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NITYA | Indirect Tax Bulletin

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LEGAL PRECEDENTS

PART A: ADVANCE RULINGS

Issue 1: Levy of GST on membership fee collected by Club from its members

Ruling: The AAR relied on newly inserted Section 7(1)(aa) of the CGST Act (effective retrospectively from July 2017) and observed that Club and its members are distinct persons. Therefore, any activity done by Club for its members will be treated as supply and fee or contribution received from members will be exigible to GST. The AAR further held that post this amendment, principle of mutuality will no longer be applicable.

The Poona Club Limited, 2022-VIL-24-AAR (Maharashtra)

NITYA Comments: *This ruling is correct considering retrospective amendment in Section 7.*

OTHER UPDATES

1. New functionalities on GST portal

- Following key functionalities have been introduced on GST portal effective **January 2022**:

S. No.	Functionality	Description
1.	Reduction in frequency of filing ITC-04 based on aggregate turnover	In view of amendment introduced vide Notification No. 35/2021-CT dated September 24, 2021 ('Notification 35'), taxpayers having aggregate turnover more than Rs. 5 Crores in preceding financial year will be required to file ITC-04 on half-yearly basis. Other taxpayers are required to file ITC-04 on annual basis. ITC-04 is no longer required to be filed on quarterly basis. This change was made effective from October 1, 2021 but has been made available on GST portal only now.
2.	Enhancement in HSN Search functionality	Taxpayers can now navigate and search appropriate HSN / SAC Code and applicable technical description through common parlance or trade description of goods or services.
3.	Filing of GSTR-1 not allowed in if GSTR-3B for previous tax period not filed	In view of Notification 35, GSTR-1 can only be filed if GSTR-3B of previous tax period is filed.
4.	Mandatory authentication Aadhaar	Vide Notification 35 read with Notification No. 38/2021 dated December 21, 2021, Aadhaar authentication or uploading of e-KYC documents were made mandatory, effective January 1, 2022 for following activities: - Applying for revocation of cancellation of registration - Claiming of any type of refund The aforesaid restrictions have also been made live on GST portal.

RECENT NEWS

1. **Tax on digital assets could go up, Government mulling GST on crypto mining, supply**

<https://economictimes.indiatimes.com/news/economy/policy/tax-on-digital-assets-could-go-up-govt-mulling-gst-on-crypto-mining-supply/articleshow/89465542.cms?from=mdr>.

2. **CBIC to scale up departmental audits to boost GST compliance**

<https://www.livemint.com/news/india/cbic-to-scale-up-departmental-audits-to-boost-gst-compliance-11644261411468.html>.

3. **Customs Act clause to criminalise illicit publication of data**

<https://economictimes.indiatimes.com/news/economy/policy/customs-act-clause-to-criminalise-illicit-publication-of-data/articleshow/89371980.cms>.

4. **Continuation of EPCG scheme under review**

<https://economictimes.indiatimes.com/news/economy/policy/continuation-of-epcg-scheme-under-review/articleshow/89395179.cms>.

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KEY ACCOLADES

