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*and more...*

## NOTIFICATIONS



### CBIC exempts Central GST on specified medicines used in COVID-19

CBIC vide Notification No-12/2021 of Central Tax (Rate) dated 31<sup>st</sup> September 2021 has exempted CGST on specified medicines used COVID-19, up to 31<sup>st</sup> December 2021.

Sl. No.	Chapter, Heading, Subheading or Tariff item	Description of Goods	Rate
1	30	Tocilizumab	Nil
2	30	Amphotericin B	Nil
3	30	Remdesivir	2.5%
4	30	Heparin (anti-coagulant)	2.5%
5	30	Itolizumab	2.5%
6	30	Posaconazole	2.5%
7	30	Infliximab	2.5%
8	30	Bamlanivimab & Etesevimab	2.5%
9	30	Casirivimab & Imdevimab	2.5%
10	30	2-Deoxy-D-Glucose	2.5%
11	30	Favipiravir	2.5%

This notification shall come into force from the 1st day of October, 2021 and remain in force up to and inclusive of the 31st December, 2021.

**Source: Notification No. 12/2021 - Central Tax dated September 30, 2021.**

### CBIC amends to amend Notification No. 11/2017- Central Tax (Rate) so as to notify CGST rates of various services as recommended by GST Council

CBIC amends Central Tax rates on following services vide Notification No. 06 /2021- Central Tax (Rate) :

Services	Rate
Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right.	18%
Services by way of job work in relation to manufacture of alcoholic liquor for human consumption	18%
“Other manufacturing services; publishing, printing and reproduction services; material recovery services	18%
“(iii) Services by way of admission to; (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	18%

(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%
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**Source: Notification No. 06/2021 - Central Tax dated September 30, 2021.**

## JUDGEMENTS AND ADVANCE RULING



**HC: Sets aside clarificatory circular taking away assessee's substantive right by denying exemption on fish meal**

**Issue:** Whether fishing manufacturer of fish meal which is also used as a raw material for the purpose of making taxable goods namely, cattle/poultry/aquatic feed fall under the ambit of Goods Exemption Notification.

**Judgement:** Hon'ble Madras High Court upheld the validity of Sl. No.102 of Notification No. 2/2017 dated June 28, 2017 (Goods Exemption Notification) over Clause (ii) of Circular No. 80/54/2018-GST (Clarification Circular) in case where M/s Jenefa India (the Petitioner) is a manufacturer of finished product, fish meal.

Hon'ble Madras High Court upheld the validity of Sl. No.102 of Notification No. 2/2017 dated June 28, 2017 (Goods Exemption Notification) over Clause (ii) of Circular No. 80/54/2018-GST (Clarification Circular) in case where M/s Jenefa India (the Petitioner) is a manufacturer of finished product, fish meal.

The Hon'ble Madras High Court observed that, merely because a finished product manufactured by the Petitioner is also used as a rawmaterial for purpose of further manufacturing of animal feed or poultry feed, it cannot be stated that, it is only a raw material and not a finished product.

Observed that, the exemption provided by the Govt. by exercising its powers either under Section 11(1) of Central Goods and Services Tax Act, 2017 ("the CGST Act") or under Section 6(1) of Integrated Goods and Services Tax Act, 2017 ("the IGST Act") are the substantive rights – such kind of exemptions cannot be taken away or done away by issuing Clarification Circulars by the board, which must be procedural in nature as not the scenario in the present case.

Held that, as long as Petitioner manufactures the finished product, fish meal, it can enjoy the benefit of exemption provided under Goods Exemption Notification.

**Source: Jenefa India vs. Union of India & Ors. [W.P.(MD) No.16770/2019 decided on October 5, 2021**

**Pre-deposit for filing appeal under GST to be paid through electronic cash ledger**

**Issue: Whether Electronic Credit Ledger can be used for payment of pre-deposit fees for filing of Appeal under GST?**

**Judgement:** The Hon'ble Orissa High Court in the case of Jyoti Construction v. Deputy Commissioner of CT & GST, Jajpur [Writ Petition (C) Nos. 23508, 23511, 3513, 23514 AND 23521 OF 2021 decided on October 7, 2021] has held that the Electronic Credit Ledger ("ECRL") cannot be used to give the pre-deposit for the purpose of filing an appeal under GST and the payment for the same must be done through Electronic Cash Ledger ("ECL").

In the instant case, Jyoti Construction (“the Petitioner”) was faced with a GST demand raised by the Deputy Commissioner of CT & GST, Barbil Circle, Jajpur (“the Respondent”). An appeal was filed before the appellate authority under Section 62(1) of the Odisha Goods and Services Tax Act, 2017 (“OGST Act”) read with Rule 100(1) of the Orissa Goods and Services Tax Rules, 2017 (“OGST Rules”) electronically.

In terms of Section 107(6) of the OGST Act, the Petitioner was required to make payment equivalent to 10% of the disputed amount of tax arising from the order against which the appeal is filed. The pre-deposit payment was made by the ECRL of the Petitioner. The Petitioner contended that under Section 49(4) of the OGST Act, the amount available in the ECRL could be used for making “any payment towards output tax” under the OGST Act. The said contention was based on the scenario that since what in effect be the Petitioner was paying was a percentage of the output tax as defined under Section 2(82) of the OGST Act, the amount could well be paid by debiting the ECRL.

According to the Respondent, the pre-deposit cannot be equated to the output tax and this liability of pre-deposit could be discharged only by debiting the ECL as provided under Section 49(3) of the OGST Act read with Rule 85(4) of the OGST Rules.

The Hon’ble Orissa High Court, after considering the contentions, held that “Output Tax”, as defined under Section 2(82) of the OGST Act could not be equated to the pre-deposit required to be made in terms of Section 107(6) of the OGST Act. Further, it was observed that the proviso to Section 41(2) of the OGST Act limits the usage to which the

ECRL could be utilized whereby it cannot be debited for making payment of pre-deposit at the time of filing of the appeal in terms of Section 107(6) of the OGST Act. Hence, the Court dismissed this Petition.

***Source: Jyoti Construction v. Deputy Commissioner of CT & GST, Jajpur [Writ Petition (C) Nos. 23508, 23511, 3513, 23514 AND 23521 OF 2021 decided on October 7, 2021]***

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## CUSTOMS



### **Reduced compliance burden regarding registration of authorized couriers**

The CBIC vide Circular No. 24/2021-Customs, reduced the compliance burden on stakeholders, the Central Board of Indirect Taxes and Customs has taken measures to simplify the registration requirements of Authorised Couriers. In this regard, attention is invited to Notifications no.86/2021- Customs (N.T.) and 85/2021-Customs (N.T.) both dated 27.10.2021, which have amended the Courier Imports and Exports (Clearance) Regulations, 1998 and the Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010 respectively.

2. In brief, these amendments provide lifetime validity to a registration, in place of the existing system of validity-periods and renewals. They also provide for voluntary surrender of registration. While enabling a deemed invalidity of registration in case the Authorised Courier is inactive for a continuous period of 1 year, at a time, these also empower the Principal Commissioner or Commissioner to renew such a registration. Such deemed invalidation provision will be applied prospectively. These aspects are expected to bring greater certainty to the Authorised Couriers and support them to focus on their core business and spur trust-based compliance.

It has also been decided that the Board will review (in April 2022) these aspects to bring modification reducing the compliance burden on stakeholders, the Central Board of Indirect Taxes and Customs has taken measures to simplify the registration requirements of Authorised Couriers. In this regard, attention is invited to Notifications no.86/2021-Customs (N.T.) and 85/2021-Customs (N.T.) both dated 27.10.2021, which have amended the Courier Imports and Exports (Clearance) Regulations, 1998 and the Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010 respectively.

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It has also been decided that the Board will review (in April 2022) these aspects to bring modifications, if found necessary. ones, if found necessary.

*Source-Circular No-21, Customs dated 27<sup>th</sup> October 2021\*\*\**

## **GST REVENUE COLLECTION**

The gross GST revenue collected in the month of October 2021 is ₹ 1,30,127 crore of which CGST is ₹ 23,861 crore, SGST is ₹ 30,421 crore, IGST is ₹ 67,361 crore (including ₹ 32,998 crore collected on import of

goods) and Cess is ₹ 8,484 crore (including ₹ 699 crore collected on import of goods).

The government has settled ₹27,310 crore to CGST and ₹ 22,394 crore to SGST from IGST as regular settlement. The total revenue of Centre and the States after regular settlements in the month of October 2021 is ₹ 51171 crore for CGST and ₹ 52,815 crore for the SGST.

The revenues for the month of October 2021 are 24% higher than the GST revenues in the same month last year and 36% over 2019-20. During the month, revenues from import of goods was 39% higher and the revenues from domestic transaction (including import of services) are 19% higher than the revenues from these sources during the same month last year.

*Source: pib.gov.in*

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## **LET'S TALK**

For a deeper discussion of how these issues might affect your business, please contact our Indirect Taxation Team.

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