

1. Changes in conditions to claim ITC

Insertion of Sec 16(2)(aa)

(aa) the details of the invoice or debit note referred to in clause (a) **has 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 in the manner specified under section 37;

Inserted vide Notification No. Central Tax Rate 39/2021 dt- 21.12.2021

Issues to be understood

1. Rule 36(4)

And

2. Base Form : 2A or 2B?

1. Changes in conditions to claim ITC

Rule 36(4) substituted vide Notification No 40/2021, Central Tax dated 29th Dec, 2021

No input tax credit shall be availed by a registered person **in respect of invoices or debit notes the details of which are required to be furnished under subsection (1) of section 37** unless,-

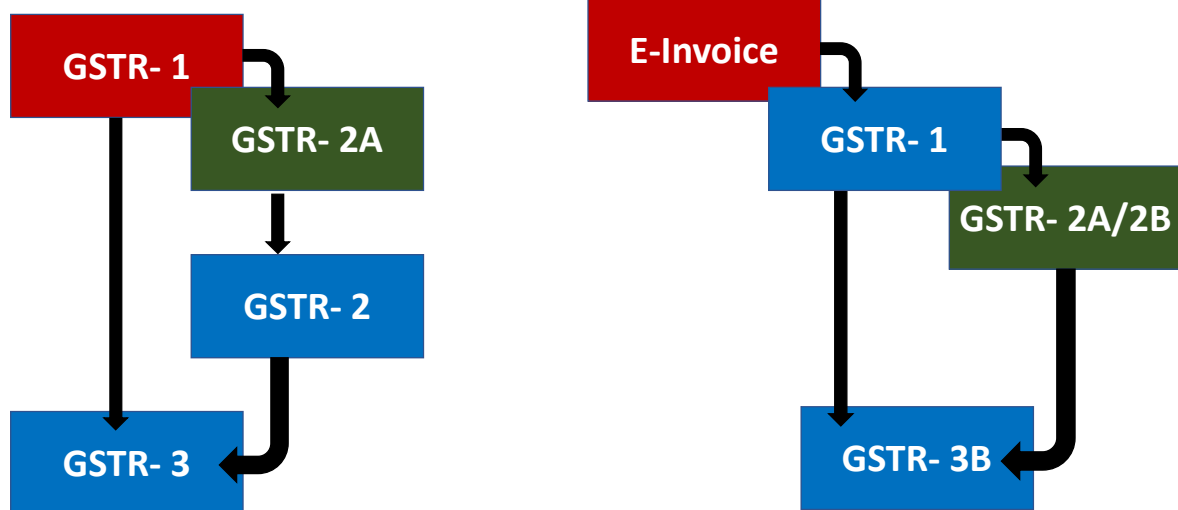
- (a) the details of such invoices or debit notes have been **furnished by the supplier** in the statement of outward supplies in FORM GSTR-1 or using the invoice furnishing facility; and
- (b) the details of such invoices or debit notes have been **communicated to the registered person in FORM GSTR-2B** under sub-rule (7) of rule 60

Impact on credit of import of goods?

1. Changes in conditions to claim ITC

- Need for bringing provision of Sec 16(2)(aa) and Rule 36(4)
- After 1st Jan, 2022 can a taxpayer claim ITC more than what is reflected in GSTR-2A.
- Impact of Judgements like:
 - DY Beathel Enterprises Vs. State Tax Officer, Honorable Madras High Court
 - Arise India Limited, Honorable Supreme Court and Delhi High Court
 - Sri Ranganathar Valves (P.) Ltd. vs Assistant Commissioner (CT)

Original GST Vision vs New GST Vision



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2. Change in Tax Rates

1. Supply of works contract services to Government Authority /Government Entity

S. No 3(iii)

- (a) a **historical monument, archaeological site** or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);
- (b) **canal, dam** or other irrigation works;
- (c) **pipeline, conduit or plant for**
- water supply**
 - water treatment**, or
 - sewerage treatment or disposal

S. No 3 (ix) Composite supply of works contract as defined in clause (119) of [section 2](#) of the Central Goods and Services Tax Act, 2017 provided **by a sub-contractor to the main contractor providing** services specified in item (iii) or item (vi) above to the Central Government, State Government, Union territory, a local authority, a [Governmental Authority](#) or a [Government Entity](#).

S. No 3(vi)

- (a) a civil structure or any **other original works meant predominantly for use other than for commerce, industry**, or any other business or profession;
- (b) a structure meant predominantly for use as (i) **an educational**, (ii) **a clinical**, or (iii) **an art or cultural establishment**; or
- (c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the [Schedule III](#) of the Central Goods and Services Tax Act, 2017.]

S. No 3(x) Composite supply of works contract as defined in clause (119) of [section 2](#) of the Central Goods and Services Tax Act, 2017 provided by a **sub-contractor to the main contractor** providing services specified in item (vii) above.

S. No 3(vii) Composite supply of works contract as defined in clause (119) of [section 2](#) of the Central Goods and Services Tax Act, 2017, **involving predominantly earth work (that is, constituting more than 75per cent. of the value of the works contract)** provided to the Central Government, State Government, Union territory, local authority, a [Governmental Authority](#) or a [Government Entity](#).]

12 to 18

5 to Applicable Rate

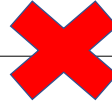
Amended vide Notification No. Central Tax Rate 15/2021 dt- 18.11.2021 also some amendment in exemption notification

2. Change in Tax Rates

2. Textile Goods

- Change in Tax Rate from 5% to 12% and in some cases 18% to 12%
- Certain goods still remain in the category of 5% and/or 18%.
- No criteria of sale value above or below Rs 1000/-.

Amended vide Notification No. Central Tax Rate 14/2021 dt- 18.11.2021



3. Job-work Textile

- Change in Tax Rate of dyeing or printing of the said textile and textile products from 5% to 12% or 18% as the case may be.

Amended vide Notification No. Central Tax Rate 15/2021 dt- 18.11.2021



4. Footweares

- Change in Tax Rate from 5% to 12% for sale value below Rs 1000/-.
- For sale value above Rs 1000/- tax Rate remains as 18%.

Amended vide Notification No. Central Tax Rate 14/2021 dt- 18.11.2021

3. Increasing scope of Aadhar Authentication

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

Insertion of Rule 10(B) vide Notification No. Central Tax Non-rate 35/2021 dt- 24.09.2021 and 38/2021 dt- 21.12.2021

4. Blocking of GST Returns

Filing of GSTR-1 shall be blocked/restricted if previous month GSTR-3B is not filed.

Amendment in Rule 59(6) vide Notification No. Central Tax Non-rate 35/2021 dt- 24.09.2021

5. Other changes

1. Supply of services through e-commerce operator

Supplies made through e-commerce operators like as Swiggy / Zomato will be under Special Charge of Sec 9(5) and taxes will be paid by the e-commerce operator. For all other supplies restaurants will pay taxes normally.

2. Penalty in E-way Bill

Owner comes forward		Owner does not come forward	
Old	New	Old	New
Applicable Tax + Penalty equal to tax	200% of Tax Amount	Applicable Tax + Penalty @ 50% of value of goods	Penalty @ 50% of value of goods or 200% of the Tax Amount whichever is higher

3. Amendment in Sec 75 of the CGST Act

"self-assessed tax" shall include the tax payable in respect of details of outward supplies furnished under section 37, but not included in the return furnished under section 39.

6. HSN Related changes

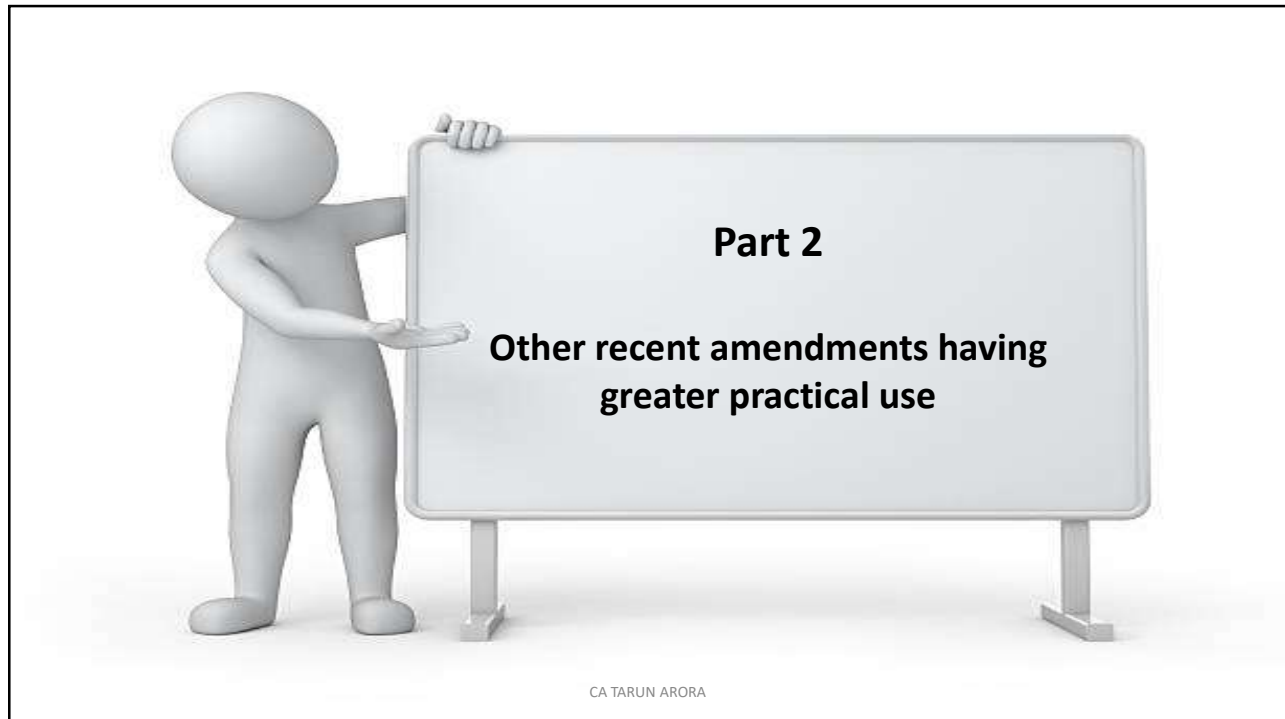
Changes to the first schedule to the Customs Tariff Act are being proposed that are to come into effect from 01.01.2022. This is in accordance with HSN 2022, which proposes 351 amendments to the existing harmonized nomenclature, covering a wide range of goods moving across borders.

Reference

1. Fourth Schedule to Finance Act, 2021

and

2. 7th edition of the HSN issued by Customs Policy Wing



1. Interest under Sec 50 of the GST Act

Extract from the Press- Release:

In the spirit of earlier Council decision that interest is to be charged only in respect of net cash liability, section 50 (3) of the CGST Act to be amended retrospectively, w.e.f. 01.07.2017, to provide that *interest is to be paid by a taxpayer on "ineligible ITC availed and utilized" and not on "ineligible ITC availed"*. It has also been decided that interest in such cases should be charged on ineligible ITC availed and utilized at 18% w.e.f. 01.07.2017.

The starting point



Honorable High Court of Madras
Maansarovar Motors (P) Ltd vs Assistant Commissioner, Chennai

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1. Interest under Sec 50 of the GST Act

Issues dealt

1. **AVAILED** VS **UTILIZED**

No interest payable on ITC which is availed but not utilized.

2. **Rate of Interest**

Interest @ 18% and not 24% will be payable on wrongful ITC claimed and utilized.

Sec 50(3) A taxable person who makes an **undue or excess claim of input tax credit under subsection (10) of section 42 or undue or excess reduction in output tax liability under subsection (10) of section 43**, shall pay **interest** on such undue or excess claim or on such undue or excess reduction, as the case may be, **at such rate not exceeding twenty-four per cent.**, as may be notified by the Government on the recommendations of the Council. [Vide Notification No 13/2017 Central Tax Non-Rate the rate notified was 24%]

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1. Interest under Sec 50 of the GST Act

Section 50: Interest on delayed payment of tax.

(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made there under, 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 eighteen per cent., as may be notified by the Government on the recommendations of the Council.

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 under section 73 or section 74 in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger.

Sep, 2021 Figures	Books	3B	Difference
Current Output	1,000	100	900
Current Input	1,200	1,200	-

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2. Taxes wrongfully Paid –Sec 77 of CGST Act and 19 of SGST Act

Section 77: Tax wrongfully collected and paid to Central Government or State Government.

- (1) A registered person who has paid the Central tax and State tax or, as the case may be, the central tax and the Union territory tax on a transaction considered by him to be an intra-State supply, but which is subsequently held to be an inter-State supply, **shall be refunded the amount of taxes so paid** in such manner and subject to such conditions as may be prescribed.
- (2) A registered person who has paid integrated tax on a transaction considered by him to be an inter-State supply, but which is subsequently held to be an intra-State supply, **shall not be required to pay any interest** on the amount of central tax and State tax or, as the case may be, the central tax and the Union territory tax payable.

Unresolved issues

Time Limit

Process

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2. Taxes wrongfully Paid –Sec 77 of CGST Act and 19 of SGST Act

Resolution

Insertion of Rule 89(1A)

Time Limit

Process

Later of the following:

- Two years from the date of correct payment or
- 23rd Sep, 2023

Normal Process of RFD-01

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*Thank
you*



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