



GST Update

Weekly Update 08.01.2022







- This Presentation covers the GST changes/observations/ press releases released by CBEC since the last update on 04.12.2021. It supplements the earlier GST Updates.
- This presentation is based on CGST Act/Rules/ Notifications, except the provisions related solely to SGST provisions. Similar parallel provisions in State Laws may be referred to as required



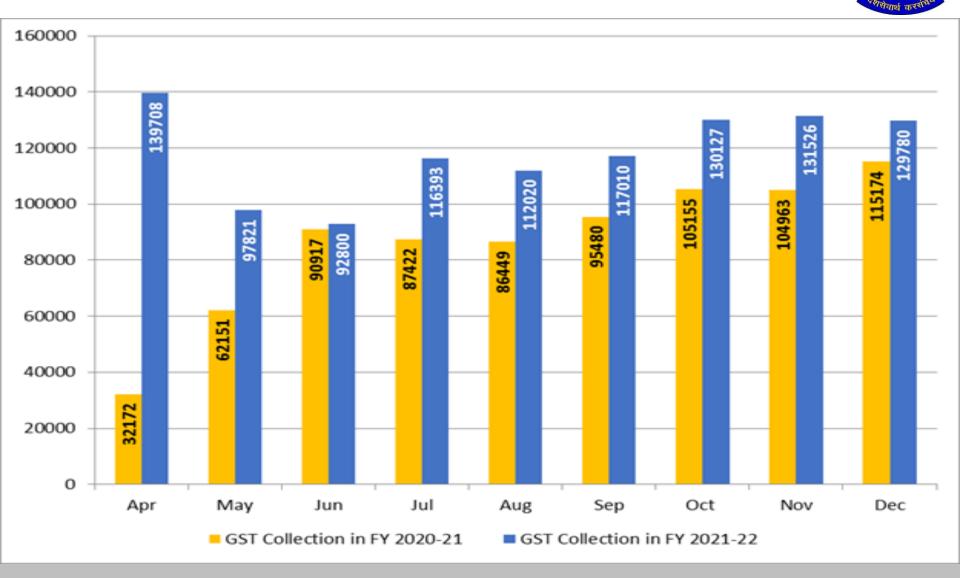
GST Revenue for December 2021



- PIB Press release dated 1st January 2022.
- The gross GST revenue collected in December 2021 is Rs 1,29,780 crore of which CGST is Rs 22,578 crore, SGST is Rs 28,658 crore, IGST is Rs 69,155 crore (including Rs 37,527 crore collected on import of goods) and cess is Rs 9,389 crore (including Rs 614 crore collected on import of goods).
- The government has settled Rs 25,568 crore to CGST and Rs 21,102 crore to SGST from IGST as regular settlement. The total revenue of Centre and the States in December 2021 after settlements is Rs 48,146 crore for CGST and Rs 49,760 crore for the SGST.
- The revenues for December 2021 are **13% higher** than that in the same month last year and 26% higher than that in Dec 2019. During the month, revenues from import of goods were 36% higher and the revenues from the domestic transaction (including import of services) are 5% higher than the revenues from these sources during the same month last year.



Trends in GST Revenue





46th GST Council Decision



- PIB Press release dated 31st December 2021
- The decision to change the rates in textiles as recommended in the 45th GST Council meeting has been deferred.
- Consequently, the existing GST rates in the textile sector would continue beyond 1st January 2022.



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- Notification No. 40/2021 (CT), dated 29th December 2021
- The deadline of GST Annual Returns (GSTR-9 and GSTR-9C) for the financial year 2020-21 extended
 - To February 28th, 2022.
- The last date for filing these returns was to expire on 31-12-2021





- Notification No. 40/2021 (CT) dated 29th December 2021
- Rule 36(4) amended w.e.f 1st January 2022
 - No Input Tax Credit unless details are populated in GSTR 2B. Furnishing of details of invoice/credit note in GSTR-1 or through IFF by the supplier is now mandatory to take credit. A self-policing mechanism for claiming validated ITC.
- Rule 80 amended
 - The due date for Annual Return- GSTR 9 and Self certified reconciliation statement in form GSTR- 9C of F.Y. 20-21 extended to 28th February 2022.





- Notification No. 40/2021 (CT) dated 29th December 2021
- Rule 95 amended w.e.f 1st April 2021; Following proviso inserted
 - Provided that where Unique Identity Number of the applicant is not mentioned in a tax invoice, the refund of tax paid by the applicant on such invoice shall be available only if the copy of the invoice, duly attested by the authorized representative of the applicant, is submitted along with the refund application in FORM GST RFD-10.





- Notification No. 40/2021 (CT) dated 29th December 2021
- Rule 142 amended w.e.f 1st January 2022
 - If Goods are seized in transit, then payment to be made within 7 days (earlier 14 days) of issue of notice under section 129(3) to conclude further proceedings
- Rule 144A on Recovery of penalty by the sale of goods or conveyance detained or seized in transit inserted





Changes in CGST Act effective w.e.f 1st January 2022 (Notification No. 39/2021-Central tax dated 21st December 2021)



- In the CGST Act, 2017, in section 7 (1)(a), the following clause (aa) and Explanation inserted and shall be deemed to have been inserted with effect from 1st July 2017, namely:—
- "(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;".
- The person (Other than an individual) 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







- In section 16(2) of the CGST Act, after clause (a), the following clause (aa) inserted-
- "(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;"
- Thus, ITC to be availed only for those invoices whose details are reflected in GSTR-2B i.e the respective suppliers (vendors) have filed their GSTR-1





- Explanation clause to section 74(1)(ii) substituted-
- (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, 125, 129 and 130 are deemed to be concluded.
- Thus, conclusion of proceedings will lead to conclusion of proceedings u/s. 73 or 74 and the proceedings u/s. 122 and 125 but not the proceedings u/s. 129 and 130.
- This makes seizure and confiscation of goods and conveyances in transit a separate proceeding from the recovery of tax



Self assessed tax



- Explanation clause to section 75(12) inserted-
- 'Explanation.—For the purposes of this sub-section, 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.
- Thus, any tax reflected in GSTR-1, but not shown in GSTR 3B shall be considered as self-assessed tax and shall be liable to be recovered straightaway under section 79





- Section 83(1) of the CGST Act substituted as under —
- Where after the initiation during the pendency of any proceedings under section 62 or section 63 or section 64 or section 67 or section 73 or section 74 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 subsection (1A) of section 122, in such manner as may be prescribed



Appeal in case of detention and seizure of goods and conveyance



- In section 107(6) of the CGST Act, 2017, the following proviso inserted —
- "Provided that no appeal shall be filed against an order under sub-section (3) of section 129 unless a sum equal to twentyfive per cent of the penalty has been paid by the appellant."
- The pre-deposit prior to this amendment was only to the extent of 10% of Tax Liability in case of dispute which is now enhanced to 25% of the penalty amount in case of detention and seizure of goods and conveyance during transit



Changes in section 129



- Section 129(1) (a) & (b) substituted as-
- (a) on payment of applicable tax and penalty equal to one two hundred per cent. of the tax payable on such goods and, in case of exempted goods, on payment of an amount equal to two per cent. 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 applicable tax and penalty equal to fifty per cent of the value of the goods reduced by the tax amount paid thereon and or two hundred per cent. of the tax payable on such goods, whichever is higher, and in case of exempted goods, on payment of an amount equal to five per cent 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"



Changes in section 129 (Contd)



- Section 129 (2) deleted; Section 129(3) & (4) substituted as-
- (2) The provisions of sub-section (6) of section 67 shall, mutatis mutandis, apply for detention and seizure of goods and conveyances.
- (3) The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the tax and 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 sub-section (1)."
- (4) No tax, interest or penalty shall be determined under sub section (3) without giving the person concerned an opportunity of being heard.



Changes in section 129 (Contd)



- Section 129(6) substituted as under:
- Where the person transporting any goods or the owner of such goods fails to pay the amount of tax and penalty under subsection (1) within fourteen of such detention or seizure, further proceedings shall be initiated in accordance with the provisions of section 130 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)



Changes in section 129 (Contd)



- 1st Proviso to Section 129 inserted as-
- Provided that the conveyance shall be released on payment by the transporter of penalty under subsection (3) or one lakh rupees, whichever is less
- 2nd proviso to section 129 substituted as -
- 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 fourteen fifteen days may be reduced by the proper officer.







- Instead of 100% tax and 100% penalty, now penalty of 200% of tax payable is applicable
- To file appeal, 25% of penalty i.e 50% of tax amount
- Transporter can get the conveyance released on payment of penalty or Rs. 1 lakh w/ever is less
- The proceedings under section 129 relating to detention, seizure and release of goods and conveyances in transit, delinked from the proceedings under section 130 relating to confiscation of goods or conveyances and levy of penalty.







- The proceedings under section 130 relating to confiscation of goods or conveyances and levy of penalty delinked from the proceedings under section 129 relating to detention, seizure and release of goods and conveyances in transit.
- Penalty of 100% of tax payable is applicable (Section 130 (2) amended)



Power to call for information and restrictions on its disclosure



- Section 151 of the CGST Act 2017 amended so as to empower the jurisdictional commissioner to call for information from any person relating to any matters dealt with in connection with the Act
- Section 168 of the CGST Act, 2017 amended so as to enable the jurisdictional commissioner to exercise powers under section 151 to call for information
- Section 152(1) of the CGST Act, 2017 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





- For section 151 of the CGST Act, the following section substituted —
- "151. 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.".
- Reference to section 151 omitted from section 168 (2)
- Thus, the jurisdictional commissioner can call for information under section 151



Bar on disclosure of information



• In section 152 of the CGST Act, following changes made —

(1) No information of any individual return or part thereof 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 without giving an opportunity of being heard to the person concerned.

(b) Following sub-section (2) omitted.

(2) Except for the purposes of prosecution under this Act or any other Act for the time being in force, no person who is not engaged in the collection of statistics under this Act or compilation or computerisation thereof for the purposes of this Act, shall be permitted to see or have access to any information or any individual return referred to in section 151.





- Instruction No. 01/2022-GST dated 7th January 2021
- Guidelines for recovery proceedings under section 79 in cases covered under explanation to section 75(12) of the CGST Act, 2017
- Section 75(12)- Recovery of self-assessed tax in accordance with the return furnished under section 39, if remains unpaid
- Explanation to section 75(12) inserted w.e.f 01.01.2021
 - "self-assessed tax" shall include the tax payable in respect of outward supplies, the details of which have been furnished under section 37. but not included in the return furnished under section 39.

Guidelines for recovery proceedings UNARKET under section 79 (Contd)



- The tax payable in respect of details of outward supplies furnished by the registered person in GSTR-I, has not been paid through GSTR-3B return, either wholly or partly, or any amount of interest payable on such tax remains unpaid, then in such cases, the tax short paid on such self-assessed and thus self-admitted liability. and the interest thereon, are liable to be recovered under the provisions of section 79.
- There may be a genuine reason for the difference between the details of outward supplies declared in GSTR-1 and those declared in GSTR-3B.

Guidelines for recovery proceedings under section 79 (Contd)



- Wherever any such amount of tax, self-assessed by the registered person in his GSTR-I is found to be short paid or not paid by the said person through his GSTR-3B return in terms of section 75(12), the proper officer may send a communication (with DIN) to the registered person to pay the amount short paid or not paid, or to explain the reasons for such short payment or non-payment of self-assessed tax, within a reasonable time, as prescribed in the communication.
- If the concerned person is able to justify the differences between GSTR-I and GSTR-3B, or explain the reasons for such short-payment or non-payment of tax, to the satisfaction of the proper officer, or pays the amount such short paid or not paid, then there may not be any requirement to initiate proceedings for recovery under section 79.

Guidelines for recovery proceedings under section 79 (Contd)



- However, if the said registered person either fails to reply to the proper officer or fails to make the payment of such amount short paid or not paid, within the time prescribed in the communication or such further period as may be permitted by the proper officer, then the proceedings for recovery of the said amount as per section 79 may be initiated by the proper officer.
- Further, where the said registered person fails to explain the reasons for such difference/ short payment of tax to the satisfaction of the proper officer, then the proper officer may proceed for recovery of the said amount as per provisions of section 79.

Refund claims by taxpayers in UT of Daman & Diu RKET



- Circular No. 168/24/2021 GST dated 30th December 2021
- Mechanism for filing of refund claim by the taxpayers registered in erstwhile Union Territory of Daman & Diu for the period prior to the merger with U.T. of Dadra & Nagar Haveli
- The application for refund shall be filed under 'Any other' category on the GST portal using their new GSTIN.
- In the Remarks column of the application, the applicant needs to enter the category in which the refund application otherwise would have been filed.
- At this stage, the applicant is not required to make any debit from the electronic credit ledger.

Refund claims by taxpayers in UT of MARKET Daman & Diu (Contd)



- Upon scrutiny, if the proper officer is satisfied that the refund claimed is payable, he shall request the applicant, in writing, if required, to debit the said amount from the electronic credit ledger through FORM GST DRC-03. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in FORM GST RFD-06 and the payment order in FORM GST RFD-05.
- For the categories of refund where debit of ITC is not required, the applicant may apply for refund under the category "Any other" mentioning the reasons in the Remarks column.
- No refund claim, requiring debit from the electronic credit ledger or where the refund would result in re-credit of the amount sanctioned in the electronic credit ledger, shall be filed using old GSTIN





GST on services supplied by restaurants through ecommerce operators

(45th GST Council Meeting; Section 9(5) of CGST Act 2017; Notification No. 17/2021 dated 18.11.2021; Circular No. 167 / 23 /2021 – GST dated 17th December 2021)





- Would ECOs have to still collect TCS in compliance with section 52 of the CGST Act, 2017?
- As 'restaurant service' has been notified under section 9(5) of the CGST Act, 2017, the ECO shall be liable to pay GST on restaurant services provided, with effect from the 1st January 2022, through ECO.
- Accordingly, the ECOs will no longer be required to collect TCS and file GSTR 8 in respect of restaurant services on which it pays tax in terms of section 9(5). On other goods or services supplied through ECO, which are not notified u/s 9(5), ECOs will continue to pay TCS in terms of section 52 of CGST Act, 2017 in the same manner at present.





- Would ECOs have to mandatorily take a separate registration w.r.t supply of restaurant service [notified under 9(5)] through them even though they are registered to pay GST on services on their own account?
- As ECOs are already registered in accordance with rule 8(in Form GST-REG 01) of the CGST Rules, 2017 (as a supplier of their own goods or services), there would be no mandatory requirement of taking separate registration by ECOs for payment of tax on restaurant service under section 9(5) of the CGST Act, 2017.





- Would the ECOs be liable to pay tax on supply of restaurant service made by unregistered business entities?
- Yes. ECOs will be liable to pay GST on any restaurant service supplied through them including by an unregistered person.
- What would be the aggregate turnover of person supplying 'restaurant service' through ECOs?
- It is clarified that the aggregate turnover of person supplying restaurant service through ECOs shall be computed as defined in section 2(6) of the CGST Act, 2017 and shall include the aggregate value of supplies made by the restaurant through ECOs. Accordingly, for threshold consideration or any other purpose in the Act, the person providing restaurant service through ECO shall account such services in his aggregate turnover





- Can the supplies of restaurant service made through ECOs be recorded as inward supply of ECOs (liable to reverse charge) in GSTR 3B?
- No. ECOs are not the recipient of restaurant service supplied through them. Since these are not input services to ECO, these are not to be reported as inward supply (liable to reverse charge).
- Can ECO utilize its Input Tax Credit to pay tax w.r.t 'restaurant service' supplied through the ECO?
- No. The liability of payment of tax by ECO as per section 9(5) shall be discharged in cash.





- Would ECOs be liable to reverse proportional input tax credit on his input goods and services for the reason that input tax credit is not admissible on 'restaurant service'?
- ECOs provide their own services as an electronic platform and an intermediary for which it would acquire inputs/input service on which ECOs avail input tax credit (ITC). The ECO charges commission/fee etc. for the services it provides. The ITC is utilised by ECO for payment of GST on services provided by ECO on its own account (say, to a restaurant). The situation in this regard remains unchanged even after ECO is made liable to pay tax on restaurant service. ECO would be eligible to ITC as before. Accordingly, it is clarified that ECO shall not be required to reverse ITC on account of restaurant services on which it pays GST in terms of section 9(5) of the Act. It may also be noted that on restaurant service, ECO shall pay the entire GST liability in cash (No ITC could be utilised for payment of GST on restaurant service supplied through ECO)





- Would supply of goods or services other than 'restaurant service' through ECOs be taxed at 5% without ITC?
- ECO is required to pay GST on services notified under section 9(5), besides the services/other supplies made on his own account. On any supply that is not notified under section 9(5), that is supplied by a person through ECO, the liability to pay GST continues on such supplier and ECO shall continue to pay TCS on such supplies. Thus, present dispensation continues for ECO, on supplies other than restaurant services. On such supplies (other than restaurant services made through ECO) GST will continue to be billed, collected and deposited in the same manner as is being done at present. ECO will deposit TCS on such supplies.





- Would 'restaurant service' and goods or services other than restaurant service sold by a restaurant to a customer under the same order be billed differently? Who shall be liable for raising invoices in such cases?
- Considering that liability to pay GST on supplies other than 'restaurant service' through the ECO, and other compliances under the Act, including the issuance of invoice to customer, continues to lie with the respective suppliers (and ECOs being liable only to collect tax at source (TCS) on such supplies), it is advisable that ECO raises separate bill on restaurant service in such cases where ECO provides other supplies to a customer under the same order.





- Who will issue invoice in respect of restaurant service supplied through ECO - whether by the restaurant or by the ECO?
- The invoice in respect of restaurant service supplied through ECO under section 9(5) will be issued by ECO
- Clarification may be issued as regard reporting of restaurant services, value and tax liability etc in the GST return.
- A number of other services are already notified under section 9(5). In respect of such services, ECO operators are presently paying GST by furnishing details in GSTR 3B.





- The ECO may, on services notified under section 9 (5) of the CGST Act,2017, including on restaurant service provided through ECO, may continue to pay GST by furnishing the details in GSTR 3B, reporting them as outward taxable supplies for the time being. Besides, ECO may also, for the time being, furnish the details of such supplies of restaurant services under section 9(5) in Table 7A(1) or Table 4A of GSTR-1, as the case may be, for accounting purposes.
- Registered persons supplying restaurant services through ECOs under section 9(5) will report such supplies of restaurant services made through ECOs in Table 8 of GSTR-1 and Table 3.1 (c) of GSTR-3B, for the time being.





GST Portal Updates

(www.gst.gov.in)







- Mandatory Aadhaar authentication for registered person
- Rule 10B of CGST Rules, 2017 (<u>w.e.f 1st January 2022</u>; Notn No. 38/2021-CT dated 21.12.2021)
- It is mandatory for the registered person to undergo Aadhaar authentication for the below purposes
 - Filing of application for revocation of cancellation of registration in FORM GST REG-21 under Rule 23 of CGST Rules, 2017
 - Filing of refund application in FORM RFD-01 under Rule 89 of CGST Rules, 2017
 - Refund of the IGST paid on goods exported out of India under Rule 96 of CGST Rules, 2017.



Functionality for Aadhar Linkage (Contd)



- If Aadhaar number not assigned to the concerned person, such person may undergo e-KYC verification by furnishing the following:
 - She/he will feed Aadhaar Enrolment ID and upload the acknowledgement; and
 - She/he shall also upload any one of the following documents:
 - i. Bank Passbook with photograph; or
 - ii. Voter identity card issued by the Election Commission of India; or
 - iii. Passport; or
 - iv. Driving license issued by the Licensing Authority under the Motor Vehicles Act, 1988 (59 of 1988):
- Provided further that such person shall undergo the Aadhaar authentication within a period of thirty days from allotment of the Aadhaar number.
- Aadhaar authentication or e-KYC verification may be completed by navigating to "Dashboard > My Profile > Aadhaar Authentication Status"



Revamped Search HSN Code Functionality



- 'Search HSN' functionality has been revamped by linking it with e-invoice database and Artificial Intelligence tools in the following ways:
 - The Search HSN Code functionality, has been enhanced, where the taxpayers can search the HSN code and the applicable Technical description through common parlance/trade description of the goods/ services as they are known in the Trade. It helps the taxpayers to search HSN Code by providing description/ part of a description.
 - The facility is available at both pre-login and post-login. Taxpayers/users can access the same by the following navigation:
 - Home>Services>User services>Search HSN Code
- <u>https://tutorial.gst.gov.in/downloads/news/advisory_on_search_hsn_code_functionality_final.pdf</u>

Functionality- Changes made in Form MARKET GSTR-1/IFF



- To improve the taxpayer, experience some enhancements have been done in GSTR-1/IFF user interface
 - A re-organized dashboard
 - Easy amendment and addition of records
 - Document counts with colour coding and
 - Recipient wise count of records per page
- 'My master' facility- Taxpayer can save the details pf recipients, suppliers and HSN codes of commodities they deal in
- <u>https://www.gst.gov.in/newsandupdates/read/513</u>

Functionality- Changes made in Form GSTR-1/IFF (Contd)



- My Masters facility in Form GSTR-1/IFF: Taxpayers can save details of their recipients and suppliers and the HSN of the commodities they deal in for the following two masters on the portal and in the offline tool:
 - Product Master
 - Supplier/Recipient Master
- Now whenever a taxpayer enters data in the related field of GSTR-1 for which master exists, Offline tool/portal will fetch the details from the Master and will show the probable values in the drop-down based on the key words entered. By selecting the dropdown, all the corresponding fields of that row shall be filled up automatically.
- Taxpayers can also upload master created offline on GST common portal as JSON file to update their online master, and, similarly download the master created online and import it in the offline tool to update his master created offline.

Functionality- Changes made in Form MARKET GSTR-1/IFF (Contd)

- Allowing entry of suspended GSTINs as recipients in Form GSTR 1/IFF (B2B Tables)
- The system used to return an error message if a supplier entered GSTIN of a suspended taxpayer in the B2B, B2BA, CDNR and CDNRA tables of Form GSTR-1/IFF. This validation has now been removed and the taxpayer would be able to enter a suspended GSTIN as a recipient of taxable supplies in respective tables of Form GSTR-1/IFF





- Integration of Appeal Module with Enforcement Module
- The Enforcement module has now been integrated with the Appeal module. The taxpayers will now be able to file an online appeal against orders passed by an Enforcement Officer.
- Integration of Appeal Module with Assessment Module
- The Assessment module has now been integrated with Appeal module. The taxpayers will now be able to file an online appeal against orders passed by a Tax Officer.
- <u>https://tutorial.gst.gov.in/downloads/news/new_%20functionalities_compilation_</u> <u>december_2021.pdf</u>





THANK YOU