

DECEMBER
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NEWSLETTER

TAX

- Income Tax
- Goods and Services Tax



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INCOME TAX

1. Income-tax (33rd Amendment) Rules, 2021

CBDT

Notification No. 136/2021 dated 10.12.2021

Vide this notification, CBDT has issued the **Income tax (33rd Amendment) Rules, 2021** to further amend the Income-tax Rules, 1962.: -

A new **Rule 21AK** which deals with '**Conditions for the purpose of clause (4E) of section 10**' has been inserted (as below): -

The income accrued or arisen to, or received by, a non-resident as a result of transfer of non-deliverable forward contracts under section 10(4E), shall be exempted subject to fulfilment of the following conditions, namely: -

1. The non-deliverable forward contract is entered into by the non-resident with an offshore banking unit of an International Financial Services Centre which holds a valid certificate of registration granted under International Financial Services Centres Authority (Banking) Regulations, 2020 by the International Financial Services Centres Authority; and
2. Such contract is not entered into by the non-resident through or on behalf of its permanent establishment in India.

[Notification No.136](#)

2. e-Verification Scheme, 2021

CBDT

Notification No. 137/2021 dated 13.12.2021

Vide this notification, CBDT has issued **e-Verification Scheme, 2021**, that proposes faceless information gathering and is aimed at imparting efficiency, transparency, and accountability by eliminating the interface between the income-tax authority and the assessee. Following are the Key Features/Highlights of the e-Settlement Scheme: -

➤ **Scope of the e-Verification Scheme**

- The scope of the Scheme shall be in respect to collecting information under sections 133, 133B, 133C, 135, which deals with power to call for information by the Assessing Officer, Commissioner or Deputy Commissioner, Director General.
- The information can also be collected through inspection of register of companies in a faceless way under section 134.

➤ **Electronic Collection and Verification of Information**

The government has empowered the tax office to gather more information from the taxpayers and reconcile it with information received from other specified agencies.

In cases where there is a mismatch between the amount accepted by the assessee and the amount reported by the reporting entity persists, the information after such initial e-verification shall be run through a risk management strategy laid down by the Board and the information found to be no or low risk on such risk criteria, where no further action is required, shall be processed for closure.

➤ **Issue and service of notice**

For the purpose of verification of information, the Prescribed Authority shall issue notice to a person requiring him to furnish information or documents as necessary for such verification. The notice shall be issued under digital signature of the Prescribed Authority. The information or documents called for shall be furnished on or before the date specified in the notice or as extended by the Prescribed Authority on the request made by the person.

➤ **Response to Notice**

The Director General of Income-tax (Systems) shall in consultation with the Director General of Income-tax (Intelligence and Criminal Investigation): -

- i. specify the procedure, formats and standards for furnishing response to the notices; and
- ii. may specify a machine-readable structured format for furnishing the information or documents

by the person in response to the notice issued.

➤ **No Personal Appearance**

No person shall be required to appear personally or through authorised representative before the prescribed authority in connection with any proceedings. In exceptional cases, where personal appearance is requested by such person, the prescribed authority may allow personal appearance through video conferencing or video telephony, to the extent technologically feasible.

[Notification No.137](#)

3. One-time relaxation for verification of all income tax-returns e-filed for the Assessment Year 2020-21 which are pending for verification and processing of such returns

CBDT

Circular No. 21/2021 dated 28.12.2021

Vide this circular, CBDT has provided one-time relaxation for verification of all income tax-returns e-filed for the **Assessment Year 2020-21** which are pending for verification and processing.

Following relaxation has been provided: -

- In respect of an Income-tax Return (ITR) which is filed electronically without a digital signature, the taxpayer is required to verify it using anyone of the following modes within the time limit of 120 days from date of uploading the ITR: -
 - i. Through Aadhaar OTP
 - ii. By logging into e-filing account through net banking
 - iii. EVC through Bank Account Number
 - iv. EVC through Demat Account Number
 - v. EVC through Bank ATM
 - vi. By sending a duly signed physical copy of ITR-V through post to the CPC, Bengaluru
- In respect of all ITRs for AY 2020-21 which were uploaded electronically by the taxpayers within the time allowed and which have remained incomplete due to non-submission of **ITR-V Form**/ pending e-Verification, the Board hereby permits verification of such returns either by sending a duly signed physical copy of ITR-V to CPC, Bengaluru through speed post or through EVC/OTP and such verification process must be completed by **February 28, 2022**.
- CBDT further relaxes the time-frame for issuing the intimation as provided in Section 143(1) and directs that such returns shall be processed by **June 30, 2022** and intimation of processing of such returns shall be sent to the taxpayer concerned as per the laid down procedure.

[Circular No.21](#)

GOODS AND SERVICES TAX

1. Clarification with respect to GST payment on service supplied by restaurants through e-commerce operators

CBIC Circular No.
167/2021- dated 17.12.2021

In view of the decision of the 45th GST Council meeting, **Notification No. 17/2021 dated 18th November 2021** was issued to notify 'Restaurant Service' under **section 9(5)** of the CGST Act. The implication of this notification is that the tax on supplies of restaurant service supplied through e-commerce operators (ECO) shall be paid by such ECO. In this regard, CBIC has issued clarification on certain issues. Gist of the clarifications is provided below: -

- ECO will no longer be required to collect TCS and file **Form GSTR 8** in respect of restaurant services on which it pays tax in terms of section 9(5). However, ECO will continue to pay TCS on other goods or services not notified under section 9(5).
- There is no mandatory requirement of taking separate registration by ECO for payment of tax on restaurant service.
- ECO will be liable to pay GST on any restaurant service supplied through them including by an unregistered person.
- Aggregate turnover of person supplying restaurant service through ECO shall be computed as defined in **section 2(6)** and shall include the aggregate value of supplies made by the restaurant through ECO.
- Supplies of restaurant service made through ECO are not to be recorded as inward supply of ECO liable to reverse charge in **Form GSTR-3B**.
- ECO shall not be required to reverse ITC on account of restaurant services on which it pays GST.
- ECO shall pay the entire GST liability in cash on restaurant service. (No ITC could be utilised for payment of GST on restaurant service supplied through ECO)
- Invoice in respect of restaurant service supplied through ECO is to be issued by ECO. For other goods or services sold to a customer under the same order, it is advisable that ECO raises separate bill on restaurant service in such cases where ECO provides other supplies to a customer under the same order.

[Circular No.167](#)

2. Compulsory Aadhaar authentication under Rule 23, Rule 89 & Rule 96 of CGST Rules, 2021

CBIC Notification No.
38/2021- dated 21.12.2021

Vide this notification, CBIC has notified to bring into force **Rule 10B** specified in **CGST (Eighth Amendment) Rules, 2021**, introduced vide **Notification No. 35/2021 - Central Tax** dated **24th September, 2021**. The key changes to come into effect are as follows:

- **Rule 10B** of CGST Rules shall be applicable w.e.f **1st January, 2022** which prescribes compulsory Aadhaar authentication for registered person in order to be eligible for following purposes:
 - Filing of Revocation Application under **Rule 23**
 - Filing of Refund Application under **Rule 89**
 - Refund on IGST paid exports under **Rule 96**

[Notification No.38](#)

3. Imposition of GST related changes introduced in the Finance Act, 2021

CBIC Notification No.
39/2021- dated 21.12.2021

Vide this notification, CBIC appoints the **1st January, 2022** as the date on which the certain provisions of the

Finance Act, 2021 comes into force.

The provisions of the Finance Act, 2021 that have been made effective from 01.01.2022 vide this notification are as below:

Section of the Finance Act, 2021	Amendments in the Central Goods and Services Tax Act, 2017:
108	Section 7 has been amended, retrospectively with effect from the 1st July, 2017 , to ensure levy of tax on activities or transactions involving supply of goods or services by any person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.
109	Section 16(2) has been amended to provide that input tax credit on invoice or debit note may be availed only when the details of such invoice or debit note have been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note.
113	Section 74 has been amended so as make seizure and confiscation of goods and conveyances in transit a separate proceeding from recovery of tax.
114	An explanation to section 75(12) has been inserted to clarify that “self-assessed tax” shall include the tax payable in respect of outward supplies, the details of which have been furnished under section 37 (Furnishing details of outward supplies in GSTR1).
115	Section 83 has been amended to provide that provisional attachment shall remain valid for the entire period starting from the initiation of any proceeding under Chapter XII, Chapter XIV or Chapter XV till the expiry of a period of one year from the date of order made thereunder. It also provides that provisional attachment of property can be done in respect of any person specified under section 122(1A) (Penalties & offences).
116	Section 107 has been amended to provide that no appeal shall be filed against an order made under section 129(3) (detention, seizure and release of goods and conveyances in transit), unless a sum equal to twenty-five per cent. of penalty has been paid by the appellant.
117	Section 129 has been amended to delink the proceedings relating to detention, seizure and release of goods and conveyances in transit, from the proceedings under section 130 relating to confiscation of goods or conveyances and levy of penalty.
118	Section 130 has been amended to delink the proceedings relating to confiscation of goods or conveyances and levy of penalty from the proceedings under section 129 relating to detention, seizure and release of goods and conveyances in transit.
119	Section 151 has been substituted to empower the jurisdictional commissioner to call for information from any person relating to any matter dealt with in connection.
120	Section 152 has been amended to provide that no information obtained under sections 150 and 151 shall be used for the purposes of any proceedings under the Act without giving an opportunity of being heard to the person concerned.
121	Section 168 has been amended to enable the jurisdictional commissioner to exercise powers under section 151 to call for information.
122	Para 7 of Schedule II to the CGST Act deeming the supply of goods by an unincorporated association or body of persons to members has been omitted retrospectively w.e.f 1 st July, 2017

[Notification No.39](#)

4. CGST (Tenth Amendment) Rules, 2021

CBIC Notification No.

Vide this notification, CBIC has notified (Tenth Amendment) Rules, 2021. Following are the key changes: -

- **Rule 36(4)** has been substituted to provide that ITC shall not be available to the registered person unless such invoices/debit notes have been reflected in **GSTR-2B**.
- Due date for **GSTR-9** as well as **GSTR-9C** for the **F.Y 2020-21** has been extended from **31st December, 2021** to **28th February, 2022**.
- **Rule 95** has been amended to provide that where Unique Identity Number of the applicant is not mentioned in a tax invoice, the refund of tax paid by the applicant on such invoice shall be available only if the copy of the invoice, duly attested by the authorized representative of the applicant, is submitted along with the refund application in **FORM GST RFD-10**.
- **Rule 142** has been amended to align it with new provisions of section 129 providing for 7 days time for issuance of notice and further 7 days for issuance of order.
- A new **rule 144A** has been inserted providing for **Recovery of penalty by sale of goods or conveyance detained or seized in transit namely: -**
 - Where the penalty u/s 129 is not paid within 15 days of date of receipt of order of detention, proper officer shall proceed for sale or disposal of goods or conveyance so detained.
 - The goods or conveyance shall be sold through a process of auction, including e-auction, for which a notice shall be issued in **FORM GST DRC-10**.
 - Auction process shall be cancelled where the person transporting goods or the owner of such goods pays the amount of penalty, including any expenses incurred in safe custody and handling of such goods or conveyance, after the time period of 15 days but before the issuance of notice for auction.
 - Where an appeal has been filed by the person under the section 107(1) (appeal to appellate authority), the proceedings for recovery of penalty by sale of goods or conveyance detained or seized in transit under this rule shall be deemed to be stayed.
- **Rule 154** has been substituted to provide for, disposal of proceeds of sale of goods or conveyance and movable or immovable property.
- **Rule 159** has been amended to provide that a copy of order of attachment in **FORM DRC-22** shall also be sent to the person whose property is being attached under section 83 (Provisional attachment to protect revenue in certain cases).

[Notification No.40](#)

Disclaimer:

This is not a complete listing of all circulars/notifications issued during the month.
Instead, it is only a listing of some of the circulars/notifications that we considered important



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