transferred, towards making payment of duties payable under this Act or under the Customs Tariff Act, 1975 in such manner and subject to such conditions and restrictions and within such time as may be prescribed."*

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