

GST Updates

For the Real Estate Sector

March 2022

Singhvi, Dev & Unni LLP

Some Amendments *(from the past)*

Sr.	Amendment	Impact	Refn and effective date
1	PROMOTER to pay GST on TDR under RCM basis at any time before OC	On receipt of TDR after 01.04.2019, promoter is the person liable to pay GST under RCM basis on the earliest of: <ul style="list-style-type: none"> ▪ Date of issuance of completion certificate; or ▪ Date of first occupancy 	03/2021 (Central Tax Rate) w.e.f 02.06.2021
2	Interest on delayed payment of tax is on NET TAX only	Interest payable for delay in filing of GSTR 3B shall be calculated on net tax payable only (<i>not on the gross output tax, but net tax after adjustment of input credits</i>).	16/2021 (Central Tax) w.e.f 01.06.2021
3	Self assessed tax to include those declared in GSTR-1	Tax on turnovers declared in GSTR 1, but not in GSTR 3B, irrespective of the reasons thereto is deemed as 'self assessed tax'. Recovery proceedings may be initiated directly, for the differences.	39/2021 (Central Tax) w.e.f 01.01.2022
4	Claiming Eligible ITC only upon matching with GSTR-2B	For claiming ITC, it is mandatory that the invoice and the amount of tax thereto is reflected as eligible ITC in GSTR 2B.	40/2021 (Central Tax) w.e.f 01.01.2022
5	Removal of time limit for availing ITC on debit notes u/s 16 (4)	Time limit for availing ITC on debit notes delinked from date of corresponding tax invoice. Nonetheless, such ITC should be availed before 30.11 of the following year (due date for filing GSTR 3B for September of the following year)	92/2020 (Central Tax) w.e.f 01.01.2021 and Finance Act, 2022

Some Amendments (*from the past*)

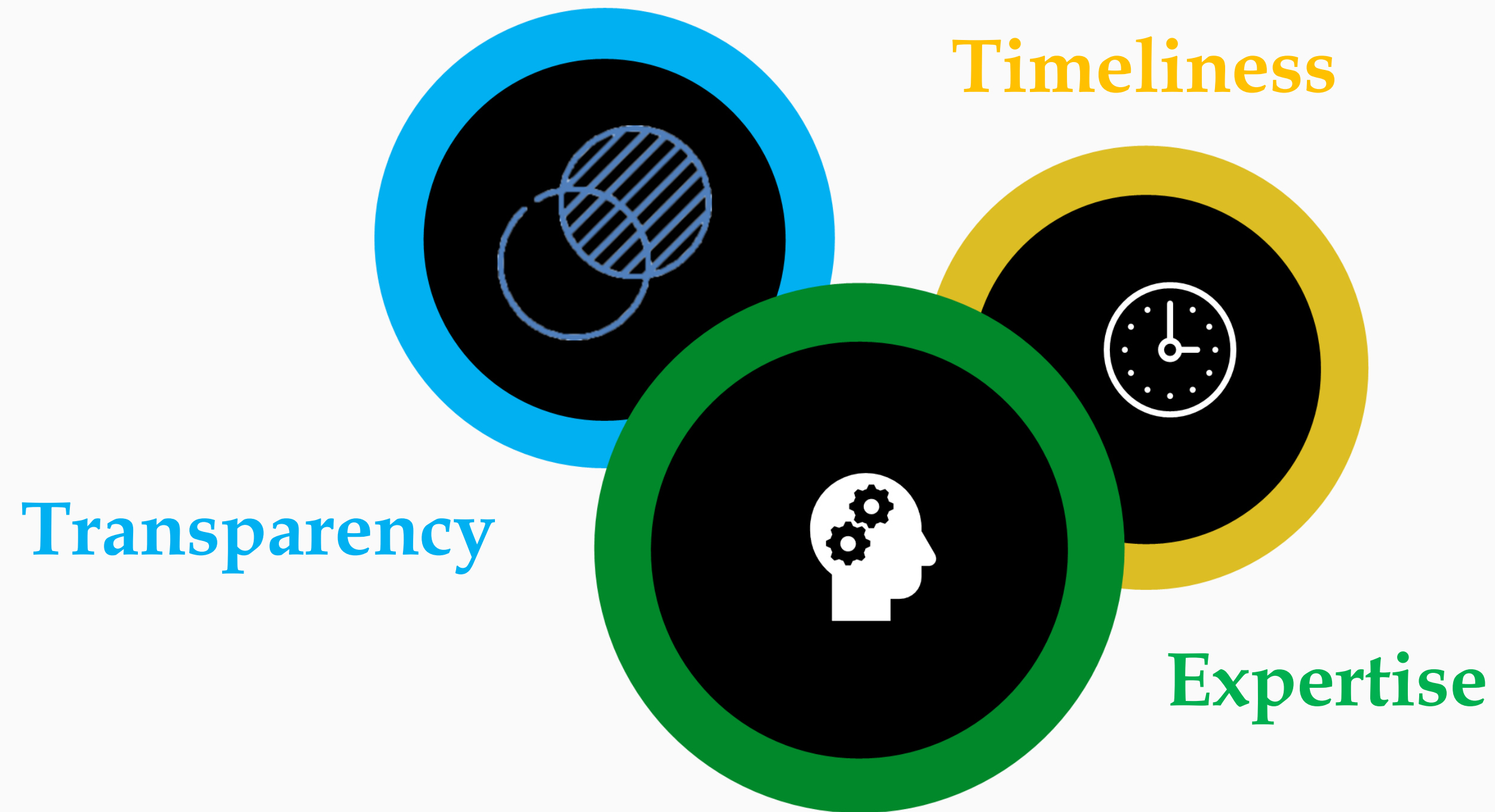
Sr.	Amendment	Impact	Refn and effective date
6	6 DIGIT HSN code to be provided on tax invoice	If aggregate turnover in the preceding FY exceeds Rs. 5 crores, furnishing 6 digits HSN code on the tax invoices, is mandatory	79/2020 (Central Tax) w.e.f 01.04.2021
7	BLOCKING of EWB if returns not furnished for two consecutive tax periods	E-way bill generation to be blocked if: <ul style="list-style-type: none"> Regular (scheme) Tax payers: Fails to furnish GSTR-3B for 2 months (<i>to be delinked and the period to be specified separately</i>) Composite Taxpayers: Non filing of annual return (GSTR 4) beyond 3 months from due date 	32/2021 (Central Tax) w.e.f 19.08.2021 and Finance Act, 2022
8	Circumstances of CANCELLATION OF REGISTRATIONS	Procedure to cancel GST registration may be initiated by the tax office if: <ul style="list-style-type: none"> Invoices / bills are issued without actually supplying the goods or services ITC is availed without actually receiving the goods or services Turnovers in GSTR-1 > GSTR-3B for one or more tax periods Utilisation of ITC for more than 99% of output tax. 'Significant' variance in GSTR-1 vs GSTR-3B 'Significant' variance in claims of ITC (beyond 105% of the amounts reflected in GSTR 2A) 	94/2020 (Central Tax) w.e.f 01.01.2021

Summary of certain HC rulings and AARs

Sr.	Impact	Ruling
1	Charges towards electric meter installation, security deposit, water connection charges, municipal taxes, advance maintenance, clubhouse maintenance, legal & documentation charges, development charges, share money, entrance fee of organization, legal charges, JDA lease charges, STP charges and infrastructure charges, are not incidental to the main supply of a residential unit. Hence, it would not be a composite supply. Such charges will be liable to GST, separately.	Puranik Builders Ltd (MH AAR dated 27.08.2021) Richwell Enterprises Pvt Ltd (Raj AAR dated 26.11.2021)
2	Charges towards electricity, water, drainage, sewage, legal support & documentation charges, common amenities such as club house, swimming pool except corpus fund subscription and share application money are incidental to provision of construction service. Hence, such charges along with construction service, would be a composite supply wherein construction service is the principal supply.	Joyville Shapoorji Housing Private Limited (MH AAR 26.12.2019)
3	Any amounts forfeited by the landowner in relation to land will be liable GST in the hands of seller (<i>forfeited amount is towards non-fulfilment of conditions i.e. it is a service by itself and is not sale of land</i>)	Fastrack Deal Comm Pvt. Ltd. (Guj AAR dated 30.07.2020)
4	Input tax credit will not be allowed on air-conditioning, cooling systems and ventilation systems procured and installed in any commercial buildings.	Wago Private Limited (Guj AAR dated 30.06.21)
5	Input tax credit will not be allowed on purchase of lifts, elevators, etc procured for Hotel business.	Jabalpur Hotels Pvt Ltd (MP AAR dated 08.06.2020)

Summary of certain HC rulings and AARs

Sr.	Impact	Ruling
6	Leasing of residential premise as hostel to students and working professionals is “service by way of renting of residential dwelling for use as residence”; accordingly, eligible for exemption.	Taghar Vasudeva Ambrish (Kar H.C. dated 07.02.2022)
7	In case of separate and distinct agreements, one for sale of land another for construction of bungalows, the value of land would be as per the agreement and would not be at 1/3 rd of the total consolidated value. <i>Is an interim order, in favour of Appellant.</i>	Munjaal Manishbhai Bhatt (Gujarat H.C. dated 27.01.2021)
8	Sale of developed plots of land after carrying development activities like drainage line, electricity line, water line, road and street light, on the land is not liable to GST. It would be sale of land covered under Entry No. 5 of Schedule III of CGST Act, 2017. However, this would be so, only if the development work is limited to providing common amenities and no further work is done after sale of developed land and no advances are collected from customer for any other development work.	Bhopal Smart City Development Corporation Ltd. (MP AAR dated 22.11.2021)
9	Sale of developed plots of land after carrying development activities like drainage line, electricity line, water line, and land levelling, on the land, is considered as supply of construction service liable to GST. Advance collected from customers is towards land and common amenities	Shree Dipesh Anil Kumar Naik (Guj AAAR dated 22.12.2021)



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Bangalore
29/4, 6th Floor, Trade
Centre,
Race Course Road,
Bengaluru – 560 001

Mumbai
Kaledonia, Unit No. 1B,
5th Floor, Sahar Road,
Off Western Express
Highway, Andheri (East),
Mumbai – 400 069

badrinath@sduca.com
siddeshwar@sduca.com

www.sduca.com | 91. 80. 22261371