



# December 2021 Thinking Beyond



**Hiregange Academy**

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**“Empowering Knowledge &  
Employability”**

**Goods and Services Tax (GST) –  
Articles, Notifications,  
Circulars**

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**Legal updates (GST, Service  
tax, Customs)**

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**ICAI Announcements**

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**Webinars & Training  
Sessions**

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**December 2021**

# Social Welfare Surcharge – Not Liable when no Basic Customs Duty collected

CA. Shilpi Jain



Published in Tax  
Management India

Social Welfare Surcharge (SWS) is a surcharge levied u/s 110 of the Finance Act, 2018. It is levied as a duty of Customs on the goods imported into India, to fulfil the commitment of the Government to provide and finance education, health and social security. The question now that arises is whether this SWS would be liable when the Basic Customs Duty (BCD), on which it is to be calculated, itself is exempt. The department seems to be of the view that it is liable by relying on the decision of the Hon'ble Supreme Court in the case of *M/s. Unicorn Industries v. Union of India* 2019 (370) E.L.T. 3 (S.C.), given in the context of liability of Education Cess (EC) and Secondary & Higher Education Cess (SHE), when the BCD is exempt... [read more](#)

## GST on Food & Beverages – Goods or Service?

CA. Akshay M Hiregange



Published in KSCAA  
November Journal

### *Introduction*

In the certainty of law lies the safety of the citizens. An old principle which is only declared prior to elections on international stage. In GST changes area dime a dozen every quarter. GST was to have a single rate for goods and services - a utopian idea. Now, we have dozens of rates and within the same tariff head at times 4 rates!!! A dormant issue has been reignited by the recent clarification on the taxability under GST on cloud kitchens and ice cream parlours - When does the supply of food & beverages tantamount to supply of goods/supply of services? It seems that government is following the popular idiom - 'if you can't convince them, confuse them'. In the article, we look at the present state of affairs and provide the way forward for the trade/ restaurants/ hotel/ online supplies and possible suggestions to obtain clarity... [Read more](#)

# Audit Sampling

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## CA. Sushil Kumar Padhy



### A. What is Sampling?

Audit sampling is the application of an audit procedure (test of control or substantive testing) to less than 100% of the items within an account balance or class of transactions for the purpose of drawing a general conclusion about the account balance or the entire group of transactions based on the characteristics detected in the sample. Sampling allows an auditor to draw conclusions about transactions or balances without incurring the time and cost of examining every transaction.

### B. When is sampling used?

Sampling is generally used in field audits when it is not efficient to review 100% of the records. [Read More](#)

# ITC on Insurance

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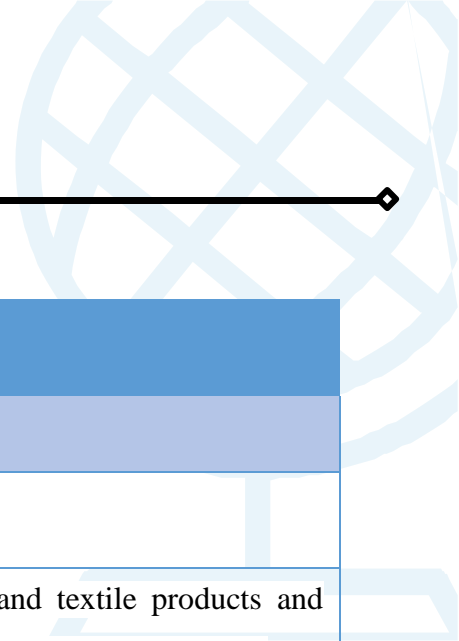
## CA. Roopa Nayak



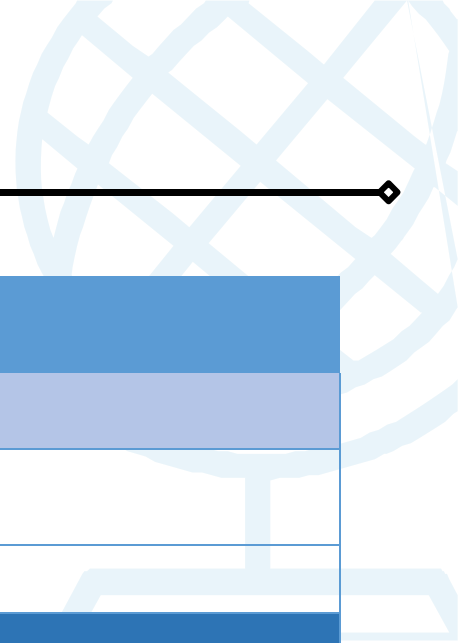
Before implementation of Goods and Service Tax (GST), service tax was charged at the rate of 15% on most of the Insurance plans, whereas now GST is charged at the rate of 18% on majority of insurance plans.

Thereby, GST has a deep impact on Insurance sector, hence in the session we have discussed about what are the conditions for availing ITC? Is ITC eligible on all types of insurance? Whether there is any blocked credit? ITC on Motor Vehicle and the former case laws regarding the same.

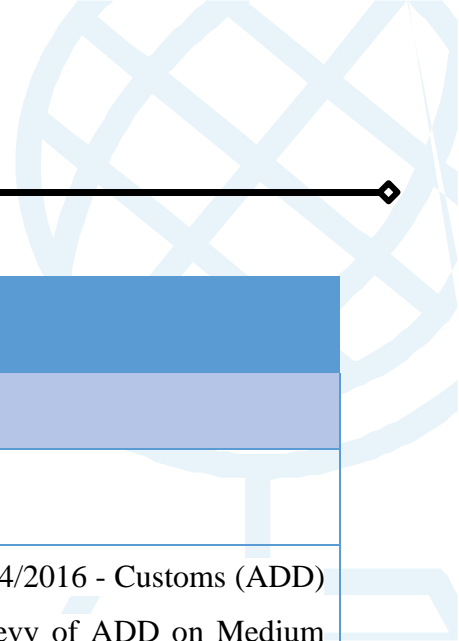
Click [here](#) to watch the full video to get a better understanding.



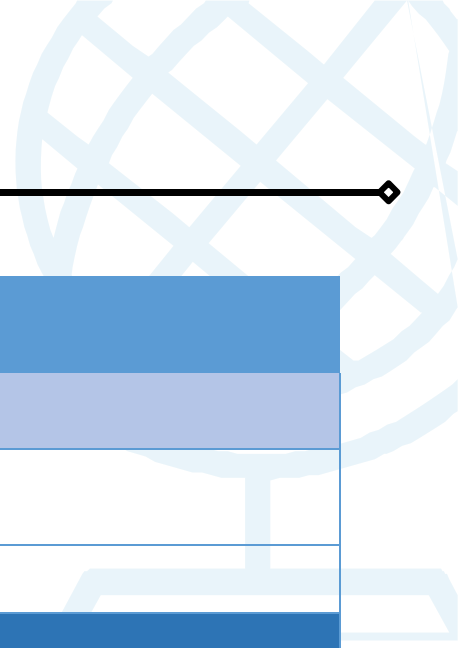
GST	
Notifications	
Notification No. and Date of issue	Subject
14/2021-Central Tax (Rate), dt. 18-11-2021	Changes in rate of tax – textile and textile products and description under rate notification - Goods. <a href="#">Read more:</a>
15/2021-Central Tax (Rate), dt. 18-11-2021	Changes in description under rate notification - Services. <a href="#">Read more:</a>
16/2021-Central Tax (Rate), dt. 18-11-2021	Changes in description under exemption notification - Services. <a href="#">Read more:</a>
17/2021-Central Tax (Rate), dt. 18-11-2021	Amendment for services notified under section 9(5). <a href="#">Read more:</a>
GST	
Circulars	
Circular No. and Date of issue	Subject
165/21/2021-GST, dt 17-11-2021	Clarification in respect of applicability of Dynamic Quick Response (QR) Code on B2C invoices and compliance of notification 14/2020- Central Tax dated 21st March 2020. <a href="#">Read more:</a>
166/22/2021-GST, dt 17-11-2021	Circular on Clarification on refund related issues. <a href="#">Read more:</a>



Customs- Tariff	
Notifications	
Notification No. and Date of issue	Subject
NA	NA
Customs (Non-Tariff)	
Notifications	
Notification No. and Date of issue	Subject
91/2021 – Customs (NT) d.t 15.11.2021	Fixation of Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold and Silver- Reg. <a href="#">Read more:</a>
92/2021 – Customs (NT) d.t 18.11.2021	Exchange rates Notification No.92/2021-Cus (NT) dated 18.11.2021. <a href="#">Read more:</a>
93/2021 – Customs (NT) d.t 24.11.2021	Exchange rates Notification No.93/2021-Cus (NT) dated 24.11.2021. <a href="#">Read more:</a>
94/2021 – Customs (NT) d.t 25.11.2021	Exchange rates Notification No.94/2021-Cus (NT) dated 25.11.2021. <a href="#">Read more:</a>
95/2021 – Customs (NT) d.t 30.11.2021	Fixation of Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold and Silver- Reg. <a href="#">Read more:</a>
96/2021- Customs (NT) d.t 02.12.2021	Exchange rates Notification No.96/2021-Cus (NT) dated 2.12.2021. <a href="#">Read more:</a>



Anti-Dumping Duty	
Notifications	
Notification No. and Date of issue	Subject
65/2021-Customs (ADD), dt. 11.11.2021	Seeks to rescind Notification No. 34/2016 - Customs (ADD) dated 14th July 2016 to remove levy of ADD on Medium Density Fiberboard. <a href="#"><u>Read more:</u></a>
66/2021-Customs (ADD), dt. 11.11.2021	Seeks to impose ADD on Imports of Untreated Fumed Silica from China PR - reg. <a href="#"><u>Read more:</u></a>
67/2021-Customs (ADD), dt. 12.11.2021	seeks to impose ADD on "measuring tapes" originating in or exported from Singapore and Cambodia. <a href="#"><u>Read more:</u></a>
68/2021-Customs (ADD), dt. 06.12.2021	Seeks to impose ADD on "Certain Flat rolled Products of Aluminium" originating in or exported from China PR for a period of 5 years. <a href="#"><u>Read more:</u></a>



Customs	
Circulars	
Circular No. and Date of issue	Subject
NA	NA
Customs	
Instructions	
Instruction No. and Date of issue	Subject
F.No.401/74/2021-Cus-III dated 23-11-2021	Import of wireless equipment by Telecom Service Providers (TSPs) on the basis of self-declaration. <a href="#">Read more:</a>
F. No. 401/86/2021-Cus-III dated 24-11-2021	Direction under Section 16 (5) of Food Safety and Standards Act, 2006 regarding extension of validity of the NOC for the Alcoholic Beverages Bottled in Origin & in Bulk-reg. <a href="#">Read more:</a>
F. No. 401/88/2021-Cus-III dated 24-11-2021	Import of teas from the neighboring country (Nepal) as "Darjeeling Tea" – reg. <a href="#">Read more:</a>
F. No. 401/85/2021-Cus-III dated 01-12-2021	Import of Sajji Khar/ Pappad Khar-reg. <a href="#">Read more:</a>
F.No.CBIC-50711/5/2021-INV-CUSTOMS	Guidelines for the sale of seized/confiscated gold reg. <a href="#">Read more:</a>



# GST portal updates

Sl. No	Functionality
1	<a href="#">Improvements in GSTR-1</a>
2	<a href="#">Module wise new functionalities deployed on the GST Portal for taxpayers</a>



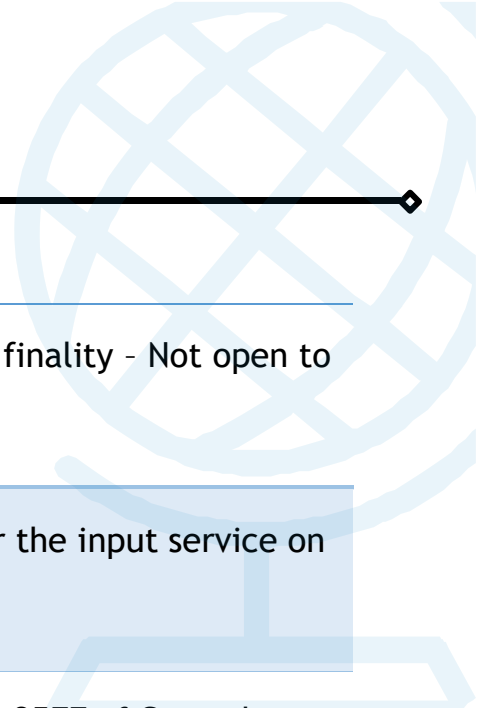
# Legal Updates



1	CENVAT Credit of tax paid on canteen services not allowed even if provided by the employer as a mandatory requirement
2	The TCS balance in the Electronic Cash ledger is not subject to Unjust Enrichment
3	The retrospective amendments in Section 140 of the CGST Act (both of which are notified and not notified) cannot have the effect of barring transition of credit Education Cess and other similar Cesses.
4	CBIC Circular, clarifying that fish meal used as raw materials for the manufacture of poultry feed is ultra vires and quashed. The exemption cannot be curtailed by a circular
5	No power is vested with the authorities as well as Tribunal to condone the delay beyond the statutory period of limitation
6	Validity of Provisional Assessment only 1 year - Banks to be directed accordingly
7	Refund allowed for GST paid under the wrong head and on realization paid again correctly under proper head
8	Cancellation of registration on hyper-technical ground not tenable under law
9	Denial to the transition of credit for a clerical mistake may not be warranted

# Legal Updates

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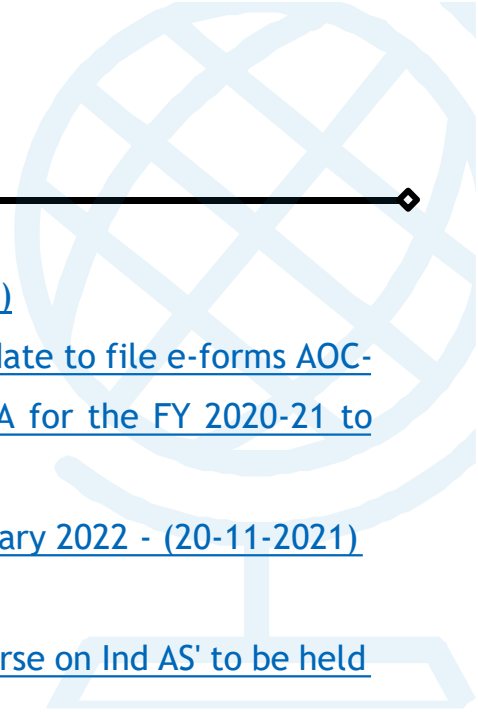


10	Once Order of Assessment/Re-Assessment has attained finality - Not open to Revenue to contest Refund Application Filed
11	Rule 14 of CCR, 2004 appropriate to determine whether the input service on which credit was taken was eligible or not
12	Interest on refund of pre-deposit payable under Section 35FF of Central Excise Act, 1944, even if the deposit was paid through debit in Cenvat account
13	The service provided by the Indian Subsidiary to its holding company abroad is considered as export of service

To read more, [click here](#)

# ICAI Announcements

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1. [QRB Report on Audit Quality Review - 2020-21 - \(02-11-2021\)](#)
2. [Announcement by CL&CGC ICAI regarding Extension of last date to file e-forms AOC-4, AOC-4 CFS, AOC-4 XBRL, AOC-4 Non-XBRL and MGT-7/7A for the FY 2020-21 to 31.12.2021. - \(02-11-2021\)](#)
3. [Information System Audit - Assessment Test \(ISA - AT\), January 2022 - \(20-11-2021\)](#)
4. [ICAI submits Pre-Budget Memoranda-2022 - \(23-11-2021\)](#)
5. [Announcement of Online Examination of the 'Certificate Course on Ind AS' to be held on 30th January 2022 - \(26-11-2021\)](#)
6. [Non-current Liabilities with Covenants - Proposed amendments to IAS 1 - \(30-11-2021\)](#)
7. [Supplier Finance Arrangements - Proposed amendments to IAS 7 and IFRS 7 - \(30-11-2021\)](#)
8. [Last Date for Updation of UDINs at e-filing Portal - \(30-11-2021\)](#)
9. [Observations of the candidates on the question papers of CA examinations December 2021 - \(05-12-2021\)](#)
10. [CSR Committee of ICAI proudly announces 9th batch of Certificate Course on CSR through online mode, for members of ICAI. - \(08-12-2021\)](#)
11. [Launching Online Refresher Course - 'Deep Dive into Leases Standard - Ind AS 116' organized by the Ind AS Implementation Committee of ICAI - \(13-12-2021\)](#)
12. [Announcement by CL&CGC regarding Extension of holding of AGM through VC or OAVM up to 30th June 2022. - \(13-12-2021\)Empanelment of Chartered Accountant firms/LLPs for the year 2022-2023 - \(10-12-2021\)](#)