



Updates of Amendments notified in December 2021

The government has notified the following sections with effect from 01.01.2022. It must be noted that these sections were proposed vide budget 2021.

Section No	Amended Provision	Implications on business
7	<p>A new clause (aa) is being introduced after clause (a) in subsection (1) of section 7- “(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice versa, for cash, deferred payment or other valuable consideration. Explanation.- For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;”.</p>	<p>The amendment has been made effective retrospectively w.e.f 1 July, 2017. The amendment comes as a result of the Supreme Court’s decision which held that levy of VAT and Service tax on supplies made between the club and its members is unconstitutional and hence had quashed all the demands for the same. To address this issue under GST, the said amendment was carried out. Thus, now any supplies between a club and its members shall be leviable to GST.</p>
16	<p>A new clause (aa) to subsection (2) of the section 16 of the CGST Act is being inserted- “(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by</p>	<p>The said section has provided backing to rules which state that a recipient cannot avail ITC in respect of invoices not furnished by the supplier in his GSTR 1. Therefore, the Government has addressed the issue of rules overriding the law by the said amendment. Thus, all</p>



	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;"	litigations on not punishing the buyer on account of the seller's mistakes may be put to rest henceforth.
74	Explanation 1. –For the purposes of section 73 and this section (ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under section 73 or section 74, the proceedings against all the persons liable to pay penalty under sections 122 and 125 are deemed to be concluded.	Vide this amendment the Government has made seizure and confiscation of goods and conveyances in transit a separate proceeding from recovery of tax. Thus, in case goods are moving without payment of tax and are seized on their way, penalty is made due. However, the person who caused the movement shall still be liable to pay tax.
75	The following Explanation shall be inserted- 'Explanation. –For the purposes of this subsection, the expression "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.	The definition of self-assessed tax has been widened to include invoices declared in GSTR-1 but tax on such invoices not paid in GSTR 3B.
83	The following sub-section shall be substituted, namely:– "(1) Where, after the initiation of any proceeding under Chapter XII, Chapter XIV or Chapter XV, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue it is necessary so to do, he may, by order in writing, attach provisionally, any property, including bank account, belonging to the taxable person or any person specified in	In order to further curtail fraudulent availment of ITC the government has amended the law to provisionally attach the property, including bank account of the person involved in such irregular availment of ITC.



	subsection (1A) of section 122, in such manner as may be prescribed.	
107	In sub-section (6), the following proviso shall be inserted, namely: -- "Provided that no appeal shall be filed against an order under sub-section (3) of section 129, unless a sum equal to twenty-five per cent. Of the penalty has been paid by the appellant."	As per the amended law the amount of mandatory pre-deposit for filing an appeal with the Appellate Authority for matters pertaining to detaining or seizing the goods or conveyance has been set up to 25% of the penalty . Prior to amendment a 10% of disputed tax was required to be paid in order to file an appeal with the Appellate Authority in respect of the aforementioned matters.
129	(1) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released, - “(a) on payment of penalty equal to two hundred percent of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two percent of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods comes forward for payment of such penalty; (b) On payment of penalty equal to fifty percent. Of the value of the goods or two hundred percent. Of the tax payable on such goods, whichever is higher, and in case of exempted goods, on payment of an amount equal to five	Goods detained / seized during transit shall be released on payment of penalty equal to 200% of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to 25% of the value of goods or INR 25,000.00 whichever is less. The earlier requirement of payment of 100% of tax payable on such detained goods has been done away with. Further law has been amended to prescribe procedure and time frame for issuing notice with regards to detention of goods. As per the amended law the proper officer detaining or seizing the goods or conveyance shall issue a notice within 7 days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of 7 days from the date of service of such notice, for payment of penalty. Further, where the assessee fails to make the payment of penalty amount within a period of 15 days from the date of receipt of the order passed, the goods or conveyance so detained or seized shall be liable to be sold or disposed of otherwise, in such manner and within such time as may be prescribed, to recover the penalty payable.



	<p>percent. of the value of goods or twenty-five thousand rupees, whichever is less, where the owner of the goods does not come forward for payment of such penalty;"</p> <p>“(3) The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order within a period of seven days from the date of service of such notice, for payment of penalty under clause (a) or clause (b) of subsection (1).”; (4) No tax shall be determined under subsection (3) without giving the person concerned an opportunity of being heard</p> <p>“(6) Where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under sub-section (1) within fifteen days from the date of receipt of the copy of the order passed under sub-section (3), the goods or conveyance so detained or seized shall be liable to be sold or disposed of otherwise, in such manner and within such time as may be prescribed, to recover the penalty payable under sub-section (3)</p> <p>Provided that the conveyance shall be released on payment by the transporter of penalty under sub-section (3) or one lakh rupees, whichever is less</p>	
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	Provided further that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer.”.	
130	<p>1) Where— (i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or (ii) does not account for any goods on which he is liable to pay tax under this Act; or (iii) supplies any goods liable to tax under this Act without having applied for registration; or (iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or (v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance, then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122.</p> <p>(2) Whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation, such fine</p>	<p>The section is being amended to delink the proceedings under this section 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. As per the amended law the penalty leviable on confiscation of goods shall not be less than the amount of penalty equal to 100% of the tax payable.</p>



	<p>as the said officer thinks fit: Provided that such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon: Provided further that the aggregate of such fine and penalty leviable shall not be less than the penalty equal to hundred per cent. of the tax payable on such goods” shall be substituted. Provided also that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.</p> <p>(3) omitted</p>	
151	<p>The Commissioner or an officer authorised by him may, by an order, direct any person to furnish information relating to any matter dealt with in connection with this Act, within such time, in such form, and in such manner, as may be specified therein</p>	<p>Section 151 of the CGST Act is being substituted to empower the jurisdictional commissioner to call for information from any person relating to any matter dealt with in connection with the Act.</p>
152	<p>(1) No information with respect to any matter given for the purposes of section 150 or section 151 shall, without the previous consent in writing of the concerned person or his authorised representative, be published in such manner so as to enable such particulars to be identified as referring to a particular person and no such information shall be used for the purpose of any proceedings under this Act</p>	<p>Section 152 of the CGST Act is being amended so as 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.</p>



	without giving an opportunity of being heard to the person concerned. (2) Omitted	
168	Section 168 has been amended to remove references to the omitted sub-section in Section 44 and Section 151	Amendment in lines with other changes
Sch II	Schedule II amended in lines with changes in Section 7 mentioned above	Same as Section 7

You can also read the summary of the latest circulars issued on 17th December 2021 [here!](#)