

Note on Important Amendments w.e.f 01.01.2022

1. GSTR 1 filing will be restricted if GSTR 3B has not been filed for the preceding month.
2. AADHAR authentication mandatory for filing revocation of cancellation of registration, refund under Rule 89, and refund under Rule 96.
3. Due date for filing the annual return for 2020-21 is 28.02.2022.
4. Scope of supply includes the activities or transactions, by a person, other than an individual, to its members or constituents or vice -versa, for consideration and hence shall be leviable to tax.
5. Credit is available only if the corresponding invoice/debit note details are furnished by the supplier in their GSTR 1 and the same is communicated to the recipient in their GSTR 2B.
6. Seizure and confiscation of goods and conveyances in transit under Section 129 or 130 will continue as a separate proceeding even if the proceedings against the main person are concluded.
7. The self-assessed tax also includes the liability declared in GSTR 1 even if GSTR 3B return is not filed.
8. The newly substituted Section 83(1) widens the power to attach the bank account/property.

Amendments made in Section 129- Detention/Seizure/Release of and conveyances in transit

- A. In order to secure the release of the goods/conveyances, the concerned persons had to pay tax, interest, and penalty. Now, with effect from 01.01.2022, they are required to pay the penalty or furnish proper security for the penalty amount. But, the penalty payable under Section 129 for the release of goods/conveyances has been increased from 100% to 200% of the tax payable as tabulated below:

Clause	Payment	
129(a) Where the owner comes forward to make the payment	Taxable goods	A penalty equal to 200% of the tax payable
	Exempted goods	An amount of 2% of the value of goods or Rs. 25,000/-; whichever is less
129(b) Where the owner does not come forward	Taxable goods	A penalty equal to 50% of the value of goods or 200% of the tax payable; whichever is higher
	Exempted goods	An amount of 5% of the value of goods or Rs. 25,000/-; whichever is less

Note on Important Amendments w.e.f 01.01.2022

- B. Prior to 01.01.2022, if neither the owner of the goods nor the transporter pays the tax, interest & penalty within 14 days (period can be further reduced if the goods are perishable/hazardous) of detention or seizure, then further proceedings for confiscation of goods/conveyance will be initiated u/s 130. Post 01.01.2022, if the concerned person does not pay the penalties within fifteen days from the date of the order imposing the penalty, the officer can dispose of the seized goods and conveyance to recover the penalty. However, the transporter can seek release of the conveyance by making the payment of the penalty mentioned in the aforesaid table or Rs. 1,00,000/-; whichever is less.
- C. Sec. 107(6) of the CGST Act, 2017 provides for making a pre-deposit of 10% of the disputed tax amount for filing the appeal and staying the recovery. The quantum of pre-deposit for filing an appeal against the order passed under Section 129 of the CGST Act is 25% of the penalty amount.

Confiscation of goods or conveyances and levy of penalty

Section 130(2) provides that the amount of fine payable by the person in lieu of confiscation shall be as the officer thinks fit but shall not be less than the penalty that is equal to the tax payable on the given goods. An amendment has been made to the effect that the aggregate of such fine and penalty shall not be less than the penalty equal to the tax payable on such goods.

Amendments in Sec. 129 and 130.

Provision	Pre amendment	Post amendment
Sec. 129 (1)	(1) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released, -- (a) on payment of the	(1) Notwithstanding anything contained in this Act, where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made thereunder, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure and after detention or seizure, shall be released, -- (a) on payment of penalty equal to two hundred percent of the tax

www.swamyassociates.com

chennai | coimbatore | bengaluru | hyderabad | pune | new delhi

Chennai: 18, Rams Flats, Ashoka Avenue, Director's Colony, Kodambakkam, Chennai – 600024

mail@swamyassociates.com 044-24811147

Note on Important Amendments w.e.f 01.01.2022

	applicable tax and penalty equal to one hundred percent 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 tax and penalty (b) on payment of the applicable tax and penalty equal to fifty per cent of the value of the goods reduced by the tax amount paid thereon, 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 tax and penalty; (c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed :	payable on such goods and, in case of exempted goods, on payment of an amount equal to two percent 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 penalty equal to fifty per cent of the value of the goods 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; (c) upon furnishing a security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed :
Sec. 129 (2)	The provisions of sub-section (6) of Section 67 shall mutatis mutandis, apply for detention and seizure of goods and conveyances.	Omitted
Sec. 129 (3)	The proper officer detaining or seizing goods or conveyances shall issue a notice specifying the tax and penalty payable, and thereafter, pass an order, for payment of tax and penalty	The proper officer detaining or seizing goods or conveyance shall issue a notice within seven days of such detention or seizure, specifying the penalty payable, and thereafter, pass an order

Note on Important Amendments w.e.f 01.01.2022

	under clause (a) or clause (b) or clause (c) of sub-section (1).	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).
Sec. 129 (4)	No tax, interest or penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard	No penalty shall be determined under sub-section (3) without giving the person concerned an opportunity of being heard
Sec. 129 (6)	Where the person transporting any goods or the owner of such goods fails to pay the amount of tax and penalty as provided in sub-section (1) within fourteen days of such detention or seizure, further proceeding shall be initiated in accordance with the provisions of Section 130. Provided 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 days may be reduced by the proper officer.	Where the person transporting any goods or the owner of such goods fails to pay the amount of penalty under sub-section (1) within 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) : Provided that the conveyance shall be released on payment by the transporter of penalty under sub-section (3) or one lakh rupees, whichever is less : 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 fifteen days may be reduced by the proper officer.
Sec. 130 (1)	Notwithstanding anything contained in this Act, if any person — (i) supplies or receives any goods in contravention of any	Where any person — (i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent

Note on Important Amendments w.e.f 01.01.2022

	of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or (ii) does not account for any goods on which he is liable to pay tax under this Act; or (iii) supplies any goods liable to tax under this Act without having applied for registration; or (iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or (v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance, then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122	to evade payment of tax; or (ii) does not account for any goods on which he is liable to pay tax under this Act; or (iii) supplies any goods liable to tax under this Act without having applied for registration; or (iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or (v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance, then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122
Sec. 130 (2)	(2) Whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation, such fine as the said officer thinks fit :	(2) Whenever confiscation of any goods or conveyance is authorised by this Act, the officer adjudging it shall give to the owner of the goods an option to pay in lieu of confiscation, such fine as the said officer thinks fit : Provided that such fine leviable

Note on Important Amendments w.e.f 01.01.2022

	Provided that such fine leviable shall not exceed the market value of the goods confiscated, less the tax chargeable thereon : Provided further that the aggregate of such fine and penalty leviable shall not be less than the amount of penalty leviable under sub-section (1) of section 129. Provided also that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.	shall not exceed the market value of the goods confiscated, less the tax chargeable thereon : Provided further that the aggregate of such fine and penalty leviable shall not be less than the penalty equal to hundred per cent of the tax payable on such goods. Provided also that where any such conveyance is used for the carriage of the goods or passengers for hire, the owner of the conveyance shall be given an option to pay in lieu of the confiscation of the conveyance a fine equal to the tax payable on the goods being transported thereon.
Sec. 130 (3)	Where any fine in lieu of confiscation of goods or conveyance is imposed under sub-section (2), the owner of such goods or conveyance or the person referred to in sub-section (1) shall, in addition be liable to any tax, penalty and charges payable in respect of such goods or conveyance.	Omitted
