

Refund in case of taxes paid under wrong head

- Where CGST/SGST (/UTGST) or IGST had been paid by the registered taxpayer and **subsequently it was held** that IGST or CGST/SGST (UTGST) was payable, the registered taxpayer could pay the right tax under the right head and claim refund of the wrongly paid tax.
- There were 2 confusions revolving around the same
 - i. Meaning of 'subsequently held'
 - ii. 'Relevant date' for claiming refund of the wrongly paid taxes.
- In this regard the CBIC has by way of amending the rules clarified that:
 - i. Refund would be granted when it subsequently held either by the department in any proceedings or by the taxpayer
 - ii. The relevant date for claiming refund would be two years from the date of paying taxes under the correct head and not the date of original payment of taxes under the wrong head.
Where the tax was paid under the correct head before the rule stating the said provisions was inserted i.e. before 24.09.2021, two years shall be reckoned from 24.09.2021

(Notification No. 35/2021- CT dated 24.09.21)

(Circular No. 162/18/2021- GST dated 25.09.21)

Clarification on scope of Intermediary

- Earlier CBIC had issued circular 107/26/2019 dt.18/07/2019 clarifying scope of intermediary. However, this circular was later withdrawn. Now, once again the CBIC has clarified the scope of intermediary.
- Section 2(13) of the IGST Act, 2017 defines intermediary as –
*“Intermediary means **a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account**”*
- The essential elements of a intermediaries are:-
 - **Minimum 3 parties** -Two transacting the main supply, on facilitating the main supply i.e intermediary
 - **Two distinct supplies-**
Main supply -between principals
Ancillary supply- service of facilitating /arranging the main supply i. e intermediary services

- **Intermediary to have characteristic of agent, broker or any other similar person-** The intermediary should only act as an agent, broker or such other similar person who arranges the supply between two principals. Thus, the role of an intermediary is only supportive, and he should not be providing the main service.
 - **Should not make supplies on his own account-** The definition clearly states that an intermediary is not a person who supplies such goods or services on own account. The word such means main supply. Thus, an intermediary should not be a person providing the main supply.
 - **Subcontracting of main service-** Where the main service has been sub-contracted, such a subcontractor shall not be regarded as an intermediary
- As per Section 13 of the IGST, place of supply in case of intermediary services is the location of the intermediary. However, this specific provision shall be applicable only when the supplier/ recipient is outside India.

(Circular No. 159/15/2021- GST dated 20.09.21)

Clarification regarding de-linking of debit note with underlying invoices

- Section 16(4) of the CGST Act, 2017 was amended with effect from 1st January 2021 to delink the debit note with the underlying invoice. The amended section reads as: -
“A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or ~~invoice relating to~~ such debit note pertains or furnishing of the relevant annual return, whichever is earlier”
- This amendment would be applicable for debit notes issued during the year 2020-21 or later. If the debit note had been issued in 2020-21 for invoices of any earlier period, the ITC would be available upto the due date of September 2021 return.
- This amendment would not be applicable if the debit note belongs to the period 2019-20 or earlier. In this case, the time limit for availing credit in Section 16(4) would not get restored back.

(Circular No. 160/14/2021- GST dated 20.09.21)

No need of carrying physical copy of e-invoice while transportation of goods

- There is no need of carrying a physical copy of invoice along with e-way bill by the person in charge of conveyance where the invoice is an e-invoice i.e invoice having an IRN.
- Production of QR code having an IRN electronically for verification by proper officer shall suffice.

(Circular No. 160/14/2021- GST dated 20.09.21)

Refund not to be denied if export duty is not payable

- Under Section 54(3) refund of accumulated ITC is denied if any goods are subject to export duty. In a number of cases export duty had been notified as NIL/exempt. The department use to deny refund under Section 54(3) on the ground that NIL rate of export duty is also a kind of export duty.
- Now it is clarified that refund would be restricted only when export duty is required to be paid on the relevant goods.

(Circular No. 160/14/2021- GST dated 20.09.21)

Clarification on “merely establishment of distinct persons” from “export of service” perspective

- One of the conditions for satisfying export of services is that **the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8**
- Wherever there were any transactions between entities in India and abroad which were related in any manner whatsoever, the department had treated it as mere establishments of distinct persons in quite a few cases.
- Thus, making reference to the above mentioned provisions it was clarified that:-
 - i. Company incorporated in India and a body corporate under the laws of a country outside India are separate persons
 - ii. Transaction between a
 - Company in India with its branch or agency or representation office etc. outside India
 - or
 - branch or agency or representational office etc. in India with a Company outside IndiaBoth of which are incorporated under the same laws are not two different persons, hence are regarded as mere establishments of distinct persons. Such a transaction shall not be regarded an export of service.
 - iii. Transaction between a

-Company in India with its subsidiary or sister concern or group concern etc. outside India

Or

- Subsidiary or sister concern or group concern etc. in India with its Company outside India

Both of which are incorporated under different laws are to be treated as two separate persons, hence shall not be regarded as mere establishments of distinct persons. Such a transaction be treated as an export of service.

(Circular No. 161/14/2021- GST dated 20.09.21)

Bank registered on GST Portal should be linked with PAN

- A registered person shall after grant of registration certificate, is required to furnish bank account details.
- Now, the registered person must ensure that the bank account is in the name of the registered person and linked to the PAN of the registered person
- In case the registered person is a proprietorship concern, the PAN of the proprietor should be linked with the Aadhar number of the proprietor.

(Effective Date: to be notified)

(Notification No. 35/2021- CT dated 24.09.21)

Mandatory Aadhar authentication to be eligible for grant of refund and revocation of cancellation of registration

- Every registered person apart from the following:
 - not a citizen of India; or
 - a department or establishment of Central Government or State Government; or
 - a local authority; or
 - a statutory body; or
 - a PSU or
 - Person registered under Section 25 (9) of the CGST Act, 2017Is required to undergo Aadhar authentication of the following persons
 - i. Proprietor in case of proprietorship firm or Karta in case of HUF or MD/ WTD in case of Company or Member of Managing Committee/ AOP/ BOI/ Society or Trustee in Board of Trustees and
 - ii. Authorised Signatory
- To be eligible for: -
- i. Grant of refund and

- ii. Filing of application for revocation of cancellation of registration
- In case Aadhaar has not been assigned to the above-mentioned persons, then such persons shall furnish the following:
 - a. Aadhar 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 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

(Effective Date. 24.09.2021)

(Notification No. 35/2021- CT dated 24.09.21)

Relaxation in filing of FORM ITC 04 [Form used for providing details of Job Work]

- The details of goods sent and received from job work is currently to be provided quarterly by all registered taxpayers
- The following changes have been made in regard to the aforesaid requirement:

Turnover	Frequency Of Filing	Period of filing
> 5 Crore in previous FY	Every Six Months	April to September October to March
<= 5 Crore in previous FY	Filing not required	NA

(Effective Date. 01.10.2021)

(Notification No. 35/2021- CT dated 24.09.21)

GSTR-1 filing allowed only after filing preceding GSTR-3B

- Earlier a registered person was not allowed to file GSTR-1 in case his GSTR-3B was not filed for preceding two months.
- However, Effective Date 1st January 2022 a registered taxpayer shall not allowed to file his GSTR-1 in case his GSTR-3B was not filed for preceding month

(Effective Date. 01.01.2022)

(Notification No. 35/2021- CT dated 24.09.21)

Industry wise rate Changes**Charitable Trust**

- The Government had provided for procedure of registration of trusts under Section 12AB of the Income Tax Act 1961.
- Hence, in the rate and exemption notifications, where charitable entities under Section 12AA was covered, the same has been extended to 12AB as well.

(Effective Date. 01.10.2021)

(Notification No. 6/2021- CT dated 30.09.21)

Intellectual Property Rights

Particulars	Old Rate	New Rate
Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right.	18%	12%

(Effective Date. 01.10.2021)

(Notification No. 6/2021- CT dated 30.09.21)

Alcoholic liquor

Particulars	Old Rate	New Rate
Services by way of job work in relation to manufacture of alcoholic liquor for human consumption	12%	18%

(Effective Date. 01.10.2021)

(Notification No. 6/2021- CT dated 30.09.21)

Printing Services

Particulars	Old Rate	New Rate
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	12%	18%

(Effective Date. 01.10.2021)

(Notification No. 6/2021- CT dated 30.09.21)

Admission to Parks / Clubs / Casinos / Ballets / Sporting events

Old Entry	Amended entry	GST Rate
(iii)Services by way of admission to	“(iii) Services by way of admission to;	18%

amusement parks including theme parks, water parks, joy rides, merry-go rounds, go-carting and ballet.	(a) theme parks, water parks and any other place having joy rides, merry-go rounds, go carting, or (b) ballet, - other than any place covered by (iiia) below	
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.	(iiia) 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.	28%

(Effective Date. 01.10.2021)

(Notification No. 6/2021- CT dated 30.09.21)

Transport Industry

- For multimodal transport of goods within India, the 6 digit HSN code has now been defined as below:

Group 99654	Multimodal Transport of goods from a place in India to another place in India
996541	Multimodal Transport of goods from a place in India to another place in India

- Exemption on transportation of goods by an aircraft / vessel from customs station of clearance in India to a place outside India.
- Exemption on services by way of granting National Permit to a goods carriage to operate through-out India / contiguous States

(Effective Date. 01.10.2021)

(Notification No. 6/2021- CT and 7/2021-CT dated 30.09.21)

Sports

Exemption provided for the following:

- 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

- 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 irrespective of where it is scheduled
- Services by way of right to admission to the events organised under AFC Women's Asia Cup 2022

(Effective Date. 01.10.2021)

(Notification No. 7/2021-CT dated 30.09.21)

Government services

- In case of any training programme provided to the Central Government, State Government, Union territory, exemption was applicable where complete expenditure was borne by such Government. Now, even where 75% or more of the expenditure is borne by such Government, exemption would be applicable.

(Effective Date. 01.10.2021)

(Notification No. 7/2021-CT dated 30.09.21)

Agriculture

HSN	Entry	Old rate	New Rate
1209	Tamarind seeds meant for any use other than sowing	5%	12%

(Effective Date. 01.10.2021)

(Notification No. 8/2021-CT dated 30.09.21)

Metals

HSN	Entry	Old rate	New Rate
26	All ores and concentrates [other than slag, dross (other than granulated slag), scalings and other waste from the manufacture of iron or steel; slag, ash and residues (other than from the manufacture of iron or steel) containing metals, arsenic or their compounds; other slag and ash, including seaweed ash (kelp); ash and residues from the incineration of municipal waste]	5%	18%
2601	Iron ores and concentrates, including roasted iron pyrites	5%	18%
2602	Manganese ores and concentrates, including ferruginous manganese ores and concentrates with a	5%	18%

	manganese content of 20% or more, calculated on the dry weight		
2603	Copper ores and concentrates.	5%	18%
2604	Nickel ores and concentrates.	5%	18%
2605	Cobalt ores and concentrates	5%	18%
2606	Aluminium ores and concentrates.	5%	18%
2607	Lead ores and concentrates.	5%	18%
2608	Zinc ores and concentrates.	5%	18%
2609	Tin ores and concentrates.	5%	18%
2610	Chromium ores and concentrates.	5%	18%

(Effective Date. 01.10.2021)

(Notification No. 8/2021-CT dated 30.09.21)

Oil Industry

HSN	Entry	Old rate	New Rate
3826	Biodiesel supplied to OMCs for blending with Diesel	12%	5%

(Effective Date. 01.10.2021)

(Notification No. 8/2021-CT dated 30.09.21)

Plastics

HSN	Entry	Old rate	New Rate
3915	Waste and scrap of polyurethanes and other plastics	5%	18%

(Effective Date. 01.10.2021)

(Notification No. 8/2021-CT dated 30.09.21)

Renewable Energy

HSN	Entry	Old rate	New Rate
84, 85 or 94	Following renewable energy devices & parts for their manufacture (a) Bio-gas plant (b) Solar power-based devices (c) Solar power generating system	5%	12%

	(d) Windmills, Wind Operated Electricity Generator (WOEG) (e) Waste to energy plants / devices (f) Solar lantern / solar lamp (g) Ocean waves/tidal waves energy devices/plants (h) Photo voltaic cells, whether or not assembled in modules or made up into panels		
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(Effective Date. 01.10.2021)

(Notification No. 8/2021-CT dated 30.09.21)

Healthcare

SI No	Description	From	To
1	Retro fitment kits for vehicles used by the disabled	Appl. rate	5%

(Effective Date. 01.10.2021)

(Notification No. 8/2021-CT dated 30.09.21)

Packing

HSN	Description	From	To
4819	Cartons, boxes and cases of corrugated paper or paper board	12% / 18%	18%

(Effective Date. 01.10.2021)

(Notification No. 8/2021-CT dated 30.09.21)

Printed Matter

HSN	Description	From	To
4906 00 00	Plans and drawings for architectural, engineering, industrial, commercial, topographical or similar purposes, being originals drawn by hand; hand-written texts; photographic reproductions on sensitised paper and carbon copies of the foregoing	12%	18%
4907	Unused postage, revenue or similar stamps of current or new issue in the country in which they have, or will have, a recognised face value; stamp-impressed paper; banknotes; cheque forms; stock, share or bond certificates and similar documents of title [other than Duty Credit Scrips]]	12%	18%

4908	Transfers (decalcomanias)	12%	18%
4909	Printed or illustrated postcards; printed cards bearing personal greetings, messages or announcements, whether or not illustrated, with or without envelopes or trimmings	12%	18%
4910	Calendars of any kind, printed, including calendar blocks	12%	18%
4911	Other printed matter, including printed pictures and photographs; such as Trade advertising material, Commercial catalogues and the like, printed Posters, Commercial catalogues, Printed inlay cards, Pictures, designs and photographs, Plan and drawings for architectural engineering, industrial, commercial, topographical or similar purposes reproduced with the aid of computer or any other devices	12%	18%

(Effective Date. 01.10.2021)

(Notification No. 8/2021-CT dated 30.09.21)

Indian Railways

HSN	Description	From	To
8601	Rail locomotives powered from an external source of electricity or by electric accumulators	12%	18%
8602	Other rail locomotives; locomotive tenders; such as Diesel-electric locomotives, Steam locomotives and tenders thereof	12%	18%
8603	Self-propelled railway or tramway coaches, vans and trucks, other than those of heading 8604	12%	18%
8604	Railway or tramway maintenance or service vehicles, whether or not self-propelled (for example, workshops, cranes, ballast tampers, track liners, testing coaches and track inspection vehicles)	12%	18%
8605	Railway or tramway passenger coaches, not self-propelled; luggage vans, post office coaches and other special purpose railway or tramway coaches, not self-propelled (excluding those of heading 8604)	12%	18%
8606	Railway or tramway goods vans and wagons, not self-propelled	12%	18%
8607	Parts of railway or tramway locomotives or rolling-stock; such as Bogies, bissel-bogies, axles and wheels, and parts thereof	12%	18%
8608	Railway or tramway track fixtures and fittings; mechanical (including electro-mechanical) signalling, safety or traffic control equipment for railways, tramways, roads, inland	12%	18%

	waterways, parking facilities, port installations or airfields; parts of the foregoing]		
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(Effective Date. 01.10.2021)

(Notification No. 8/2021-CT dated 30.09.21)

Pen Manufacturing

HSN	Entry	Old rate	New Rate
3915	Ball point pens; felt tipped and other porous-tipped pens and markers; fountain pens; stylograph pens and other pens; duplicating stylos; pen holders, pencil holders and similar holders; parts (including caps and clips) of the foregoing articles, other than those of heading 9609	12% / 18%	18%

(Effective Date. 01.10.2021)

(Notification No. 8/2021-CT dated 30.09.21)

Packaged Beverages

- Carbonated Fruit Beverages of Fruit Drink" and "Carbonated Beverages with Fruit Juice" attract GST rate of 28% and Cess of 12%.

(Effective Date. 01.10.2021)

(Notification No. 8/2021-CT dated 30.09.21)

Medicinal Oil

- Reverse charge has been notified in case of goods on the following supply:

HSN	Supply	Supplier	Recipient
33012400, 33012510, 33012520, 33012530, 33012540	Following essential oils other than those of citrus fruit namely: - a) Of peppermint (Menthapiperita); b) Of other mints : Spearmint oil (exmenthaspicata), Water mint-oil (exmentha aquatic), Horsemint oil (exmenthasylvestries), Bergament oil (ex-mentha citrate).	Any Unregistered Person	Any Registered Person.";

(Effective Date. 01.10.2021)

(Notification No. 10/2021-CT dated 30.09.21)

Food Processing

HSN	Entry	Old rate	New Rate
19 or 21	Fortified Rice Kernel (Premix) supply for ICDS or similar scheme duly approved by the Central Government or any State Government	18%	5%

(Effective Date. 01.10.2021)

(Notification No. 11/2021-CT dated 30.09.21)

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