

GOODS & SERVICES TAX / IDT UPDATE – 76

GST

Due Dates for filing various Returns under GST

The Central Government vide [Notification No. 44/2019-CT dt 9th October, 2019](#); [Notification No. 45/2019-CT dt 9th October, 2019](#); [Notification No. 46/2019-CT dt 9th October, 2019](#); has provided/extended the following due dates:-

<u>Sl. No</u>	<u>Form No.</u>	<u>Period</u>	<u>Due Date</u>
1.	FORM GSTR-3B (Monthly summary of data)	For each of the months from October, 2019 to March, 2020.	20th day of the month succeeding such month
2.	FORM GSTR-1 (Details of outward supply of goods or services or both.) (For registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year)	October, 2019 to December, 2019 January, 2020 to March, 2020	31st January, 2020 30th April, 2020
3.	FORM GSTR-1 (Details of outward supply of goods or services or both.) (For registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year)	For each of the months from October, 2019 to March, 2020.	11th day of the month succeeding such month

Annual Return related relaxation for MSME

The Central Government vide [Notification No. 47/2019-CT dt 9th October, 2019](#) has notified that **filing of annual return** under section 44 (1) of CGST Act for **F.Y. 2017-18 and 2018-19 is optional** for those registered persons whose **aggregate turnover is less than Rs 2 crores** and who have not filed the said return before the due date .

Provided that the said return shall be deemed to be furnished on the due date if it has not been furnished before the due date.

Amendments in Central Goods & Services Tax Rules,2017

The Central Government vide [Notification No. 49/2019-CT dt 9th October, 2019](#); has made the following amendments in the **CGST Rules, 2017 :-**

<u>Rule</u>	<u>Amendments</u>	<u>Comment</u>
Rule 21A: (Registration to be cancelled in certain cases)	<u>Insertion of Explanation in sub-rule (3)</u> <i>For the purposes of this sub-rule, the expression "shall not make any taxable supply" shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension."</i>	<i>A registered person, whose registration has been suspended, during the period of suspension, shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the said period.</i>
	<u>Insertion of sub-rule (5)</u> <i>Where any order having the effect of revocation of suspension of registration has been passed, the provisions of clause (a) of sub-section (3) of section 31 and section 40 in respect of the supplies made during the period of suspension and the procedure specified therein shall apply</i>	<i>This sub-rule clarifies the procedure to be followed in case of revocation order is issued: - In case an order of revocation of suspension of registration has been passed, the registered person may issue a revised invoice against the invoice already issued in respect of the supplies made during the period of suspension & shall declare the details of such supply in the first return furnished by him after grant of order of revocation of suspension of registration.</i>
Rule 36: (Documentary requirements and	<u>Insertion of sub-rule (4)</u> <i>Input tax credit to be availed by a registered</i>	<i>This sub rule has restricted full availment of Input tax credit by the registered tax payers in respect of Invoices/Debit Notes, in case the</i>

<p>conditions for claiming input tax credit.)</p>	<p><i>person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed 20 per cent. of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37</i></p>	<p><i>Suppliers have not filed GST-1 timely.</i></p>
<p>Rule 61: (Form and manner of submission of monthly return)</p>	<p><u>Substitution of sub-rule (5) w.e.f. 1st July 2017: -</u> Where the time limit for furnishing of details in FORM GSTR-1 under section 37 or in FORM GSTR-2 under section 38 has been extended, the return specified in section 39(1) shall, be furnished in FORM GSTR- 3B</p> <p>Provided that where a return in FORM GSTR-3B is required to be furnished then the return in FORM GSTR-3 need not required to be furnished</p> <p><u>sub-rule (6) has been omitted w.e.f 1.07.2017</u></p>	<p><i>This sub-rule has been substituted w.e.f. 1st July,2017, to provide that GSTR-3B shall be the “return” specified u/s 39(1). Moreover, the proviso has been inserted to provide that where a return is filed in Form GSTR-3B, there is no further requirement to file GSTR-3.</i></p> <p><i>Sub-rule (6) has also been omitted w.e.f. 1st July 2017 wherein the details in respect of information to be furnished & auto population of data in GSTR-3 was mentioned.</i></p>

<p>Rule 83A: (Examination of Goods and Services Tax Practitioners)</p>	<p><u>Substitution of clause (i) of sub-rule (6):</u> <i>Every person referred to in clause (b) of sub-rule (1) of rule 83 and who is enrolled as a goods and services tax practitioner under sub-rule (2) of the said rule is required to pass the examination within the period as specified in the second proviso of sub-rule (3) of the said rule.”</i></p>	<p><i>This sub-rule has been substituted to provide that sales tax Practitioner or tax return preparer under the existing law who is enrolled as a goods and services tax practitioner is required to pass the examination of GST Practitioners within a period of 30 months from the appointed date.</i></p>
<p>Rule 91: (Grant of provisional refund)</p>	<p><u>Amendment in sub-rule (3) & insertion of sub-rule (4)</u> <i>(a) in sub-rule (3), with effect from the 24th September, 2019, after the words “application for refund”, the words “on the basis of a consolidated payment advice:” shall be inserted;</i> <i>(b) after the sub-rule (3), with effect from the 24th September, 2019, the following sub-rule shall be inserted, namely:-</i> <i>“(4) The Central Government shall</i></p>	<p><i>Comment:</i> <i>The sub-rule (3) has been amended & sub-rule (4) has been inserted w.e.f. 24th September, 2019 to allow consolidated payment advice of refund from a single authority for disbursement of refund.</i></p>

	<p><i>disburse the refund based on the consolidated payment</i></p> <p><i>advice issued under sub-rule (3).”</i></p>	
<p>Rule 97: (Consumer Welfare Fund)</p>	<p><u>Insertion of sub-rule (7A) & omission of clause (e) of sub-rule (8) w.e.f. 1st July, 2017</u></p>	<p><i>The sub-rule (7A) has been inserted & clause (e) of sub-rule (8) has been omitted w.e.f. 1st July, 2019. Sub-rule (7A) provides that the Committee shall make available to the Board 50% of the amount credited to the Fund each year, for publicity or consumer awareness on GST, provided the availability of funds for consumer welfare activities of the Department of Consumer Affairs is not less than Rs. 25 Crores per annum.</i></p>
<p>Rule 117: (Tax or duty credit carried forward under any existing law or on goods held in stock on the appointed day)</p>	<p><u>Amendment in sub-rule (1A) & in the proviso to sub-clause (iii) of clause (b) of sub-rule (4) :-</u></p> <p>in sub-rule (1A) for the figures, letters and word “31st March, 2019”, the figures, letters and word “31st December, 2019” shall be substituted</p> <p>in sub-rule (4), in clause (b), in sub-clause (iii), in the proviso for the figures, letters and word “30th April, 2019”, the figures, letters and word “31st January, 2020” , shall be substituted.</p>	<p><i>This sub-rule has been amended to permit avilment of transitional credits through FORM TRAN – I till 31st December, 2019 & Tran-II till 31st Jan, 2020 in cases where registered persons could not submit the said declaration by the due date on account of technical difficulties on the common portal and in respect of whom the Council has made a recommendation for such extension.</i></p>
<p>Rule 142 : (Notice and order for demand of</p>	<p><u>Insertion of sub-rule (1A), amendment in sub-rule (2) & insertion</u></p>	<p><i>These sub-rules have been inserted/amended to provide for a procedure for issuance of a</i></p>

amounts payable under the Act)

of sub-rule (2A):-

“(1A) The proper officer shall, before service of notice to the person chargeable with tax, interest and penalty, under sub-section (1) of Section 73 or sub-section (1) of Section 74, as the case may be, shall communicate the details of any tax, interest and penalty as ascertained by the said officer, in Part A of FORM GST DRC-01A.”;
(b) in sub-rule (2), after the words “in accordance with the provisions of the Act”, the words, figures and brackets “, whether on his own ascertainment or, as communicated by the proper officer under sub-rule (1A),” shall be inserted; (c) after sub-rule (2) the following sub-rule shall be inserted, namely:- “(2A) Where the person referred to in sub-rule (1A) has made partial payment of the amount communicated to him or desires to file any submissions against the proposed liability, he may make such submission in Part B of FORM GST DRC-01A.”

communication in Part A of FORM GST DRC-01A before service of notice to the person chargeable with tax, interest and penalty. The person on receipt of the communication may make submission in Part B of FORM GST DRC-01A of partial payment made by him of the amount communicated to him or if he desires to file any submissions against the proposed liability.

FORM GST DRC-01 A	<u>Insertion of Form GST DRC-01A</u>	<i>Comment: The Form GST DRC-01A has been inserted & its format has been specified.</i>
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Amendment in Exemption list of certain services

The Central Government vide [Notification no. 21 /2019- CT \(Rate\) dt 30th September, 2019](#) made the following amendments in the exemption list of services:-

- a) in serial numbers 7 and 45, the turnover limit of “twenty lakh rupees (ten lakh rupees in case of a special category state) in the preceding financial year” has been substituted by –

“such amount in the preceding financial year as makes it eligible for exemption from registration under the CGST Act, 2017 (12 of 2017)”;

- b) Insertion of Serial 9AA, 24B, 29B, 35(r) & 82A: - To exempt the following services as mentioned against Column (3) in the Table :-

Sl. No.	Chapter, Section or Heading	Description of Services	Rate	Condition
(1)	(2)	(3)	(4)	(5)
9AA	Chapter 99	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.	Nil	Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020.
24B	Heading 9967 or Heading 9985	Services by way of storage or warehousing of cereals, pulses, fruits, nuts and vegetables, spices, copra, sugarcane, jaggery, raw vegetable fibres such as cotton, flax, jute etc., indigo, unmanufactured tobacco, betel leaves, tendu	Nil	Nil

		leaves, coffee and tea.		
29B	Heading 9971 or Heading 9991	Services of life insurance provided or agreed to be provided by the Central Armed Police Forces (under Ministry of Home Affairs) Group Insurance Funds to their members under the Group Insurance Schemes of the concerned Central Armed Police Force.	Nil	Nil
35	Heading 9971 or Heading 9991	“(r) Bangla Shasya Bima”	Nil	Nil
82A	Heading 9996	Services by way of right to admission to the events organised under FIFA U-17 Women's World Cup 2020.	Nil	Nil

[Similar amendments have been made vide [Notification No. 21/2019- Union Territory Tax \(Rate\)](#) & [Notification No. 20/2019 – Integrated Tax \(Rate\) dt 30th September 2019](#)]

Changes in Rate of GST of various services

The Central Government vide [Notification No. 20/2019 CT \(Rate\) dt 30th September, 2019](#), have notified the Changes in rates of GST on the following services: -

Hotel Accommodation, Restaurant Service & Outdoor Catering: -

<u>S.No.</u>	<u>Name of Service</u>	<u>Revised rate w.e.f 01/10/2019</u>	<u>Condition</u>
(i)	Supply of “hotel accommodation“ having value of supply of a unit of accommodation above Rs 1,000/- but less than or equal to Rs 7,500/- per unit per	6%	

	day or equivalent.		
(ii)	Supply of “restaurant service” other than at “specified premises”	2.5%	No ITC on goods and services used in supplying the service
(iii)	Supply of goods, being food or any other article for human consumption or any drink, by the Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licensees, whether in trains or at platforms.	2.5%	No ITC on goods and services used in supplying the service
(iv)	Supply of “outdoor catering”, at premises other than “specified premises” provided by any person other than- (a) suppliers providing “hotel accommodation” at “specified premises” or (b) suppliers located in “specified premises”.	2.5%	No ITC on goods and services used in supplying the service
(v)	Composite supply of “outdoor catering” together with renting of premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organising a function) at premises other than “specified premises” provided by any person other than- (a) suppliers providing “hotel accommodation” at “specified premises”, or (b) suppliers located in “specified premises”.	2.5%	No ITC on goods and services used in supplying the service
(vi)	Accommodation, food and beverage services other than (i) to (v) above Explanation: - This entry covers-	9%	

	<ul style="list-style-type: none"> (i) “Restaurant Service” at “specified premises” (ii) Supply of “hotel accommodation” having value of supply of a unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent (iii) Supply of “outdoor catering”, provided by suppliers providing “hotel accommodation” at “specified premises”, or suppliers located in “specified premises” (iv) Composite supply of “outdoor catering” together with renting of premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organising a function) provided by suppliers providing “hotel accommodation” at “specified premises”, or suppliers located in “specified premises”. 		
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The following clauses have also been inserted relating to explanations:-

“(xxxii) “Restaurant service” means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied.

(xxxiii) “Outdoor catering” means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, at Exhibition Halls, Events, Conferences, Marriage Halls and other outdoor or indoor functions that are event based and occasional in nature.

(xxxiv) “Hotel accommodation” means supply, by way of accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes including the supply of time share usage rights by way of accommodation.

(xxxv) “Declared tariff” means charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.

(xxxvi) “Specified premises” means premises providing “hotel accommodation” services having declared tariff of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.”.

Changes in Rate of other Services: -

<u>Name of Service</u>	<u>Revised Rate w.e.f 01/10/2019</u>
Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both	12%
Services by way of job work in relation to diamonds falling under chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)	1.5%
Services by way of job work in relation to bus body building	18 %
Services by way of job work other than sl.no. 26 (i), (ia), (ib) & (ic) in the Table	12%

(b) against serial number 10, in column (2), after the word “vehicles”, the words “with operators” shall be inserted;

(c) against serial number 10, in column (3), in item (iii), the words “or without” shall be omitted;

(d) against serial number 15, in column (3), item (iv) and the entries relating thereto in column (4) and (5) shall be omitted;

(e) against serial number 15, in column (3), in item (vii), the brackets and words “, (iv)” shall be omitted;

(f) against serial number 17, in column (2), the figures and words “, with or” shall be omitted;

(g) against serial number 17, in column (3), item (v) and (vii) and the entries relating thereto in column (4) and (5) shall be omitted;

(h) against serial number 17, in column (3), for item (viii), the following shall be substituted;

(3)

“(viii) Leasing or rental services, without operator, other than (i), (ii), (iii), (iv), (vi), and (vii) above.”

j) against serial number 21, in column (3), in item (ii), for the brackets and words “(i) above”, the brackets and words “(i) and (ia) above” shall be substituted;

(k) against serial number 24, in column (2), after the numbers “9986”, the brackets, words and figures “(Support services to agriculture, hunting, forestry, fishing, mining and utilities)” shall be inserted;

(l) against serial number 24, in column (3), in item (ii), for the words “Service of”, the words “Support services to” shall be substituted;

(m) against serial number 26, in column (3), in item (i), in clause (c), after the words “products”, the figures and words “, other than diamonds,” shall be inserted;

(ii) in the paragraph 2A, the word “registered” shall be omitted;

(iv) in the „Annexure: Scheme of Classification of Services“, annexed to the notification, -

(a) against serial number 119 to 124, in column (4), for the words “with or without”,

wherever they occur, the word “with” shall be substituted; (b) against serial number 232 to 240, in column (4), for the words “with or without”, wherever they occur, the word “without” shall be substituted.

Amendment in Services under Reverse Charge Mechanism

The Central Government vide [Notification No. 22/2019 – CT \(Rate\) dt 30th September 2019](#) has substituted/ inserted the following entries in Notification No. 13/2017– CT (Rate) dt 28th June, 2017:-

Table

Sl. No.	Category	Supplier of service	Recipient of Service	Remarks
(1)	(2)	(3)	(4)	(5)
9	Supply of services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like.	Music composer, photographer, artist, or the like	Music company, producer or the like, located in the taxable territory	
9A	Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher.	Author	<p>Publisher located in the taxable territory:</p> <p>Provided that nothing contained in this entry shall apply where, -</p> <p>(i) the author has taken registration under the CGST Act, 2017 (12 of 2017), and filed a declaration, in the form at Annexure I, within the time limit prescribed therein, with the</p>	The registered authors have been given an option to pay GST on royalty charged from publishers under forward charge and observe regular GST compliance subject to proviso in column (4).

			<p>jurisdictional CGST or SGST commissioner, as the case may be, that he exercises the option to pay CT on the service specified in column (2), under forward charge in accordance with Section 9 (1) of the Central Goods and Service Tax Act, 2017 under forward charge, and to comply with all the provisions of Central Goods and Service Tax Act, 2017 (12 of 2017) as they apply to a person liable for paying the tax in relation to the supply of any goods or services or both and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;</p> <p>(ii) the author makes a declaration, as prescribed in Annexure II on the invoice issued by him in Form GST Inv-I to the publisher. ”;</p>	
15	Services provided by way of renting of a motor vehicle provided to a body corporate.	Any person other than a body corporate, paying CT at the rate of 2.5% on renting of motor vehicles with input tax credit only of input service in the same line of business	Any body corporate located in the taxable territory.	

16	Services of lending of securities under Securities Lending Scheme, 1997 (“Scheme”) of Securities and Exchange Board of India (“SEBI”), as amended.	Lender i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorised on his behalf with an approved intermediary for the purpose of lending under the Scheme of SEBI	Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI.”.	Payment of GST have been allowed on securities lending service under reverse charge mechanism (RCM)
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[Similar amendments have been done vide Notification No. 22/2019- Union Territory Tax(Rate) dt 30th September’2019 & Notification No. 21/2019 – Integrated Tax (Rate) dt 30th September’2019.]

Explanation added in respect of Development Rights

The Central Government vide [Notification No. 23/2019 – CT \(Rate\) dt 30th September, 2019](#) has amended the Notification No. 04/2018 – CT (Rate) dt 25th January ’2018 by adding an explanation on the applicability of provisions related to supply of development rights.:-

“Nothing contained in this notification shall apply with respect to the development rights supplied on or after 1st April 2019.”.

[Similar amendments has been done vide Notification No. 23/2019- Union Territory Tax(Rate) dt 30th September’2019 & Notification No. 22/2019 – Integrated Tax (Rate) dt 30th September’2019]

To notify grant of liquor licence by State Governments against payment of license fee as neither a supply of goods nor a supply of service,

The Central Government vide [Notification No. 25/2019 – CT \(Rate\) dt 30th September, 2019](#) in terms of Section 7(2) of CGST Act, 2017 notified the activities or transactions undertaken by the State Governments in which they are engaged as public authorities, shall be treated neither as a supply of goods nor a supply of service, namely:-

“Service by way of grant of alcoholic liquor licence, against consideration in the form of

licence fee or application fee or by whatever name it is called.”

Clarification related to supply of grant of alcoholic liquor license

Further, The Central Board of Indirect Taxes and Customs vide [Circular no. 121/40/2019 dated 11th October ,2019](#) has issued clarification on GST on license fee charged by the States for grant of Liquor licences to vendors as under:-

Service by way of grant of alcoholic liquor **licence**, against consideration in the form of **licence** fee or application fee or by whatever name it is called, by State Government as neither a supply of goods nor a supply of service. Therefore, in exercise of powers conferred under sub-section 2 (b) of section 7 of CGST Act, 2017, Notification No. 25/2019-Central Tax (Rate) dated 30th September, 2019 has been issued.

It has been clarified that this special dispensation applies only to supply of service by way of grant of liquor licenses by the State Governments as an agreement between the Centre and States and has no applicability or precedence value in relation to grant of other licenses and privileges for a fee in other situations, where GST is payable.

[Similar notification has been issued vide N.No.24/2019 Integrated Tax (Rate), N.No.25/2019 Union Territory Tax (Rate)]

Place of supply of R&D services related to Pharmaceutical sector

The Central Government vide [Notification No. 04/2019- Integrated Tax dt 30th September, 2019](#), notified the following description of services or circumstances as specified in Column (2) of the Table A, in which **the place of supply shall be the place of effective use and enjoyment of a service as specified in the corresponding entry in Column (3), namely:-**

Table A

Sl. No.	Description of services or circumstances	Place of Supply
(1)	(2)	(3)
1	Supply of research and development services related to pharmaceutical sector as specified in Column (2) and (3) from Sl. No. 1 to 10 in the Table B by a person located in taxable territory to a person located in the non-taxable territory.	The place of supply of services shall be the location of the recipient of services subject to fulfillment of the following conditions: - (i) Supply of services from the taxable territory are provided as per a contract between the service provider located in taxable territory and service recipient located in non-taxable territory.

(ii) Such supply of services fulfills all other conditions in the definition of **export of services, except sub- clause (iii) provided at clause (6) of Section 2 of Integrated Goods and Services Tax Act, 2017 (13 of 2017).**

Table B

Sl. No.	Nature of Supply	General Description of Supply
(1)	(2)	(3)
1	Integrated discovery and Development	This process involves discovery and development of molecules by pharmaceutical sector for medicinal use. The steps include designing of compound, evaluation of the drug metabolism, 2 Integrated development 2 biological activity, manufacture of target compounds, stability study and long-term toxicology impact.
2	Integrated development	
3	Evaluation of the efficacy of new chemical/ biological entities in animal models of disease	This is in vivo research (i.e. within the animal) and involves development of customized animal model diseases and administration of novel chemical in doses to animals to evaluate the gene and protein expression in response to disease. In nutshell, this process tries to discover if a novel chemical entity that can reduce or modify the severity of diseases. The novel chemical is supplied by the service recipient located in non-taxable territory.
4	Evaluation of biological activity of novel chemical/ biological entities in in-vitro assays	This is in vitro research (i.e. outside the animal). An assay is first developed and then the novel chemical is supplied by the service recipient located in non-taxable territory and is evaluated in the assay under optimized conditions.

5	Drug metabolism and pharmacokinetics of new chemical entities	This process involves investigation whether a new compound synthesized by supplier can be developed as new drug to treat human diseases in respect of solubility, stability in body fluids, stability in liver tissue and its toxic effect on body tissues. Promising compounds are further evaluated in animal experiments using rat and mice.
6	Safety Assessment/ Toxicology	Safety assessment involves evaluation of new chemical entities in laboratory research animal models to support filing of investigational new drug and new drug application. Toxicology team analyses the potential toxicity of a drug to enable fast and effective drug development.
7	Stability Studies	Stability studies are conducted to support formulation, development, safety and efficacy of a new drug. It is also done to ascertain the quality and shelf life of the drug in their intended packaging configuration.
8	Bio-equivalence and Bio-availability Studies	Bio-equivalence is a term in pharmacokinetics used to assess the expected in vivo biological equivalence of two proprietary preparations of a drug. If two products are said to be bioequivalent it means that they would be expected to be, for all intents and purposes, the same. Bio-availability is a measurement of the rate and extent to which a therapeutically active chemical is absorbed from a drug product into the systemic circulation and becomes available at the site of action.

9	Clinical trials	The drugs that are developed for human consumption would undergo human testing to confirm its utility and safety before being registered for marketing. The clinical trials help in collection of information related to drugs profile in human body such as absorption, distribution, metabolism, excretion and interaction. It allows choice of safe dosage.
10	Bio analytical studies	Bio analysis is a sub-discipline of analytical chemistry covering the quantitative measurement of drugs and their metabolites, and biological molecules in unnatural locations or concentrations and macromolecules, proteins, DNA, large molecule drugs and metabolites in biological systems.

Amendment in notification No. 1/2017-Compensation Cess (Rate)

The Central Government vide [Notification No. 2/2019 – Compensation Cess \(Rate\) dt 30th September, 2019](#) has made the following further amendments in the Notification No. 1/2017 – Compensation Cess (Rate) dt 28th June, 2017:-

- (i) after S. No. 4, the following serial number and the entries shall be inserted to make compensation cess applicable @ 12% for Caffeinated Beverages :-

“4A.	22029990	Caffeinated Beverages	12%”;
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- (ii) in S. No. 42, for the entry in column (3), the entry “Motor vehicles for the transport of not more than 13 persons, including the driver, other than the vehicles of the description mentioned in S. No. 50 and 51”, shall be substituted;
- (iii) in S. No. 46, for the entry in column (3), the following entry shall be substituted, namely:-

“Following motor vehicles of length not exceeding 4000 mm, namely: -

- (a) Petrol, Liquefied petroleum gases (LPG) or compressed natural gas (CNG) driven vehicles of engine capacity not exceeding 1200 cc; and
(b) Diesel driven vehicles of engine capacity not exceeding 1500 cc

for persons with orthopedic physical disability, subject to the condition that an officer not below the rank of Deputy Secretary to the Government of India in the Department of Heavy Industries certifies

that the said goods shall be used by the persons with orthopedic physical disability in accordance with the guidelines issued by the said Department”, shall be substituted ;

- (iv) in S. No. 50, for the entry in column (2), the entry “8702, 8703 21 or 8703 22”, shall be substituted;
- (v) in S. No. 51, for the entry in column (2), the entry “8702, 8703 31”, shall be substituted .

This notification shall come into force on the 1 st day of October 2019.

To disallow the refund of compensation cess in case of inverted duty structure for tobacco and manufactured tobacco substitutes.

The Central Government vide [Notification No. 3/2019 – Compensation Cess \(Rate\) dt 30th September, 2019](#) has notified that in case of **Tobacco and manufactured tobacco substitutes**, no refund of unutilised input tax credit of compensation cess shall be allowed, where the credit has accumulated on account of rate of compensation cess on inputs being higher than the rate of compensation cess on the output supplies of such goods (other than nil rated or fully exempt supplies)

Clarification regarding eligibility to file a refund application in FORM GST RFD-01 for a period and category under which a NIL refund application has already been filed.

The Central Government vide [Circular no. 110/29/2019 dt 3rd October,2019](#) has clarified that registered person who has filed a NIL refund claim in FORM GST RFD-01A/RFD-01 for a given period under a particular category, may again apply for refund for the said period under the same category only if he satisfies the following two conditions:

- a. The registered person must have filed a NIL refund claim in FORM GST RFD-01A/RFD-01 for a certain period under a particular category; and
- b. No refund claims in FORM GST RFD-01A/RFD-01 must have been filed by the registered person under the same category for any subsequent period.

It may be noted that condition (b) shall apply only for refund claims falling under the following categories:

- i. Refund of unutilized input tax credit (ITC) on account of exports without payment of tax;
- ii. Refund of unutilized ITC on account of supplies made to SEZ Unit/SEZ Developer without payment of tax;
- iii. Refund of unutilized ITC on account of accumulation due to inverted tax structure;

In all other cases, registered persons shall be allowed to re-apply even if the condition (b) is not satisfied

Thus, the manner of filing refund application by the registered person has been dealt in this circular.

Clarification regarding procedure to claim refund in FORM GST RFD-01 subsequent to favorable order in appeal or any other forum

The Central Government vide [Circular no. 111/30/2019 dt 3rd October,2019](#) has clarified the doubts raised on the procedure to be followed by a registered person to claim refund subsequent to a favourable order in appeal or any other forum against rejection of a refund claim in FORM GST RFD-06:-

- **Procedure to be followed by the Registered Person claiming refund , if favourable order is received in appeal/any other forum:-** In respect of a refund claim rejected through issuance of an order in **FORM GST RFD-06**, the registered person would file a fresh refund application under the category “Refund on account of assessment/provisional assessment/appeal/any other order” claiming refund of the amount allowed in appeal or any other forum. Since the amount debited, if any, at the time of filing of the refund application was not re-credited, the registered person shall not be required to debit the said amount again from his electronic credit ledger at the time of filing of the fresh refund application under the category “Refund on account of assessment/provisional assessment/appeal/any other order”.

The registered person shall be required to give details of the type of the Order (appeal/any other order), Order No., Order date and the Order Issuing Authority. The registered person would also be required to upload a copy of the order of the Appellate or other authority, copy of the refund rejection order in **FORM GST RFD 06** issued by the proper officer or such other order against which appeal has been preferred and other related documents.

- **Steps to be taken by the Proper Officer:-** Upon receipt of the application for refund under the category “Refund on account of assessment/provisional assessment/appeal/any other order” the proper officer would sanction the amount of refund as allowed in appeal or in subsequent forum which was originally rejected and shall make an order in **FORM GST RFD 06** and issue payment order in **FORM GST RFD 05** accordingly.

The proper officer disposing the application for refund under the category “Refund on account of assessment/provisional assessment/appeal/any other order” shall also ensure re-credit of any amount which remains rejected in the order of the appellate (or any other authority). However, such re-credit shall be made following the guideline as laid down in para 4.2 of Circular no. 59/33/2018 – GST dt 04/09/2018.

- **Illustration:-** The above clarifications can be illustrated with the help of an example.

Consider a registered person who makes an application for refund of unutilized ITC on account of export to the extent of Rs.100/- and debits the said amount from his electronic credit ledger. The proper officer disposes the application by allowing refund of Rs.70/- and rejecting the refund of Rs. 30/-. However, he does not recredit

Rs.30/- since appeal is preferred by the claimant and accordingly **FORM GST RFD 01B** is not uploaded.

Assume that the appellate authority allows refund of only Rs.10/- out of the Rs. 30/- for which the registered person went in appeal. This Rs.10/- shall be claimed afresh under the category “Refund on account of assessment/provisional assessment/appeal/any other order” and processed accordingly. However, subsequent to processing of this claim of Rs.10/- the proper officer shall re-credit Rs.20/- to the electronic credit ledger of the claimant, provided that the registered person is not challenging the order in a higher forum.

For this purpose, **FORM GST RFD 01B** under the original ARN which has so far not been uploaded will be uploaded with refund sanctioned amount as Rs.80/- and the amount to be re-credited as Rs. 20/-. In case, the proper officer who rejected the refund claim is not the one who is disposing the application under the category “Refund on account of assessment/provisional assessment/appeal/any other order”, the latter shall communicate to the proper officer who rejected the refund claim to close the ARN as above only after obtaining the undertaking as referred in para 4.2 of Circular no. 59/33/2018 – GST dt 04/09/2018.

Withdrawal of Circular No. 105/24/2019-GST dt 28.06.2019 related to treatment of secondary or post-sales discounts under GST

The Central Board of Indirect Taxes and Customs, on receipt of numerous representations expressing apprehensions on the implications of the said Circular related to treatment of secondary or post-sales discounts under GST, vide [Circular no. 112/31/2019 dt 3rd October,2019](#) , has withdrawn the said circular.

Clarification on scope of support services to exploration, mining or drilling of petroleum crude or natural gas or both

The Central Board of Indirect Taxes and Customs vide [Circular No. 114/33/2019 dt 11th October, 2019](#) has issued clarifications on the scope of the entry “**services of exploration, mining or drilling of petroleum crude or natural gas or both**” that it **shall be governed by the explanatory notes to service codes 998621 and 998622** of the Scheme of Classification of Services.

It has been further clarified that **the scope of the entry at Sr. No. 21 (ia) under heading 9983** of Notification No. 11/2017- CT (Rate) dt 28.06.2017 inserted with effect from 1st October 2019 vide Notification No. 20/2019- CT(R) dt 30.09.2019 **shall be governed by the explanatory notes to service codes 998341 and 998343** of the Scheme of Classification of Services.

The services which do not fall under the said entries under heading 9983 and 9986 of the said notification shall be classified in their respective headings and taxed accordingly.

Clarification on issue of GST on Airport levies

The Central Board of Indirect Taxes and Customs vide [Circular No. 115/34/2019 dt 11th October, 2019](#) has clarified the issues relating to GST on airport levies as under:

The **airline acting as pure agent of the passenger** should **separately indicate actual amount of Passenger Service Fee (PSF) and User Development Fee (UDF) and GST payable on such PSF and UDF by the airport licensee**, in the invoice issued by airlines to its passengers. The **airline shall not take ITC** of GST payable or paid on PSF and UDF. The airline would only recover the actual PSF and UDF and GST payable on such PSF and UDF by the airline operator. The amount so recovered will be excluded from the value of supplies made by the airline to its passengers. In other words, the airline shall not be liable to pay GST on the PSF and UDF (for airport services provided by airport licensee), provided the airline satisfies the conditions prescribed for a pure agent under Rule 33 of the CGST Rules. **The registered passengers, who are the ultimate recipient of the airport services, may take ITC of GST paid on PSF and UDF on the basis of pure agent's invoice issued by the airline to them.**

The airport operators shall pay GST on the PSF and UDF collected by them from the passengers through the airlines. Since, the airport operators are collecting PSF and UDF inclusive of ST/GST, there is no question of their not paying ST/GST collected by them to the Government.

The collection charges paid by airport operator to airlines are a consideration for the services provided by the airlines to the airport operator (AAI, DAIL, MAIL etc) and airlines shall be liable to pay GST on the same under forward charge. ITC of the same will be available with the airport operator.

Levy of GST on the service of display of name or placing of name plates of the donor in the premises of charitable organisations receiving donation or gifts from individual donors

The Central Board of Indirect Taxes and Customs vide [Circular No. 116/35/2019 dt 11th October, 2019](#) has issued clarification on the issue, **whether GST is applicable on donations or gifts received from individual donors by charitable organisations** involved in advancement of religion, spirituality or yoga which is acknowledged by them by placing name plates in the name of the individual donor, as under:-

GST is not leviable, where all the following three conditions are satisfied namely :-

- The gift or donation is made to a charitable organization
- The payment has the character of gift or donation
- The purpose is philanthropic (i.e. it leads to no commercial gain) and not advertisement.

Clarification on applicability of GST exemption to the DG Shipping approved maritime courses conducted by Maritime Training Institutes of India

The Central Board of Indirect Taxes and Customs vide [Circular no. 117/36/2019 dt 11th October ,2019](#) has issued clarification **regarding applicability of GST exemption** to the Directorate General of Shipping approved maritime courses conducted by the Maritime Training Institutes of India as under:-

The Maritime Training Institutes and their training courses are approved by the Director General of Shipping which are duly recognised under the provisions of the Merchant Shipping Act, 1958 read with the Merchant Shipping (standards of training, certification and watch-keeping for Seafarers) Rules, 2014. Therefore, **the Maritime Institutes are educational institutions under GST Law and the courses conducted by them are exempt from levy of GST.** The exemption is **subject to meeting the conditions specified at Sl. No. 66 of the notification No. 12/ 2017- CT (Rate) dt 28.06.2017.**

This clarification applies, mutatis mutandis, to corresponding entries of respective IGST, UTGST, SGST exemption notifications.

Clarification regarding determination of place of supply in case of software/design services related to Electronics Semi-conductor and Design Manufacturing (ESDM) industry

The Central Board of Indirect Taxes and Customs vide [Circular no. 118/37/2019 dt 11th October ,2019](#) has clarified that **the place of supply of software/design by supplier located in taxable territory to service recipient located in non-taxable territory by using sample prototype hardware / test kits in a composite supply, where such testing is an ancillary supply, is the location of the service recipient as per Section 13(2) of the IGST Act.** The provisions of section 13(3) (a) of IGST Act do not apply separately for determining the place of supply for ancillary supply in such cases.

Clarification regarding taxability of supply of securities under Securities Lending Scheme, 1997

The Central Board of Indirect Taxes and Customs vide [Circular no. 119/38/2019 dt 11th October ,2019](#) has clarified that the **supply of lending of securities** under the scheme is classifiable under heading 997119 and is **leviable to GST@18%** under Sl. No. 15(vii) of Notification No. 11/2017- CT (Rate) dt 28.06.2017 as amended from time to time.

For the past period i.e. from 01.07.2017 to 30.09.2019, GST is payable under forward charge by the lender and request may be made by the lender (supplier) to SEBI to disclose the information about borrower for discharging GST under forward charge. **The nature of tax payable shall be IGST.** However, if the service provider has already paid CGST / SGST / UTGST treating the supply as an intra-state supply, such lenders shall not be required to pay IGST again in lieu of such GST payments already made.

With effect from 1st October, 2019, the borrower of securities shall be liable to discharge GST as per Sl. No 16 of Notification No. 22/2019-CT (Rate) dt 30.09.2019 **under reverse charge mechanism (RCM).** The nature of GST to be paid shall be **IGST under RCM.**

Clarification on the effective date of explanation inserted in notification No. 11/2017-CT(R) dated 28.06.2017, Sr. No. 3(vi)

The Central Board of Indirect Taxes and Customs vide Circular no. 120/39/2019 dated 11th October ,2019 has issued clarification on the effective date of notification No. 17/2018-CTR dated 26.07.2018 whereby explanation was inserted in notification No. 11/2017- CTR dated 28.06.2017, Sr. No. 3(vi) to the effect that for the purpose of the said entry, the activities or transactions under taken by Government and Local Authority are excluded from the term ‘business’.

It is hereby clarified that the explanation having been inserted under section 11(3) of the CGST Act, is effective from the inception of the entry at Sl. No. 3(vi) of the notification No. 11/2017- CTR dated 28.06.2017, that is 21.09.2017. The line in notification No. 17/2018-CTR dated 26.07.2018 which states that the notification shall come into effect from 27.07.2017 does not alter the operation of the notification in terms of Section 11(3) .

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