

PAPER 4B: INDIRECT TAXES

STATUTORY UPDATE FOR MAY 2022 EXAMINATION

For the sake of brevity, Central Goods and Services Tax, Integrated Goods and Services Tax, Central Goods and Services Tax Act, 2017, Integrated Goods and Services Tax Act, 2017, Central Goods and Services Tax Rules, 2017 and Integrated Goods and Services Tax Rules, 2017 have been referred to as CGST, IGST, CGST Act, IGST Act, CGST Rules and IGST Rules respectively.

For May 2022 examination, the provisions of the CGST Act, 2017 and the IGST Act, 2017 as amended by the Finance Act, 2021, including significant notifications and circulars issued and other legislative amendments made, up to 31st October, 2021, are applicable.

The subject matter of July 2021 Edition of the Study Material of Intermediate (New Course) Study Material of Paper 4B: Indirect Taxes is based on the provisions of the CGST Act and IGST Act as amended upto 30.04.2021.

The amendments made by the notifications and circulars issued between 01.05.2021 and 31.10.2021 in GST laws are given in this Statutory Update.

For the ease of reference, the amendments have been grouped into Chapters which correspond with the Chapters of the Study Material.

EXEMPTIONS FROM GST



1. Amendments in the list of services exempted from GST

Notification no. 12/2017 CT(R) dated 28.06.2017 provides list of services exempted from CGST. With effect from 01.10.2021, the said list of exempted services has been amended as follows:-

(i) Amendment in the existing exemptions

Below mentioned entries of exemption from GST have been amended. Amendments have been highlighted in bold hereunder:

Sl. No.	Description of services
72	Services provided to the Central Government, State Government, Union territory administration under any training programme for which 75% or more of the total expenditure is borne by the Central Government, State Government, Union territory administration

(ii) New exemptions introduced

Following new services have been exempted from CGST:

Sl. No.	Description of services
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61A	Services by way of granting National Permit to a goods carriage to operate through-out India/ contiguous States
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(iii) Withdrawal of existing exemption

Exemption from CGST available to following services has been withdrawn:

Sl. No.	Description of services
43	Services of leasing of assets (rolling stock assets including wagons, coaches, locos) by the Indian Railways Finance Corporation to Indian Railways

Parallel exemptions from IGST have been extended to supply of inter-State services by amending *Notification No. 9/2017 IT(R) dated 28.06.2017*, which grants exemption to supply of inter-State services from IGST.

[Notification No. 07/2021 CT(R) dated 30.09.2021 and Notification No. 07/2021 IT(R) dated 30.09.2021]

REGISTRATION



1. Extension of time-limit for filing application for revocation of cancellation of registration by a registered person permitted beyond the stipulated time

W.e.f. 01.01.2021, proviso to section 30(1) of the CGST Act, 2017 was substituted to permit the extension of time-limit for filing application for revocation of cancellation of registration by a registered person. Accordingly, the time period of filing of application for revocation of 30 days from the date of service of the order of cancellation of registration, may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended,—

- (a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding 30 days;
- (b) by the Commissioner, for a further period not exceeding 30 days, beyond the period specified in clause (a).

Consequently, rule 23(1) of the CGST Rules has also been suitably amended to give effect to aforesaid amendment. Amended rule 23(1) reads as follows:

A registered person, whose registration is cancelled by the proper officer on his own motion, may submit an application for revocation of cancellation of registration, in prescribed form, to such proper officer, within a period of 30

days from the date of the service of the order of cancellation of registration or within such time period as extended by the Additional Commissioner or the Joint Commissioner or the Commissioner, as the case may be, in exercise of the powers provided under the proviso to section 30(1), at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

[Notification No. 15/2021 CT dated 18.05.2021]

TAX INVOICE; CREDIT AND DEBIT NOTES; E-WAY BILL



1. E-invoicing not applicable to a Government Department and a local authority

E-invoicing is mandatory for persons notified vide *Notification No. 13/2020 CT dated 21.03.2020* as amended. As per said notification, all registered businesses with an aggregate turnover in any preceding financial year from 2017-18 onwards greater than ₹ 50 crore are mandatorily required to issue e-invoices except:-

- ✓ Special Economic Zone units**
- ✓ Insurer or banking company or financial institution including NBFC
- ✓ GTA supplying services in relation to transportation of goods by road in a goods carriage
- ✓ Supplier of passenger transportation service
- ✓ Person supplying services by way of admission to exhibition of cinematograph films in multiplex screens

Said notification has been amended to exempt **a Government Department and a local authority** also from the mandatory requirement of e-invoicing.

[Notification No. 23/2021 CT dated 01.06.2021]

2. E-way bill generation facility to be blocked only in respect of outward movement of goods, by the defaulting registered person [Rule 138E]

Rule 138E of the CGST Rules contains provisions pertaining to blocking of e-way bill generation facility, i.e. disabling the generation of e-way bill.

Earlier, a user was not able to generate e-way bill for a GSTIN if the said GSTIN was not eligible for e-way bill generation in terms of rule 138E. It implies that the GSTINs of such blocked taxpayers could not be used to generate the e-way bills neither as supplier (consignor) nor as recipient (consignee).

Said rule has been amended to relax such restriction. Blocking of GSTIN for e-way bill generation would only be for the defaulting supplier GSTIN and not for the defaulting Recipient or Transporter GSTIN. Suspended GSTIN cannot generate e-way bill as supplier. However, the suspended GSTIN can get the e-way bill generated as recipient or as transporter.

In other words, e-way bill generation facility is blocked only in respect of any outward movement of goods of the registered person who is not eligible for e-way bill generation as per rule 138E. E-way bills can be generated in respect of inward supplies of said registered person.



A shopkeeper sells a pen for ₹ 100 to the buyer. After the sale, the pen belongs to the buyer and shopkeeper does not have any right on the pen. This is a transaction of sale. Mr. A, a registered person paying tax under regular scheme in Delhi, has not filed Form GSTR-1 for last 2 months. Mr. B, Haryana, (a regular return filer) wants to generate an e-way bill for goods to be supplied to Mr. A. As per earlier position of law, Mr. B would not have been able to generate e-way bill with Mr. A's GSTIN.

In terms of the amended position of law, there will be no more restriction in generating e-way Bill as Mr. B who is making outward movement of goods is a regular return filer.

Mr. A wants to generate an e-way bill in respect of an outward supply of goods to Mr. H. E-way bill generation is blocked in this case as it's an

outward movement of goods of Mr. A who has not filed GSTR-1 for past 2 months.

[Notification No. 15/2021 CT dated 18.05.2021]

RETURNS



1. Maximum late fees payable under section 47 for delayed filing of Forms GSTR-1, GSTR-3B, GSTR-4 and GSTR-7, rationalized

Section 47 of the CGST Act stipulates a specified amount of late fee for delay in filing any of the following by their respective due dates:

- (A) Statement of Outward Supplies [Section 37]
- (B) Returns (including returns under QRMP Scheme) Returns [Section 39]
- (C) Final Return [Section 45]

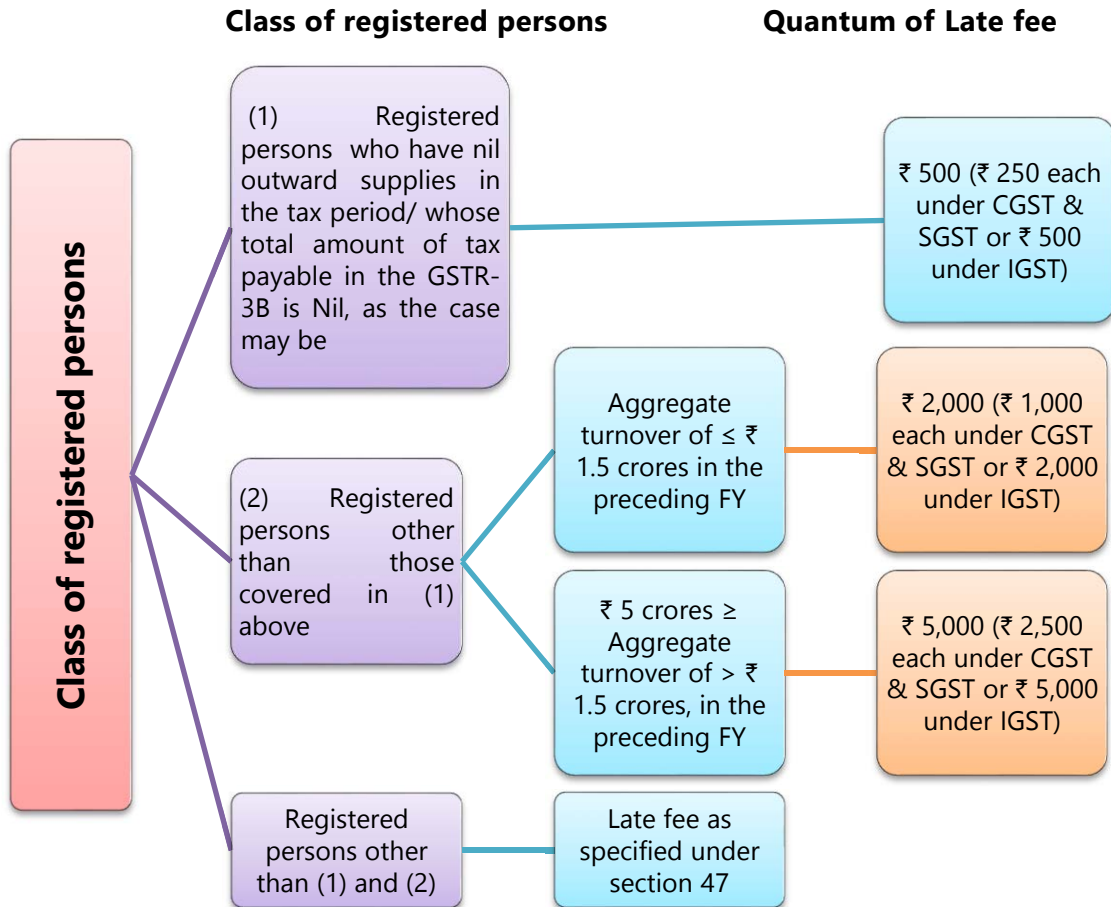
An equal amount of late fee is payable by such person under the respective SGST/UTGST Act as well. Penalty leviable under IGST Act shall be the sum total of the penalties leviable under the CGST Act and the SGST/UTGST Act.

The late fee can be waived off partially or fully by the Central Government. Consequently, since the inception of GST law, late fee is being regularly waived off by the Central Government either partially or fully.

From the tax period June, 2021 onwards or quarter ending June, 2021 or FY 2020-21 onwards, as the case may be, late fee for delayed filing of Forms GSTR-1, GSTR-3B and GSTR-4, has been rationalized as follows:

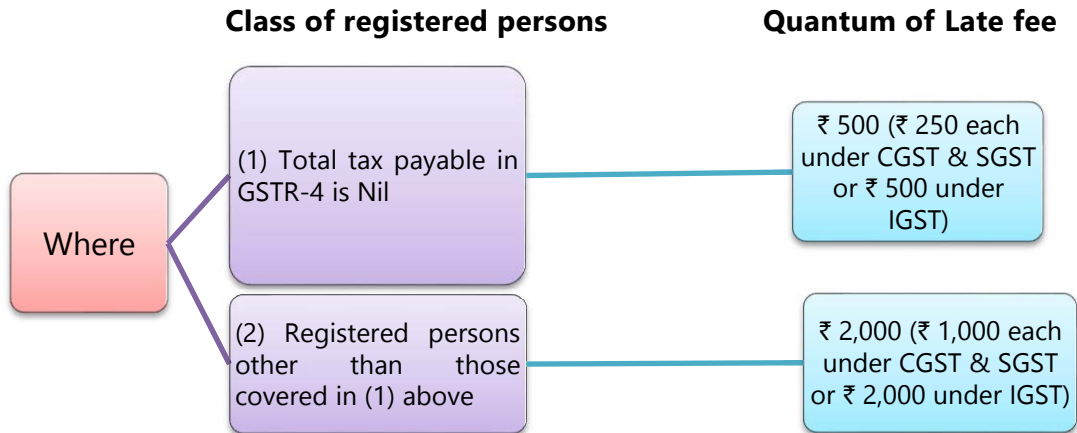
For delayed filing of GSTR-1 and/or GSTR-3B:-

Total amount of late fee payable under section 47 of the CGST Act **from June, 2021 / quarter ending June, 2021 onwards**, by the registered person who fail to furnish Form GSTR-1 and/or Form GSTR-3B by the due date, shall be as follows:



For delayed filing of GSTR-4:-

Total amount of late fee payable under section 47 of the CGST Act **from F.Y. 2021-22 onwards**, by the registered person (composition taxpayer) who fail to furnish Form GSTR-4 by the due date, shall be as follows:



[Notification Nos 19-22/2021 CT all dated 01.06.2021]

2. **Mandatory requirement of submitting reconciliation statement audited by specified professional, done away with [Section 44 substituted]**

With effect from 01.08.2021, section 44 of the CGST Act, 2017 has been substituted so as to remove the mandatory requirement of furnishing a reconciliation statement duly audited by specified professional and to provide for filing of the annual return on self-certification basis. It further provides for the Commissioner to exempt a class of taxpayers from the requirement of filing the annual return.

Substituted section 44 reads as follows:

Every registered person, other than an input service distributor, a person paying tax under section 51 or section 52¹, a casual taxable person and a non-resident taxable person shall furnish an annual return which may include a self-certified reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year, with the audited annual financial statement for every financial year electronically, within such time and in such form and in such manner as may be prescribed.

¹ Provisions of section 51 and 52 have been discussed in detail at final level.

However, the Commissioner may, on the recommendations of the Council, by notification, exempt any class of registered persons from filing annual return under this section.

Further, nothing contained section 44 shall apply to any department of the Central Government or a State Government or a local authority, whose books of account are subject to audit by the Comptroller and Auditor-General of India, or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.

Question : Explain Penalty for late filing of Return.

Answer: Levy of late fee Section 47

If any person has not filed any return, notice shall be given u/s 46/ Rule 68 in form no. GSTR-3A.

Penalty for delay in filing GSTR-1 shall be as given below (Notification No.20/2021 dated: 01-06-2021):

- (i) If output supply is nil, penalty shall be ₹10 per day but maximum ₹250.
- (ii) In other cases, penalty shall be charged @ ₹25 per day for every day but maximum ₹1,000 provided aggregate turnover in the preceding financial year is upto ₹1.5 crores. If turnover is more than 1.5 crores but upto 5 crores, maximum penalty shall be ₹2,500. In all other cases maximum penalty shall be ₹5,000.

Penalty for delay in filing GSTR-3B shall be as given below (Notification No.19/2021 dated: 01-06-2021):

- (i) If tax payable in GSTR-3B is nil, penalty shall be ₹10 per day but maximum ₹250.
- (ii) In other cases, penalty shall be charged @ ₹25 per day for every day but maximum ₹1,000 provided aggregate turnover in the preceding financial year is upto ₹1.5 crores. If turnover is more than 1.5 crores but upto 5 crores, maximum penalty shall be ₹2,500. In all other cases maximum penalty shall be ₹5,000.

Penalty for delay in filing GSTR-4 shall be as given below (Notification No.21/2021 dated: 01-06-2021):

- (i) If tax payable in GSTR-4 is nil, penalty shall be ₹10 per day but maximum ₹250
- (ii) In all other cases, penalty shall be ₹25 per day but maximum ₹1,000

The above Late Fee is under CGST Act, and an equal amount shall be payable under SGST/UTGST Act i.e. in fact the late fee shall be double of the amount as mentioned above.

Penalty for delay in filing Annual Return Section 44

Any registered person who fails to furnish the annual return u/s 44 by the due date shall be liable to pay a late fee of one hundred rupees for every day during which such failure continues subject to a maximum of an amount calculated at a quarter per cent of his turnover.

Example 1:

- (i) Delay is 20 days and turnover is ₹ 60,00,000, penalty shall be ₹ 2,000 or ₹ 15,000 i.e. ₹ 2,000
- (ii) Delay is 20 days and turnover is ₹ 10,00,000, penalty shall be ₹ 2,000 or ₹ 2,500 i.e. ₹ 2,000
- (iii) Delay is 40 days and turnover is ₹ 10,00,000, penalty shall be ₹ 4,000 or ₹ 2,500 i.e. ₹ 2,500
- (iv) Delay is 100 days and turnover is ₹ 50,00,000, penalty shall be ₹ 10,000 or ₹ 12,500 i.e. ₹ 10,000

Further equal amount shall be payable under SGST/UTGST Act.

Penalty for delay in filing Final Return Section 45

Every registered person who is required to furnish a return and whose registration has been surrendered or cancelled is required to file a final return.

The final return has to be filed within 3 months of the:

- (i) date of cancellation
or
- (ii) date of order of cancellation whichever is later.

Quantum of late fee for not filing the final return is as follows:

- (i) ₹ 100 for every day during which such failure continues
or
- (ii) ₹ 5,000

whichever is lower.

An equal amount of late fee is payable under the respective SGST/UTGST Act as well.

IPC NOV 2017 (MODIFIED)

Question 6

(Marks 3)

Bring out the salient points in respect of fee leviable on late filing of GST returns and also determine the late fee payable by PQR Ltd., where the filing of GST return has been delayed by 45 days.

Answer: Refer answer in the book