



GST REVIEW

Your Guide to Indirect Taxes

Vol. 3 No. 10 | June, 2021



“Mere Non Extension of validity of E way bill does not amount to tax evasion”, Telengana HC

[2021-VIL-448], M/s Satyam Shivam Papers Pvt Ltd vs. Asst. Commissioner St and 4 Others, Writ Petition No.9688 of 2020, Dated 02.06.2021

For full text of judgment please refer to Page No. 65



SCAN & BUY NOW

Finance Act 2021 Publications

GST & CUSTOMS

STATUTES

GST Manual with GST Law Guide & Digest of Landmark Rulings (Set of 2 Vols.) | Compilation of amended, updated & annotated GST Acts, Rules, Circulars & Notifications along-with guide to GST laws & Case Laws Digest [16th Edition | 2021]

GST Tariff with GST Rate Reckoner (Set of 2 Vols.) | Updated GST Tariff for Goods and Services along-with HSN-wise and SAC-wise Tariff of all the Goods and Services [15th Edition | 2021]

GST Law & Practice | Compendium of amended, updated & annotated text of GST Acts along-with 'text of relevant' Rules & Notifications, Circulars, Case Laws and Allied Laws [2nd Edition | 2021]

GST Acts with Rules/Forms & Notifications | Compilation of amended, updated & annotated GST Acts, Rules, Forms, Forms' action points & Notifications along-with GST Law Guide [9th Edition | 2021]

GST Acts with Rules & Forms | Compilation of amended, updated & annotated GST Acts, Rules & Forms along-with GST Law Guide [4th Edition | 2021]

GST Acts (Paperback Pocket Edition) | Compilation of amended, updated & annotated GST Acts along-with GST Law Guide [5th Edition | 2021]

Maharashtra GST Act with Rules & Case Laws Digest | Compilation of amended, updated & annotated text of Maharashtra GST Acts, relevant Rules, Forms, Notifications and Circulars, along-with GST Case Laws Digest



COMMENTARIES

GST How to Meet Your Obligations (Set of 2 Vols.) | Commentary on all provisions of GST in a lucid manner along-with judicial pronouncements [11th Edition | 2021]

GST Ready Reckoner | A ready referencer for all provisions of GST Law, covering all-important topics of GST along-with relevant Case Laws, Notifications, Circulars, etc. [16th Edition | 2021]

GST Practice Manual | Comprehensive guide for understanding the background, concepts, execution, challenges and solutions involved in your day-to-day compliance [5th Edition | 2021]

GST Mini Ready Reckoner | Acquire basic working knowledge of GST, starting from the GST process to the procedure & payment of tax and penalties, along-with FAQs, flow charts and diagrams [2021 Edition]

GST Made Easy | Simple and lucid presentation of FAQ on GST containing the issues relating to various provisions in GST. The book serves as an introduction to GST from the basics but at the same time covers the various aspects of GST right from the supply to the assessment in GST

Customs Law & Foreign Trade Policy | Covering comprehensive & amended analysis on Customs Law & Foreign Trade Policy along-with relevant Judicial pronouncements, Circulars & Notifications [23rd Edition | 2021]

Law Relating to GST | Section-wise detailed commentary on GST Laws [2020 Edition]



SUBJECT-SPECIFIC COMMENTARIES

GST Refunds | Step-wise approach incorporating all relevant screenshots of GST Portal to explain the GST refund related process along-with relevant Notifications, Circulars and Case Laws [7th Edition | 2021]

GST Search, Seizure & Arrest | Detailed commentary on GST search, seizure, summons and arrest proceedings along-with Case Laws [2021 Edition]

GST Works Contract & Real Estate Transactions | Extensive coverage on issues pertaining to projects/transfer of development rights, floor space index, leasing, renting, services to & by Govt. etc. along-with numerical illustrations [4th Edition | 2021]

GST Works Contract & Other Construction/EPC Contracts | Comprehensive coverage on GST implications on works contract along-with practical case studies & their implications on various sectors [7th Edition | 2021]

GST Audit & Annual Returns | Comprehensive coverage on GST Audit and Annual Returns which is in complete sync with the current features available at GST Common Portal along-with cross-referenced Sections, Rules, Forms & Case Laws [8th Edition | 2021]

GST e-Invoicing | A comprehensive guide to e-Invoicing [2nd Edition | 2020]

GST Input Tax Credit | Complete guidance on input tax credit, refund of input tax credit & export issues relating to input tax credit [10th Edition | 2021]

GST E-Way Bill | Complete & updated insight of all provisions relating to GST E-Way Bill, in a simplified manner [8th Edition | 2021]

GST Practitioners Question Bank with Quick Exam Guide | Do-it-yourself guide for aspiring GST Practitioners, where legal provisions are provided in a concise & precise manner along-with bulleted explanations, section-wise key points, 5,500+ MCQs with reasoning [4th Edition | 2020]

GST Investigations, Demands, Adjudication and Appeals | Commentary-cum-guide on investigation, search, seizure, show cause notices, adjudication, appeals, prosecution and recovery under GST with insights into relevant jurisprudence

CASE LAWS

GST Case Laws Digest | Section-wise Case Book of 1900+ Judgments of Supreme Court, High Courts, AAAR, AAR & NAA [3rd Edition | 2021]



Editor :

Dhaval Talati

Associate Editor :

Dr. Shashank Dhond

Editorial Board :

S. S. Gaitonde

P. V. Surte

P. C. Joshi

R. S. Pathak

C. B. Thakar

D. H. Joshi

Nikita Badheka

Vinayak Patkar

Ashvin A. Acharya

Pravin R. Shah

Sujata Rangnekar

Journal Committee :

Chairman

Pravin Shinde

Convenor

Haresh Chhugani

Members :

Tanmay Mody

Deepak Thakkar

Sujata Rangnekar

Contents

Vol. 3 No. 10 | June, 2021

Topic	Writer	Page No.
Part - I		
Editorial	Dhaval Talati	5
From the President	Raj Shah	7
GST Updates	Deepali Mehta	9
Liquidated Damages and GST	Vinayak Patkar	16
Works Contract under GST Regime	Naresh K. Sheth & Sidharth Sheth	19
Registration under the GST Regime	Yash Dhadda & Shuchi Sethi	32
Part I: Aspects from the GST Act(s) (Interplay of Section 22, 23 and 24)		
Summon under GST	Milind M. Bhonde	46
Classification of Goods and Services under GST Regime	Tejashree Kamat	51
Income Tax Update - Highlights on Recent Amendments	Sonakshi Jhunjunwala & Sunil Jhunjunwala	58
Do You Know?	Moti B. Totlani	64
Important Judgments		65
Association News	Pravin Shinde & Mahesh Madkholkar	71
Part - II		
From the Courts	Mayur R. Parekh	77
Gist of Advance Rulings	Ashit Shah	82
DGFT Update	Ashit Shah	90
Part - III		
Recent Amendments - Notifications/Trade Circulars		
CGST Notification and Circulars		
Notification No. 16/2021 - Central Tax New Delhi, the 1st June, 2021		91
Notification No. 17/2021 - Central Tax New Delhi, the 1st June, 2021		91
Notification No. 18/2021 - Central Tax New Delhi, the 1st June, 2021		92
Notification No. 19/2021 - Central Tax New Delhi, the 1st June, 2021		93
Notification No. 20/2021 - Central Tax New Delhi, the 1st June, 2021		94
Notification No. 21/2021 - Central Tax New Delhi, the 1st June, 2021		95
Notification No. 22/2021 - Central Tax New Delhi, the 1st June, 2021		95
Notification No. 23/2021 - Central Tax New Delhi, the 1st June, 2021		96
Notification No. 24/2021 - Central Tax New Delhi, the 1st June, 2021		96
Notification No. 25/2021 - Central Tax New Delhi, the 1st June, 2021		97
Notification No. 26/2021 - Central Tax New Delhi, the 1st June, 2021		97
Notification No. 27/2021 - Central Tax New Delhi, the 1st June, 2021		98
Notification No. 01/2021 - Central Tax (Rate) New Delhi, the 2nd June, 2021		98
Notification No. 02/2021 - Central Tax (Rate) New Delhi, the 2nd June, 2021		99
Notification No. 03/2021 - Central Tax (Rate) New Delhi, the 2nd June, 2021		100
Notification No. 04/2021 - Central Tax (Rate) New Delhi, the 14th June, 2021		100
Notification No. 05/2021 - Central Tax (Rate) New Delhi, the 14th June, 2021		101
Circular No. 148/04/2021 - GST New Delhi, dated the 18th May, 2021		102
Circular No. 149/05/2021 - GST New Delhi, Dated the 17th June, 2021		103
Circular No. 150/06/2021 - GST New Delhi, Dated the 17th June, 2021		104
Circular No. 151/07/2021 - GST New Delhi, Dated the 17th June, 2021		105
Circular No. 152/08/2021 - GST New Delhi, Dated the 17th June, 2021		106
Circular No. 153/09/2021 - GST New Delhi, Dated the 17th June, 2021		107
Circular No. 154/10/2021 - GST New Delhi, Dated the 17th June, 2021		108
Circular No. 155/11/2021 - GST New Delhi, Dated the 17th June, 2021		109



The Goods and Services Tax Practitioners' Association of Maharashtra

8 & 9, Mazgaon Tower,
21, Mhatar Pakhadi Road,
Mazgaon,
Mumbai – 400 010.
Tel.: 23752267/68

1st Floor, 104, Vikrikar
Bhavan, Mazgaon,
Mumbai – 400 010.
Tel. : 23737153
Fax: 23780483

Suburban Vikrikar Bhavan,
Ground Floor, A Wing,
Bandra-Kurla Complex,
Bandra (East),
Mumbai – 400 051.
Tel.: 26591791
E-mail: office@gstpam.org,
Website : www.gstpam.org

SGST Notification and Circulars

Notification No. 15/2021 – State Tax dated the 24th May 2021.	110
Notification No. 18/2021 – State Tax dated the 9th June 2021.	113
Notification No. 19/2021 – State Tax dated the 9th June 2021.	114
Notification No. 20/2021 – State Tax dated the 9th June 2021.	116
Notification No. 21/2021 – State Tax dated the 9th June 2021.	117
Notification No. 22/2021 – State Tax dated the 9th June 2021.	118
Notification No. 23/2021 – State Tax dated the 9th June 2021.	118
Notification No. 24/2021 – State Tax dated the 9th June 2021.	119
Notification No. 25/2021–State Tax dated the 9th June 2021.	120
Notification No. 01/2021 – State Tax (Rate) dated the 9th June 2021.	120
Notification No. 02/2021 – State Tax (Rate) dated the 9th June 2021.	121
Notification No. 03/2021 – State Tax (Rate) dated the 9th June 2021.	122
Trade Circular No. 11T of 2021. No. JC (HO)-I/GST/2021/ADM-8 date: 15th June 2021	123

MVAT Notification and Circulars

NOTIFICATION No. VAT-1521/C.R. 55/Taxation-I. dated the 3rd June 2021.	124
Trade Circular No. 09 T of 2021. No. VAT/AMD-2021/IB/Adm-8 Mumbai, dated 31/05/2021	125
Trade Circular No. 10T of 2021. No. VAT/MMB-1009/31/Adm-8 Mumbai, dated 31/05/2021	126
NOTIFICATION No. PFT 1221/C.R. 16/Taxation-3. Dated the 17th June 2021.	127
43rd Meeting of the GST Council New Delhi, 28th May, 2021	128

Announcement

Announcement For New Membership, Renewal of Membership & Subscription For Year 2021-22	Page 75
Prize distribution to the children of the Members	Page 76

Advertisement

Taxmann's Publications	2nd Cover
------------------------	-----------

Non-receipt of the Review must be notified in writing within one month from the date of publication, which is 25th of every month.

The views expressed or replies given in this Journal are the personal opinions of the writers and neither they nor the GSTPAM nor this journal are responsible in any way whatsoever, for any personal or professional liability arising out of said views, opinions or replies.

Annual Subscription : ₹ 1,000/-
Single Copy : ₹ 150/- (Except special issue)

Advertisement Tariff for GST Review including GST @ 5% (w.e.f. 1-7-2017)

Front Cover (inside) Colour	₹15,750
Back Cover (outside) Colour.....	₹NA
Back Cover (inside) Colour	₹15,750
Full Page (inside last page) b/w.....	₹10,500
Full Page (inside) b/w	₹8,400
Half Page (inside) b/w.....	₹4,200
Quarter Page (inside) b/w.....	₹2,100

Discount for 3 months contract.....	5%
Discount for 6 months contract.....	10%
Discount for 12 months contract.....	20%
Discount for similar professional bodies.....	50%

SUBSCRIPTION RATES

Type of Membership	Membership Fees Incl. GST	Admission Fees Incl. GST	Subscription Charges for GST Review	Total
New Membership Application				
Donor Member	24,780.00	–	600.00	25,380.00
Patron Member	17,700.00	–	600.00	18,300.00
Life Member	11,800.00	944.00	600.00	13,344.00
Life Member (Conversion from Ordinary)	11,800.00	590.00	600.00	12,990.00
Ordinary Local Member	1,770.00	590.00	–	2,360.00
Ordinary Outstation Member	1,475.00	590.00	–	2,065.00
New Membership Application (Firm/LLP)				
Ordinary Local Member	1,770.00	944.00	0	2,714.00
Ordinary Outstation Member	1,475.00	944.00	0	2,419.00
Patron Member	17,700.00	0	600.00	18,300.00
Donor Member	24,780.00	0	600.00	25,380.00
Advance Membership/ Subscription charges for subsequent two years 2022-23 & 2023-24 (Non-Refundable)				
Ordinary Local Member	3,186.00	–	–	3,186.00
Ordinary Outstation Member	2,655.00	–	–	2,655.00
Life Member (Individual/Firm/LLP)	0	–	1,200.00	1,200.00
Patron Member	0	–	1,200.00	1,200.00
Donor Member	0	–	1,200.00	1,200.00
Subscription for GST Review for F.Y. 2021-22 by Non-Members				
Subscription fees for GST	–	–	1,000.00	1,000.00
Advance Membership / Subscription charges for subsequent two years 2022-23 & 2023-24 (Non-Refundable)				
Subscription Fees - GST	0	–	2,000.00	2,000.00



Editorial



Dhaval Talati

The recently concluded state assembly elections, once again confirmed the dominance of regional parties. Further these regional parties are opposition parties of the ruling party at the Centre. I feel that combined opposition will give sleepless nights to the government at centre. These may become hindrance for evolution of GST. We have already witnessed in recently concluded GST council meeting where Finance Ministers of West Bengal, Tamilnadu & Kerala have their dissenting voice. The issue I wish to highlight is that going forward GST Council meetings will be stormy. The question remains how the government is going to adhere to the promise of 14% revenue growth for all states beyond the period of 5 years of GST implementation as promised earlier. During this difficult time of Covid, states mainly opposition ruled states will ask for extension of 14% revenue growth. States are aware about loss of economic autonomy on introduction of GST so they will put their all the best at right opportunity to squeeze centre. To adhere to this demand of revenue growth for states, centre has no choice but to raise “cess” on luxury goods. I believe this is not the correct method to increase revenue. There must be some limit where even affordable class can take hit of increase in “cess”. We must find some other method to generate additional revenue. Let us wait and watch, only time will tell what is in centre’s mind. Considering current situation, in my view centre may not accept this proposition of providing 14% revenue growth for states beyond March’ 22. I only wish that for evolution of GST the relation between the centre & the states should be cordial keeping aside political differences in their ideology. To summarise I just wish to mention the quote by former Dy Chief Minister of Bihar & now Rajya Sabha MP Shri Sushil Kumar Modi, that **“we should concentrate on carrying forward the glorious tradition of perhaps the only institution of co-operative federalism that we have been able to build so far”**.

State Notification no 1521/C.R.1/ taxation 1 Dt 01.04.21

In my April’21 communication, I have mentioned about State Notification no 1521/C.R.1/Taxation 1 dt 01.04.21. The said notification was in respect of withdrawal of assessment proceedings which are already initiated or proceedings which are yet to be initiated. At last, after long wait “Order for Withdrawal of Pending Assessment Proceedings” dt 15/06/2021 is out. This was herculean task to gather details/ information in respect of pending assessment. However, on-going through the list published it seems that entire exercise undertaken in preparing the list is in futile as cases selected for three assessment periods [ie FY 15-16 to FY 17-18] are hardly little

more than 21000 cases. This is nothing but mockery. Government should have with open heart should have selected larger number of cases by relaxing few criteria fixed by them. This gesture would have given more relief to small dealers. Surely said published list will not help in reducing back log of assessment proceedings. I wonder how the officials will coup up with centre going ahead with GST audit u/s 65 of the CGST Act.

44th GST Council Meeting held on 12th June'21

In recently concluded 44th GST council meeting, it was recommended that rate of GST be reduced in case of management of covid-19 related drugs & goods till 30th Sept'21. Accordingly, to give effect to said decision, rate notification number 4 & 5 dt 14th June'21 is issued under the IGST, CGST & UGST. The decision is laudable & is effective from 14th June'21. I feel council has taken too long time in reducing the rate of tax in management of Covid-19 related drugs & goods. It took almost 15 months in deciding to reduce the rate of tax. Anyway, something is better than nothing & let us pray that benefit of reduction in rate of tax is passed on to the consumers.

Looking from the point of view of the traders, I feel, they will have big challenges in managing their stock as on 14th June'21 since the rate notification is issued in the mid of month. The MRP printed on those stock consists of old higher rate of tax. Further, they will have to prove that they have passed on the benefit to consumer or else they will face the problem & notice from the Anti profiteering authority & on other side they will also have to struggle for refund on account of inverted duty structure. Let us pray for these poor traders, for smooth sailing during short period up to 30th September'21.

I thank CA Yash Dhadda & CA Suchi Shethi (Jaipur) to accept our invitation to contribute joint article for our journal. Their joint article (Part I) is published in this edition of GST Review. Hope readers will like their article. We look forward for more such articles from them in future as well.

To conclude I wish there is total harmony between Centre & States as far as evolution of GST is concerned. This will not only see growth in revenue but its compliance as well. It is the centre's responsibility to see that they take along with them states in all important decisions. In short centre must play the role of big brother. As rightly said in chapter 6.32 of Bhagwat Gita that "He is perfect yogi who, by comparison to his own self, sees the true equality of all beings, in both their happiness & their distress".

Namaskar.

D. B. Talati

DHAVAL TALATI

Editor





From the President

“President Message”

Raj Shah

Most of us live our lives on social media. Social media spaces like Facebook, Whatsapp and others determine our thoughts and feelings. People use social media in varied and diverse forms. They are spaces that some people use to showcase parts of their lives, others to highlight professional milestones or political beliefs, and some others to process and negotiate complicated feelings and experiences. Social media has both allowed for online communities to flourish and allowed individuals a platform for self expression and individuality. For many of us, who remember a time before social media, the ways in which they have seeped into every aspect of our personal and professional lives, forces us to ask the question - is social media a boon or a bane? There are no clear answers to this question, nor is possible to generalize and say yes or no definitively. Social media is an inevitable evolution in human communication. Much like the telephone, the computer or the internet, social media is one step in a long series of technological innovations that have changed the scope of communication and human interaction. Like others, it has its advantages and its drawbacks and it is important to understand the possibilities and the pitfalls of the medium. One of the biggest advantages of social media is that it has greatly democratized speech. Social media allows for various groups of people to put forth their points of view without any restriction. A lot of people who may have found it difficult to access mainstream modes of communication and entertainment, have found audiences on social media. The term social media influencer, itself is indicative of the ways in which social media has created a new genre of celebrities. This has allowed for creativity to flourish, and for dynamic, new ideas to grow. Additionally social media has also been deeply meaningful in building and sustaining relationships. So many of us must have reconnected with friends after college on Facebook or Whatsapp. These technologies have made it easier and cheaper to keep in touch over great distances. At one time, calling a loved one in another state was a carefully considered activity because of STD charges, nowadays video calling someone in another country is not only a possibility, but one that is extremely accessible and cheap.

These technologies that allow us to be hyper-connected, however, also have a flip-side. Easy access of these technologies means that most of us now spend our time

online. The urge to document and share everything is one that is not alien to any of us. The desire to capture that perfect plate of food in the right light to share on Instagram or share our opinion on a current news item, is familiar to many of us. It distracts us from our immediate surroundings and makes us cut our lives in ways that are more social media friendly. Additionally, with everybody sharing only the best parts of their lives on social media, while hiding the messy realities of failure, grief, despair and anger from the rest of the world, it fuels a sense of despair in a lot of people who feel that their lives do not match up to what they see of others' on social media. Additionally, the unrestricted freedom to share and create on social media, has also meant that several people resort to abuse and trolling, spreading hate and terror on these platforms on which so many of us spend the majority of our time.

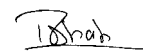
Our use of social media and the ways in which we navigate this complex space will determine whether it a boon or a bane in our lives.

Key achievements

We had organized a Workshop on GST in Marathi language jointly with AIFTP (WZ), North Maharashtra Tax Practitioners' Association (NMTPA), Vidarbha Tax Practitioners' Association (VTPA) and Western Maharashtra Tax Practitioners' Association (WMTPA) covering length and breadth of Maharashtra State. If we can recollect, in my first address to the members as a President of this esteemed organization, I had promised that workshop in Marathi language would be organised keeping in mind language hindrance faced by our professional brothers and sisters living in the extreme corners of the state. It gives me immense pleasure to inform all that we got a bumper response with more than 800 registrations.

Similarly, to widen our membership base in our neighbouring state Gujarat, a Workshop on GST in Gujarati language was organized jointly with AIFTP (WZ), Central Gujarat Chamber of Tax Consultants (CGCTC), Malad Chamber of Tax Consultants (MCTC) and Southern Gujarat Commercial Tax Bar Association (SGCTBA). Once again we received overwhelming response from professionals residing in Maharashtra and Gujarat with 400+ participants in each session.

Jai Hind. Jai Maharashtra



RAJ SHAH
President





GST Updates



CA Deepali Mehta

GST Notifications

Particulars	Period	Return	Due Date	Benefit Given	Notification No
Aggregate Turnover > 5Cr or upto 5 Cr opted for Monthly Filing	May	GSTR1	11/06/2021	Due date extended to 26/06/2021	17/2021- Central tax dated 01/06/2021
Aggregate Turnover up to 5Cr and opted for QRMP Scheme	May	IFF	13/06/2021	Due Date extended to 28/06/2021	17/2021- Central tax dated 01/05/2021
Aggregate Turnover above 5 Cr	May	GSTR3B	20/06/2021	No late fee up to 05/07/2021 & Interest @9% up to 05/07/2021	18/2021- Central tax for Interest & 19/2021- central tax for Late Fee dated 01/06/2021
Aggregate Turnover up to 5 CR and not opted for QRMP Scheme	May	GSTR3B	20/06/2021	Due date extended to 05/07/2021. No late fee till 19/07/2021 & Interest @ 9% from 04/07/2021 to 19/07/2021	18/2021- Central tax for Interest & 19/2021- Central tax for Late Fee dated 01/06/2021
Aggregate Turnover up to 5Cr and opted for QRMP Scheme	May	Payment	25/06/2021	Extended to 05/07/2021	18/2021- Central tax dated 01/06/2021
Aggregate Turnover up to 5Cr and opted for QRMP Scheme	QE March 2021	GSTR3B	22/24.04.2021	Extended to 07/09.05.2021 No Late Fee till 21/23.06.2021 Interest @ 9% from 07/09.05.2021 to 21/23.06.2021	18/2021-Central tax for Interest & 19/2021- Central Tax for Late Fee dated 01/06/2021

Particulars	Period	Return	Due Date	Benefit Given	Notification No
Composition Scheme dealers	FY 2020-21	GSTR4	30/04/2021	31/07/2021	25/2021- Central tax dated 01/06/2021
Composition Dealers	QE Mar 2021	CMP-08	18/04/2021	Extended to 04/05/2021. No late Fee up to 29/06/2021 Interest @9% from 04/05/2021 till 29/06/2021	18/2021- Central Tax dated 01/06/2021
Nonresident dealers	May 2021	GSTR5	20/06/2021	30/06/2021	24/2021-Central tax dated 01/06/2021
ISD Filers	May 2021	GSTR6	13/06/2021	30/06/2021	24/2021-Central tax dated 01/06/2021
TDS return Filers	May 2021	GSTR7	10/06/2021	30/06/2021	24/2021-Central tax dated 01/06/2021
TCS Return Filers	May 2021	GSTR8	10/06/2021	30/06/2021	24/2021-Central tax dated 01/06/2021
Return filed by Principal for Goods sent/ received to Jobworker	QE March 2021	ITC-04	25/04/2021	30/06/2021	26/2021- Central tax dated 01/06/2021

Late Fees from June 2021 onwards

Sr. No.	Class of registered Person	Amount	Return	Notification No
1	Registered persons whose total amount of tax payable in the said return is nil	INR 500 [C+S]	GSTR3B & GSTR1	19/2021 – Central tax & 20/2021 – Central Tax dated 01/06/2021
2	Registered persons having an aggregate turnover of up to rupees 1.5 crores in the preceding financial year, other than those covered under S. No. 1.	INR 2000 [C+S]	GSTR3B & GSTR1	19/2021 – Central tax & 20/2021 – Central Tax dated 01/06/2021

Sr. No.	Class of registered Person	Amount	Return	Notification No
3	Taxpayers having an aggregate turnover of more than rupees 1.5 crores and up to rupees 5 crores in the preceding financial year, other than those covered under S. No. 1	INR 5000 [C+S]	GSTR3B & GSTR1	19/2021 - Central tax & 20/2021 - Central Tax dated 01/06/2021
4	Composition Dealers for FY 2021-22 Onwards	INR 500 [C+S]	GSTR4 - NIL Liability	21/2021 - Central tax dated 01/06/2021
5	Composition Dealers for FY 2021-22 Onwards	INR 2000 [C+S]	GSTR4	21/2021 - Central tax dated 01/06/2021
6	TDS Return Filers	INR 2000 [C+S]	GSTR7	22/2021 - Central tax dated 01/06/2021

Notification No 16/2021- Central tax dated 01/06/2021: Seeks to appoint 01.06.2021 as the day from which the provisions of section 112 of Finance Act, 2021, relating to amendment of section 50 of the CGST Act, 2017 shall come into force. Thus Interest will be applicable on net Tax Liability with effect from 1st July 2017.

Notification No 19/2021 - Central tax dated 01/06/2021: Seeks to rationalize late fee for delay in filing of return in FORM GSTR-3B ; and to provide conditional waiver of late fee for delay in filing FORM GSTR-3B from July, 2017 to April, 2021.

Special scheme for Non-Filers of GSTR3B from July 2017 till April 2021: Late Fee restricted to INR 500 [C+S] if NIL GSTR3B else restricted to INR 1000 [C+S], provided the returns should be filed between the period from the 1st day of June, 2021 to the 31st day of August, 2021.

Notification No 23/2021 - Central tax dated 01/06/2021: Seeks to amend Notification no.

13/2020-Central Tax to exclude government departments and local authorities from the requirement of issuance of e-invoice.

Notification No 24/2021 - Central tax dated 01/06/2021: Seeks to amend notification no. 14/2021-Central Tax in order to extend due date of compliances which fall during the period from "15.04.2021 to 29.06.2021" till 30.06.2021.

Notification No 27/2021-Central tax dated 01/06/2021: Proviso is inserted in Rule 36(4) providing relief to tax payers to apply the condition of restriction of ITC to what is reflected in GSTR2B plus 5% cumulatively while filing the GSTR3B for the Month of June 2021. Thus in May 2021, Tax payers are free to take ITC as per their convenience.

Also EVC will be available for filing of returns till 31/08/2021

Changes in Rates as per GST Council Meetings:

Sr. No	Name	Tariff	Old rate	New rate	Notification No
1	Diethylcarbamazine to be added in Drugs & Medicine List	9804	6%	2.5%	1/2021 - CTR & IGST dated 02/06/2021
2	Medical Grade Oxygen	2804	6%	2.5%	05/2021 -CTR & IGST dated 14/06/2021. Benefit of reduced rate is available up to 30/09/2021
3	Tocilizumab	30	6%	NIL	
4	Amphotericin B	30	6%	NIL	
5	Remdesvir	30	6%	2.5%	
6	Heparin (anti-coagulant)	30	6%	2.5%	
7	Covid-19 testing kits	3002 & 3822	6%	2.5%	
8	Inflammatory Diagnostic (marker) kits, namely- IL6, DDimer, CRP (C-Reactive Protein), LDH (Lactate DeHydrogenase), Ferritin, Pro Calcitonin (PCT) and blood gas reagents.	3002 & 3822	6%	2.5%	
9	Hand Sanitizer	3808 24	6%	2.5%	
10	Helmets for use with non-invasive ventilation	6506 99 00	9%	2.5%	
11	Gas/Electric/other furnaces for crematorium	8407 or 8514	14%	2.5%	
12	Pulse Oximeter	9018019 & 9804	6%	2.5%	
13	High flow nasal canula device	9018	6%	2.5%	
14	Oxygen Concentrator/generator	9019 20 or 9804	6%	2.5%	
15	Ventilators	9018 or 9019	6%	2.5%	
16	BiPAP Machine	9019	6%	2.5%	
17	(i) Non-invasive ventilation nasal or oronasal masks for ICU ventilators (ii) Canula for use with ventilators	9019	6%	2.5%	
18	Temperature check equipment	9025	9%	2.5%	
19	Ambulance	8702 or 8703	9%	6%	

Notification No 02/2021 CTR & IGST dated 02/06/2021: Seeks to amend notification No. 11/2017- Central Tax (Rate) so as to notify CGST rates of various services as recommended by GST Council in its 43rd meeting held on 28.05.2021.

- i. In the conditions for Real Estate Entry, following shall be inserted after the definition of landowner “(iii) the landowner-promoter shall be eligible to utilise the credit of tax charged to him by the developer-promoter for payment of tax on apartments supplied by the landowner-promoter in such project.”
- ii. In entry No 25 for heading 9987, following is inserted:
 - (ib) Maintenance, repair or overhaul services in respect of ships and other vessels, their engines and other components or parts - **Tax Rate @ 2.5%**

Notification No 03/2021 CTR dated 02/06/2021: Seeks to amend notification No. 06/2019- Central Tax (Rate) so as to give effect to the recommendations made by GST Council in its 43rd meeting held on 28.05.2021. Notification No 6/2019 is amended and it now reads that Promoter/ Developer **shall pay GST** on Development Rights or Long term Lease for residential apartments **in a tax period** not later than the tax period in which the **date** of issuance of the completion certificate for the project, where required, by the competent authority, or the date of its first occupation, whichever is earlier, **falls**.

Notification No 04/2021 CTR & IGST dated 14.06.2021: Period beginning from the 14th June, 2021 and ending with the 30th September, 2021, the central tax on service of a structure meant for funeral, burial or cremation of deceased will be taxed @2.5%.

Notification NO 03/2021 - IGST dated 02/06/2021 is issued to amend the notification

No 4/2019 - IGST to include the following service where Place of supply will be recipient of services: Supply of maintenance, repair or overhaul service in respect of ships and other vessels, their engines and other components or parts supplied to a person for use in the course or furtherance of business.

Various Circulars under GST are issued on 17/06/2021:

Clarification regarding applicability of GST on supply of food in Anganwadis and Schools: Accordingly, as per recommendation of the GST Council, it is clarified that services provided to an educational institution by way of serving of food (catering including mid- day meals) is exempt from levy of GST irrespective of its funding from government grants or corporate donations [under said entry 66 (b)(ii)]. Educational institutions as defined in the notification include anganwadi. Hence, serving of food to anganwadi shall also be covered by said exemption, whether sponsored by government or through donation from corporates. [149/05/2021].

Clarification regarding applicability of GST on the activity of construction of road where considerations are received in deferred payment (annuity): Accordingly, as recommended by the GST Council, it is hereby clarified that Entry 23A of notification No. 12/2017-CT(R) does not exempt GST on the annuity (deferred payments) paid for construction of roads. [150/05/2021].

Clarification regarding GST on supply of various services by Central and State Board (such as National Board of Examination): The GST Council has recommended, to clarify as below:

- (i) GST is exempt on services provided by Central or State Boards (including the boards such as NBE) by way of conduct of examination for the students, including conduct of entrance examination for

admission to educational institution [under S. No. 66 (aa) of notif No. 12/2017-CT(R)]. Therefore, GST shall not apply to any fee or any amount charged by such Boards for conduct of such examinations including entrance examinations.

- (ii) GST is also exempt on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination, admit card and questions papers etc, when provided to such Boards [under S. No. 66 (b) (iv) of notif No. 12/2017-CT(R)].
- (iii) GST at the rate of 18% applies to other services provided by such Boards, namely of providing accreditation to an institution or to a professional (accreditation fee or registration fee such as fee for FMGE screening test) so as to authorise them to provide their respective services. [151/05/2021]

Clarification regarding rate of tax applicable on construction services provided to a Government Entity, in relation to construction such as of a Ropeway on turnkey basis: Civil constructions, such as rope way for tourism development shall not be covered by said entry 3(vi) not being a structure that is meant predominantly for purposes other than business. While road, bridge, terminal, or railways are covered by entry No. 3(iv) and 3(v) of said notification, structures like ropeway are not covered by these entries too. Therefore, works contract service provided by way of construction such as of rope way shall fall under entry at sl. No. 3(xii) of notification 11/2017-CTR) and attract GST at the rate of 18%. [152/05/2021].

GST on milling of wheat into flour or paddy into rice for distribution by State Governments under PDS: Entry No 3A will apply to PDS and thus composite supply of milling of wheat and fortification thereof by miller, or of paddy into rice, provided that value of goods supplied

in such composite supply (goods used for fortification, packing material etc) does not exceed 25% of the value of composite supply.

In case the **supply of service** by way of milling of wheat into flour or of paddy into rice, is not eligible for exemption under Sl. No. 3 A of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 for the reason that value of goods supply in such a composite supply exceeds 25%, then the applicable GST rate would be 5% if such composite supply is provided to a registered person, being a job work service. Combined reading of the definition of job-work [section 2(68), 2(94), 22, 24, 25 and section 51] makes it clear that a person registered only for the purpose of deduction of tax under section 51 of the CGST Act is also a registered person for the purposes of the said entry No. 26, and thus said supply to such person is also entitled for 5% rate. [153/05/2021].

GST on service supplied by State Govt. to their undertakings or PSUs by way of guaranteeing loans taken by them: As recommended by the Council, it is re-iterated that guaranteeing of loans by Central or State Government for their undertaking or PSU is specifically exempt under said entry No. 34A. [154/05/2021]

Clarification regarding GST rate on laterals/parts of Sprinklers or Drip Irrigation System: Laterals/parts to be used solely or principally with sprinklers or drip irrigation system, which are classifiable under heading 8424, would attract a GST of 12%, even if supplied separately. However, any part of general use, which gets classified in a heading other than 8424, in terms of Section Note and Chapter Notes to HSN, shall attract GST as applicable to the respective heading.

Customs

Ad hoc Exemption Order No. 05/2021-Cus,dt. 31-05-2021: Seeks to amend Ad hoc Exemption Order No. 4/2021-Customs dated the 3rd May,

2021, to extend the exemption from IGST on imports of specified COVID-19 relief material donated from abroad, up to 31st August, 2021.

Notification No 33/2021-Cus, dated 14.06.2021: Seeks to rescind notification No. 30/2021-Customs, dated 01.05.2021. The said notification was for reduction of IGST rate to 12% on Oxygen Concentrators when imported for personal use.

VAT

Notification No VAT-1521/C.R. 55/Taxation-1 dated 03/06/2021: Late fee is waived for VAT returns to be filed for the period march 2021, April 2021, & May 2021 if filed before 30/06/2021.

Profession Tax Act

Notification No PFT 1221/C.R 16/Taxation -3 dated 17/06/2021: Due date for the return for the month of Mar'21, April'21 & June'21 extended till 30th June'2021.

Order for withdrawal of pending assessment proceedings has been issued on 15/06/2021.

Commissioner of State Tax has confirmed the acceptance of the recommendations of the committee for the withdrawal of assessment proceedings of the concerned periods and of the dealers mentioned in the Annexure attached with the order. Following dealers will not be able to get the withdrawal benefit even if the name is mentioned in the annexure:

- i. Assessment order has already been passed.
- ii. Assessment proceeding initiated as investigation under section 64 of MVAT Act or Section 9(2) of CST Act before the order.
- iii. Directions of the appellate authority including tribunal or the court are received.
- iv. Dealer has shown tax payable in return or accepted the tax liability in Form 704 but not yet paid.

Also Interest u/s 30(1) or 30(2) shall not be waived under any circumstances and shall be payable.



It is a very difficult task to take on the role of a leader. One must be a servant of servants, and must accommodate a thousand minds. There must not be a shade of jealousy or selfishness, and then you are a leader.

What our country now wants are muscles of iron and nerves of steel, gigantic wills which nothing can resist, which can penetrate into the mysteries and the secrets of the universe, and will accomplish their purpose in any fashion even if it meant going down to the bottom of the ocean and meeting death face to face

– Swami Vivekananda



Vinayak Patkar,
Advocate



Liquidated Damages and GST

The question as to whether “damages” are taxable in GST is one of the great controversies of the present regime. Justice Krishna Iyer explains the legal conception of “damages” in the following terms in *Organo Chemical Industries vs. Union of India*¹:

“38. What do we mean by “damages”? The expression “damages” is neither vague nor over-wide. It has more than one signification but the precise import in a given context is not difficult to discern. A plurality of variants stemming out of a core concept is seen in such words as actual damages, civil damages, compensatory damages, consequential damages, contingent damages, continuing damages, double damages, excessive damages, exemplary damages, general damages, irreparable damages, pecuniary damages, prospective damages, special damages, speculative damages, substantial damages, unliquidated damages. But the essentials are (a) detriment to one by the wrongdoing of another, (b) reparation awarded to the injured through legal remedies, and (c) its quantum being determined by the dual components of pecuniary compensation for the loss suffered and often, not always, a punitive addition as a deterrent-cum-denunciation by the law. For instance, “exemplary damages” are damages on an increased scale, awarded to the plaintiff over and above what will barely compensate him for his property loss, where the wrong done to him was aggravated by circumstances of violence, oppression, malice, fraud, or

wanton and wicked conduct on the part of the defendant, and are intended to solace the plaintiff for mental anguish, laceration of his feelings, shame, degradation, or other aggravations of the original wrong, or else to punish the defendant for his evil behavior or to make an example of him, for which reason they are also called “punitive” or “punitory” damages or “vindictive” damages, and (vulgarly) “smart-money”. [See Black’s Law Dictionary, 4th Edn., pp. 467-648]”

Taxability of damages may arise in many contexts in GST. Before I go into the question of taxability, let us first understand the scope of the charging provision in GST.

GST is a levy most concerned with contracts. Indeed, the term “supply for consideration” which is the heart and soul of the charging provision in Section 7, is a statutory formulation which is part of the charging provisions of VAT/GST laws all over the world. Courts all over the world have understood this phrase to require a reciprocal bargain between a “supply of goods or services” and “consideration”, where a supply evokes consideration and vice versa. A supply of goods and services which will take place no matter whether consideration is payable, is not a supply “for” consideration. A musician playing by the road side to entertain bystanders who are not bound to pay him is not supplying any service for consideration *Tolsma vs. Inspecteur der Omzetbelasting Leeuwarden*².

1. [(1979) 4 SCC 573]

2. Judgment of the ECJ dated 3.3.1994 in Case C-16/93.

The question therefore should always be whether damages is consideration given for any supply of goods and services. But things are seldom so simple in taxation law. If they are so, creativity of persons entrusted with implementation of revenue statutes is apt to turn a monkey into a tiger. I say this with the utmost respect to this creativity, for the simplicity of the charging provision has been complicated by a curiosity in Schedule II of the GST Act. Schedule II is supposed to be legislative declaration of what supply should be treated as a “supply of goods” and what supply should be treated as a “supply of services”. Para 5(e) of that Schedule II reads as follows:

“5. Supply of services - The following shall be treated as supply of services, namely: -

...

(e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act;”

Are damages therefore consideration for “tolerating” an act or situation? The word “tolerate” is defined “to allow exist, or to be done or practiced, without authoritative interference or molestation” (*Mills vs. Silver*)³ or to “put up with” (*Budejovicky Budvar Narodini Podnik vs. Anheuser-Busch Inc*)⁴. One must at once note the words “agreeing to...” in the Para 5(e). Thus there must be an agreement to tolerate. We must not forget that the Para 5(e) is ultimately subject to the charging provision “supply for consideration”. Therefore, the agreement to tolerate must be “for” consideration. There must be a bargain to tolerate in exchange for consideration and the consideration must be payable to obtain the tolerance.

Let us now look at various fact situations in which damages may arise. A defames B and is sued by B for damages. Court awards such damages to B. Can it be said that there is any “agreement” by B to tolerate the defamation by

A in exchange for B paying the damages? B has in fact not tolerated anything. It has dragged A to Court and made him pay. Where is the tolerance here? Furthermore, the damages are payable under Court orders and not under any agreement.

Damages arise in contractual matters in two ways: (i) Unliquidated damages and (ii) liquidated damages. The term “liquidated damages” is used when damages are stipulated in the contract itself. Where they are not so stipulated, then the damages are said to be “unliquidated”. The problem with unliquidated damages is the excess time consumed in litigation as compared to liquidated damages. In cases where the contract does not specify the exact quantum of damages payable, when there is a contractual breach, the affected party has to go to Court, prove the breach, the loss as well as the quantum necessary to compensate the loss. Per contra, when the contract specifies the event which is considered as the breach of the contract and the quantum which is payable on occurrence of such event, the affected party merely has to prove the breach. Proof of injury and quantum sufficient to compensate the injury are dispensed with, thus shortening the time of litigation. However, the quantum fixed in the contract must be a “genuine pre-estimate” of the loss caused and must be reasonable.

Again the question one must ask is whether a “genuine pre-estimate of the loss” can by any stretch of imagination be treated as “consideration” under the GST law? Assuming that this is so, simply because there is a liquidated damages clause in a contract, is there an agreement to tolerate anything in exchange for payment of liquidated damages?

Let us go back to examples, for this subject is best understood by examples than theoretical discussions. Suppose an employee leaves his employment before serving the notice period and some amount is payable by him

3. (1991) 2 WLR 324

4. (2009) EWCA Civ 1022.

to the employer as “notice pay recovery” due to this early abandonment. Now, a contract for employment is a contract which is not specifically enforceable in law.⁵ This means that Courts have never forced an employee to work somewhere against his will due to the fundamental rights protected under our Constitution and under the common law. I would ask myself, if the employee cannot be forced to work under the employer, then the employer is not tolerating anything in return for payment of the notice pay. He is bound to suffer, and he is merely receiving compensation. Whether or not the employee pays the notice pay amount, the employee cannot be stopped. When the law taxes an agreement to tolerate for consideration, what is required to be seen is whether there is any option to not tolerate. Does the employer have any option to not tolerate this act of early abandonment? If he does not, then how can the notice pay be consideration for tolerating that act? The employer has no remedy in law except damages in such a case.

A liquidated damages clause therefore ensures to the benefit of the person who demands them and to the detriment of the person who is paying them. It cannot be said that the person paying the liquidated damages has received any benefit from this arrangement. Reduction in litigation time is a boon to the person who is demanding the liquidated damages, and not to the person who is inflicted with it. In this case, the employer has reduced his litigation time. But has the employee received any benefit? It cannot be said that the employee has received any service if he has not received any benefit at the end of the day.

Now let us take the case of construction contracts where liquidated damages are

payable if there is any delay in completion of work. Where time is of the essence, the aggrieved party has the right to terminate the contract if work is not completed on time. Section 55 of the Indian Contract Act states that a party can lawfully rescind a contract where time was the essence of the contract or the time element was regarded as so important by the parties as to make a breach of that element a valid ground for rescission of the contract. However, the law presumes that time is not of the essence in a contract for construction work⁶ or a contract for sale of immovable property⁷ and in fact a liquidated damages clause has been held to be an indicator that the parties did not intend to make time of essence. If the parties themselves never intended time to be of essence.

It is therefore necessary to find exactly what are the consequences in each case of a contractual breach and what is the effect of the liquidated damages clause. Principles of general law relating to damages have to be seen. Every case of liquidated damages presents different questions, but the underlying principle is that it is merely compensation and not “consideration” for anything. There is no “service” being supplied to anyone of tolerance or otherwise.

I have gone through the Advance Rulings in Maharashtra State Power Generation Company Limited 2018(13) G.S.T.L.177, the order of the Appellate Authority in that case reported in 2018 (17) G.S.T.L. 451 and another Advance Ruling in Bajaj Finance Limited 2019 (19) G.S.T.L.95. I have also gone through some other Advance Rulings. In all these rulings the law laid down by various Courts in other countries, as discussed above, has been ignored. Those are therefore not worth discussing.

5. *Vidya Ram Misra vs. Managing Committee* (1972) 1 SCC 623; *Rajasthan SRTC vs. Bai Mukund Bairwa* (2009) 4 SCC 299.

6. *Hind Construction Contractors vs. State of Maharashtra* (1979) 2 SCC 70.

7. *Chand Rani vs. Kamal Rani* (1993) 1 SCC 519.





Works Contract under GST Regime



CA Naresh K. Sheth and
CA Sidharth Sheth

PREAMBLE

Taxation of works contracts in India has always been a contentious issue. Under erstwhile indirect tax laws, States were empowered to impose tax on goods component while Centre was empowered to impose tax on service component of works contract. The works contract, being a composite contract involving transfer of title in goods as well as provision of services, was liable to be taxed under VAT (sales tax) and service tax legislations. Both these legislations provided for presumptive valuation whereby some portion of value was suffering dual taxation.

Constitution (101st Amendment) Act, 2016 inserted Article 246A which paved the way for introduction of GST in India. Article 246A of the constitution empowered Centre as well as States to simultaneously levy tax on supply of goods as well as services. This removed dual taxation on some portion of the works contract.

This article proposes to discuss the concept of works contract and its implications under GST legislation.

WORKS CONTRACT UNDER ERSTWHILE INDIRECT TAX LAWS

Works Contract under Sales Tax / VAT legislation

Hon'ble Supreme Court in the case of *State of Madras v. Gannon Dunkerly & Co. (Madras) Ltd.* [1958] 9 STC 353, held that State

Government lacks power under constitution to tax the goods portion in works contract. This paved the way to 46th Constitutional amendment which inserted Article 366(29A)(b) in the Constitution of India (i.e. the concept of 'deemed sale') empowering the States to levy tax on goods involved in execution of works contract.

Section 2(g)(ii) of Central Sales Tax Act, 1956 ('CST Act') provided that the term 'Sale' includes a transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract.

Section 2(ja) of CST Act defines works contract as follows-

"Works Contract means a contract for carrying out any work which includes constructing, altering, building, assembling, manufacturing, processing, fabricating, erection, installation, fitting out, improvement, repair or commissioning of any movable or immovable property."

These definitions (with minor changes) were incorporated by most of the States in their respective VAT Acts.

Works Contract under Service Tax legislation:

Service portion in execution of works contract was brought into service tax net **w.e.f. 01-06-2007**. Apex Court, in case of *Larsen and Toubro Limited* [2015-TIOL-187-SC-ST], held that service tax is not leviable on the composite works contract services **prior to 01-06-2007**.

'Works contract' was initially defined u/s 65(105)(zzzza) of the Finance Act, 1994 which was relevant for the period 01-06-2007 to 30-06-2012. Thereafter, section 65B(54) of Finance Act, 1994 defined 'works contract' as under:

*"works contract" means a contract wherein transfer of property in goods involved in the execution of such contract is leviable to tax as sale of goods and such contract is for the purpose of carrying out construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, alteration of any **movable or immovable property** or for carrying out any other similar activity or a part thereof in relation to such property;*

Above definition of 'works contract' was relevant for the period 01-07-2012 to 30-06-2017.

The definitions of 'works contract' in Sales Tax / VAT and Service Tax legislations makes it abundantly clear that the works contract includes contracts in respect of **movable as well as immovable property**. Apart from contracts in relation to immovable property, the contracts in respect of movable properties such as printing, repairs and maintenance of equipment, painting of automobiles, repairs of aircrafts and vessels etc. were 'works contract' liable to VAT and service tax.

WORKS CONTRACT UNDER GST LAW

Statutory definition

The term 'works contract' is defined u/s 2(119) of Central Goods and Services Tax Act, 2017 ('CGST Act') as under:

*"works contract" means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of **any immovable property** wherein **transfer of property in goods (whether as goods or in some other form)** is involved in the execution of such contract;"*

Analysis and meaning of the term 'works contract'

The word 'means' appearing in the definition of works contract suggests that the definition of 'works contract' is comprehensive and not expansive and such definition needs to be construed strictly. The definition clearly lays down certain pre-requisite to classify or categorize particular activity or transaction to be works contract. In case any of the pre-requisite is missing, transaction or activity cannot be regarded as 'works contract'. The activity or transaction becomes 'works contract' if and only if it satisfies all the following pre-requisites as specified in the definition:

- a. There must be **'transfer of property in goods'** involved in execution of works contract. When the goods are embedded or physically forms part of immovable property, it can be regarded as transfer of property in goods involved in the execution of works contract.

When goods lose its existence in execution of work, it does not amount to transfer of property in goods involved in execution of works contract. Hon'ble Rajasthan High Court, in case of *Shekhawat Explosives v. St of Rajasthan* - (2004) 137 STC 326(Raj) (DB), held that explosives used in blasting cannot be regarded as transfer of property in goods involved in execution of works contract.

When the goods are used merely as a consumable, there is no transfer of property in goods and hence the contract cannot be regarded as works contract as held by Hon'ble Kerala High Court in case of *Microcontrol Sterilisation Services v. State of Kerala* (2009) 26 VST 213(Ker)(DB).

The phrase **'whether as goods or in some other form'** used in brackets of definition are of paramount importance. Goods in some other form would mean goods

which have ceased to be movables and become attached to earth. Hence, goods which have been incorporated in an immovable property shall be deemed to be goods. This was held by Hon'ble Supreme Court in landmark judgement of *M/s. Larsen & Toubro Ltd. vs. State of Karnataka* [2013-TIOL-46-SC-CT-LB].

b. Contracts for following specified activities (as listed in the definition) will be a 'works contract':

- Building;
- Construction;
- Fabrication;
- Completion;
- Erection;
- Installation;
- fitting out;
- improvement;
- modification;
- repair;
- maintenance;
- renovation;
- alteration; or
- commissioning.

Any activity other than above will not be a 'works contract' as defined in GST legislation.

c. Only above referred specified contracts *in relation to immovable property* are 'works contract' under GST legislation.

Unlike VAT and Service tax legislation, the contract in relation to *movable property* is not a 'works contract' under GST law. Thus, the contracts in relation to movable properties such as printing, repairs and maintenance of

equipment, painting of automobiles, repairs of aircrafts and vessels etc. will not be a 'works contract' under GST law. Such contract will be treated either as composite or mixed supply and will be taxed in accordance with section 8 of CGST Act and not as a single supply of works contract.

Since the 'works contract' under GST is defined to mean contracts related to immovable property only, it is essential for us to delve into the concept of 'immovable property'.

The term 'immovable property' is not defined under GST law. In absence of such definition, one has to take recourse to the definition of 'immovable property' given u/s 3(26) of The General Clauses Act, 1897 which is as under:

"immovable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth".

The Phrase "attached to the earth" is defined u/s 3 of the Transfer of Property Act, 1882 ('TOPA') to mean-

- (a) *rooted in the earth, as in the case of trees and shrubs*
- (b) *imbedded in the earth as in the case of walls or buildings*
- (c) *attached to what is imbedded for the permanent beneficial enjoyment of that to which it is attached.*

There is no iota of doubt that land is an immovable property. However, the question becomes difficult when it comes to determining movability or immovability of things that are attached to the earth. The jurisprudence under civil laws, direct tax law, indirect tax law and other legislations is of utmost importance to understand the concept of 'immovable property'. The courts have often relied on 'degree and object of annexation' test. Degree of annexation is one of the important factor to be considered

while determining whether a property is movable or immovable. It predominantly involves ascertaining whether a property, which is attached to earth, is removable without causing substantial damage to it? The other question which needs consideration is whether the property retains its commercial value or does it gets lost in the process of removal?

Inference can be drawn from Order issued u/s 37B of Central Excise Act, 1944 dated 15th January, 2002 which inter-alia clarifies as under:

"If items assembled or erected at site and attached by foundation to earth cannot be dismantled without substantial damage to its components and thus cannot be reassembled, then the items would not be considered as moveable and will, therefore, not be excisable goods".

Hon'ble Supreme Court, in case of *TTG Industries Ltd. vs. CCE* [2004 (5) TMI 77 SC], held that erection of immovable property which cannot be shifted without first dismantling it and then re-erecting it at another site is not excisable goods as they do not satisfy the meaning of the term 'goods' in excise.

In *Blue Star Ltd. vs. CCE Jaipur* 2002 (143) ELT 391 (Tri.), it was held that when air conditioning plant is installed, tested and commissioned at site as per customer specification, consisting of components manufactured at Blue Star and bought out items, the A/c plant is not liable to duty being immovable property incapable of moving as such and needed dismantling into components causing damage beyond repair.

In *Axialo Industries vs. CCE* 2008 (223) ELT 454 (Tri), it was held that the grinding room made up of metallic enclosures are embedded in the Earth along with civil work and while removing the same, it becomes a scrap and hence, is an immovable property not liable to excise duty.

Hon'ble Supreme Court, in case of *Commissioner of Central Excise, Mumbai vs. Josts*

Engineering Co. Ltd. [2002 (8) TMI 107 Supreme Court of India], held that Spray paint booth is an immovable property as outside portions of the structure were embedded in earth and dismantling would result in damage to structure.

Hon'ble Supreme Court, in case of *Mallur Siddeswara Spinning Mills (P) Ltd. vs. CCE Coimbatore* [2004 (3) TMI 68 Supreme Court], held that generating set bolted on frame was capable of being unbolted and shifted from a place and was capable of being sold hence not an immovable property.

Object of annexation means determining the intention for attachment of structure to the earth. If the intention of annexation is permanent beneficial enjoyment of such structure, then such structure can be regarded as immovable property.

Hon'ble Supreme Court, in case of *Duncan Industries Limited vs. State of UP and others* (2000) 1SCC 633, held that intention of parties at the time when machine was embedded has to be considered as to whether the same was intended to be temporary or permanent. A careful perusal of the agreement of sale and the conveyance deed shows that machineries which have been embedded permanently with a view to utilise the same as a fertiliser plant. The description of the machines as seen in the schedule attached to the deed of conveyance also shows without any doubt that they were set up permanently in the land in question with a view to operate a fertilizer plant and the same was not embedded to dismantle and remove the same for the purpose of sale as machinery at any point of time.

Hon'ble Supreme Court, in case of *CCE, Ahmedabad vs. Solid & Correct Engineering Works* 2010 (252) E.L.T. 481 (S.C.), held that attachment of plant with nuts and bolts intended to provide stability and prevent vibration is not an immovable property.

Hon'ble Supreme Court, in case of *Sirpur Paper Mills Ltd vs. CCE, Hyderabad 1998 (97) E.L.T. 3 (S.C.)*, held that just because plant and machinery are fixed in the earth for better functioning, it does not automatically become an immovable property. Embedding it in a concrete base to ensure its wobble free operation does not make it immovable property in the sense a building or a tree is.

In case of *Viridi Brothers vs. CCE Indore [2001 (5) TMI 918] Delhi tribunal (affirmed by Hon'ble Supreme Court)* held refrigeration / cold storage plant was an immovable property as various bought out machineries were permanently fixed to the building by concrete foundation and they formed the refrigeration plant along with the building wherein they were affixed.

Hon'ble Supreme Court, in case of *Municipal Corporation of Greater Bombay & Ors. vs. Indian Oil Corporation Ltd. (1991 Suppl. (2) S.C.C. 18)*, held that tanks, though, are resting on earth on their own weight without being fixed with nuts and bolts, they have permanently been erected without being shifted from place to place. Permanency is the test. The chattel whether is movable to another place of use in the same position or liable to be dismantled and re-erected at the later place? If the answer is yes to the former, it must be a moveable property and thereby it must be held that it is not attached to the earth. If the answer is yes to the latter, it is attached to the earth. In given case, the storage tanks were held to be immovable property predominantly on the test of permanency.

Hon'ble Supreme Court, in case of *Triveni Engineering and Indus. Ltd. vs. Commissioner 2000 (120) E.L.T. 273 (S.C.)*, held that Installation or erection of turbo alternator on the platform specially constructed on the land cannot be treated as a common base. Therefore, such alternator would be immovable property as such.

Whether the activity of construction, erection, installation, fabrication etc. is in relation to immovable property or movable property is most crucial aspect to determine whether such activity is a works contract or merely a composite or mixed supply comprising of goods and services.

It would be advisable to refer to some of the advance rulings wherein certain transactions were treated as works contract service as all pre-requisites of works contract were satisfied. Though advance rulings lack binding precedence value, it has persuasive value and it also gives a departmental perspective and view on the subject:

- *Arvind Envisol Ltd. [TS(DB)-GST-AAR(KAR)-2021-145]* - Held that, supply, erection and commissioning of waste water treatment plant together with O&M constitutes composite supply of works contract.
- *M/s. Frizo India Pvt. Ltd. [2018-TIOL-224-AAR-GST]* - Held that, Engineering, Procurement and Commissioning and Construction contract ('EPC Contract') pertaining to solar power generating system is a works contract as defined u/s 2(119) of CGST Act.
- *Fermi Solar Farms Pvt. Ltd. [TS(DB)-GST-AAAR(MAH)-2018-418]* - Held that, supply of solar power generating system constitutes composite works contract taxable @ 18%.
- *M/s. Giriraj Renewables Private Limited [TS(DB)-GST-AAAR(MAH)-2018-416]* - Held that, Turnkey EPC contract for solar power plant erection constitutes composite works contract services.

However, it is interesting to note that in the case of same company, AAR of Karnataka *[TS(DB)-GST-AAAR(KAR)-2018-261]* held that installation of solar plant is not a works

contract but it is a composite supply of goods and services.

- *M/s. Hewlett Packard Enterprise India Pvt. Ltd. [TS(DB)-GST-AAR(KAR)-2019-216]* - Held that, setting up of data centre facilities shall constitute works contract services as defined u/s 2(119) of CGST Act.
- *M/s. TATA Projects Ltd. [2019-TIOL-491-AAR-GST]* - Held that, erection of Integrated Cryogenic Engine and Stage Test facility for ISRO amounts to immovable property and constitutes composite supply of works contract services.
- *M/s. TATA Projects Ltd. [(2020) 77 GST 504]* - Held that, Turnkey project of wind tunnel for Vikram Sarabhai Space Centre is a works contract.
- *Skipper Ltd. [2018 71 GST 430]* - Held that, contract for manufacture, supply, erection and commissioning of transmission towers amounts to works contract.
- *Allied Digital Services Ltd. [(2019) 72 GST 755]* - Held that, set up of comprehensive CCTV based city surveillance project amounts to works contract.

The works contractor should carefully consider the jurisprudence and advance rulings discussed above and also department's perspective and should be cautious while classifying the supply into works contract.

IMPLICATIONS OF WORKS CONTRACT UNDER GST LAW

GST implications of any transaction would depend on following:

- a. Classification of transaction i.e. whether it is 'supply of goods' or 'supply of services';
- b. Levability of tax;

- c. Rate of tax;
- d. Issuance of invoice;
- e. Time of supply ('TOS');
- f. Place of supply ('POS');
- g. Export entitlement;
- h. Exemption availability;
- i. Input tax credit (ITC) availability for works contractor; and
- j. ITC availability for recipient.

Let's elaborate and discuss all the above implications in greater depth.

Classification of works contract transaction

Section 7(1A) of CGST Act provides that where certain activities or transaction constitutes a supply as defined u/s 7(1) of CGST Act, they shall be treated either as 'supply of goods' or 'supply of services' as provided in Schedule II of the said Act.

Entry 6(a) of Schedule II to CGST Act classifies supply of 'works contract' as '*supply of service*'.

Usually a works contract is a contract pertaining to immovable property and it involves supply of goods as well as services which are naturally bundled in the ordinary course of business. One may feel that is composite supply as defined u/s 2(30) of CGST Act and should be taxed in accordance with section 8 of CGST Act. However, legislation in its own wisdom classifies and deems works contract to be a *single indivisible supply of service* and not a composite supply. Hence, neither the taxpayer nor the tax authority can treat the works contract as 'composite supply' or 'mixed supply' to be taxed in the manner prescribed in section 8 of CGST Act.

The issue for deliberation is whether vivisection of works contract is permissible when Schedule II of CGST Act classifies it to be service. Many a times splitting up the composite works contract into supply of goods and supply of services is envisaged for optimization of tax on account of following factors:

- Different tax rates for goods and services forming part of works contract,
- Difference in time of supply for goods and services,
- Place of supply is based on categorization or classification of activities,
- Availability of end use-based exemption for supply of goods and / or services,
- Admissibility of input tax credit ('ITC').

One school of thought believes that works contract can still be vivisected into supply of goods and supply of services. Article 366 (29A)(b) is the centre stone around which the argument of splitting up of works contract revolves. Article 366 (29A)(b) of the Constitution segregates goods or material portion in works contract for the purpose of levy of sales tax/ VAT on transfer of property in goods in execution of works contract. Article 366(29A)(b) of Constitution is still alive in GST regime and hence some professionals feel that Constitution permits divisibility of composite works contract in GST regime too.

Above referred proposition appears to be highly litigative proposition as the judiciary generally takes a view that substance of the transaction is more relevant than its form for determining taxability of such transaction. In a works contract scenario, both goods and services are of equal importance for parties to the transaction. Even where separate contracts are executed for supply of goods and services, there could be cross fall breach clauses connecting such contracts. There is also a possibility that all separate contracts are connected through

an umbrella contract. This would imply that contract, in pith and substance, is an indivisible contract where single deliverable is an essence.

Following are some landmark judicial pronouncements worth noting in this regard:

- Hon'ble Delhi CESTAT, in case of *M/s. Daelim Industrial Co. Ltd. vs. CCE Vadodara [2003-TIOL-110-CESTAT-DEL]*, held that works contract cannot be vivisected to give differential tax treatment to any part of such contract. This decision is affirmed by Hon'ble Supreme Court.
- Hon'ble Supreme Court in case of *Commissioner vs. Ballash Nedam International, 2015 (40) STRJ, 160 (SC)*, held that the turnkey projects cannot be vivisected.

It may be interesting to refer some advance rulings on this subject. Advance rulings lack binding precedence however, it has persuasive value and it indicates the departmental perspective and view on the subject:

- *Eiffel Hills and Dales Developers Pvt. Ltd. [2018-TIOL-305-AAR-GST]* - Held that, activities cannot be divided into two parts i.e. supply of goods and supply of services; which are in fact inseparable. Plumbing and electrical contract is composite works contract.
- *Cable Corporation of India Ltd. [2018-TIOL-302-AAR-GST]* - Held that, artificial splitting up of works contract into one for supply of goods and the other for supply of services with cross fall breach clause is not allowable. It is a composite supply of works contract.
- *Emco Ltd. [2018-TIOL-297-AAR-GST]* - Held that, contract for setting up Tower Package TWO5 for 800KV transmission line project is a single indivisible contract. It shall constitute composite supply of works contract.

- *EMC Ltd. [2018 (5) TMI 964]* – Held that, applicant supplies works contract services which include freight and transportation. Two contracts i.e. one for supply of goods and other for service are linked by a 'cross fall breach' clause. First contract cannot be executed independent of the second contract. The contract is indivisible and it constitutes composite supply of works contract services.
- *Solairedirect India LLP [TS(DB)-GST-AAR(RAJ)-2018-479]* - Held that, EPC contract for supply, erection and installation of solar power plant shall amount to composite supply of works contract. It cannot be split into two separate contracts one for supply of goods and another for supply of services and taxed accordingly.

It is clearly evident from above referred advance rulings that tax authorities are averse to splitting up of composite works contract

as it adversely impacts the tax revenue. One has to be extremely cautious while splitting a works contract into separate contracts for tax optimization.

In view of express provision contained in schedule II to CGST Act, it is advisable to treat works contract as indivisible and single supply of services and give the tax treatment accordingly.

Whether works contract is liable to GST?

Combined reading of section 2(119), section 2(102), section 7 and section 9 of CGST Act r.w. Entry 6(a) to Schedule II to CGST Act makes it abundantly clear that works contract is a supply of service liable to GST.

Tax Rate on works contract

The works contract service is usually taxed at **18%**.

However, following works contracts are liable to tax at lower rate:

Sr. No.	Particulars	Rate
A. When provided to Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity		
3(iii)	Works contract services by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of: <ul style="list-style-type: none"> a) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity; b) canal, dam or other irrigation works; c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal. 	12%
3(vi)	Works contract services by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of: <ul style="list-style-type: none"> a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession; 	12%

Sr. No.	Particulars	Rate
	b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; or c) a residential complex meant predominantly for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III	
3(vii)	Works contract involving pre-dominantly earthwork (i.e. constituting more than 75 per cent. of the value of the works contract)	5%
B. Sub-contractor providing Works contract services to Main contractor providing services to Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity as per [A] above		
3(ix)	Works contract services provided by a sub-contractor to the main contractor providing services specified in item (iii) or item (vi)	12%
3(x)	Works contract services provided by a sub-contractor to the main contractor providing services specified in item (vii)	5%
C. Works contract services relating to particular type of Work		
3(iv)	Works contract services provided by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of: (a) road, bridge, tunnel, or terminal for road transportation for use by general public; (b to db) a civil structure or any other original works pertaining to a scheme under: <ul style="list-style-type: none"> • Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awas Yojana • Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban) for 'In-situ redevelopment of existing slums' • Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana for 'Beneficiary led individual house construction / enhancement' • Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban) for 'Economically Weaker Section houses' constructed under the Affordable Housing in partnership by State or Union territory or local authority or urban development authority • Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban) for Credit Linked Subsidy Scheme for EWS / LIG / MIG-1 / MIG-2 e) a pollution control or effluent treatment plant, except located as a part of a factory; or	12%

Sr. No.	Particulars	Rate
	f) a structure meant for funeral, burial or cremation of deceased g) a building owned by an entity registered under section 12AA of the Income Tax Act, 1961, which is used for carrying out the activities of providing, centralized cooking or distribution, for mid-day meals under the mid-day meal scheme sponsored by the Central Government, State Government, Union territory or local authorities	
3(v)	Works contract services provided by way of construction, erection, commissioning, or installation of: a) Railways including monorail and metro; b) a single residential unit otherwise than as a part of a residential complex; c) low-cost houses up to a carpet area of 60 sq. mt. per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India d) low cost houses up to a carpet area of 60 sq. mt. per house in a housing project approved by the competent authority under: (1) the Affordable Housing in Partnership component of the Housing for All (Urban) Mission/Pradhan Mantr iAwasi Yojana; or (2) any housing scheme of a State Government; da) low-cost houses up to a carpet area of 60 sq. mt. per house in an affordable housing project which has been given infrastructure status vide notification of Government of India (MOF), Department of Economic Affairs vide F. No. 13/6/2009-INF, dated the 30.03.2017 e) post-harvest storage infrastructure for agricultural produce including a cold storage for such purposes; or f) mechanized food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages	12%
D. Works contract services in relation to off shore services		
3(viii)	Composite supply of works contract and associated services, in respect of offshore works contract relating to oil and gas exploration and production (E&P) in the offshore area beyond 12 nautical miles from the nearest point of the appropriate base line	12%

Special tax treatment for solar plants

As discussed earlier, in case of M/s. Giriraj Renewable Pvt. Ltd. authority for advance rulings of two different states have taken diametrically opposite view on issue whether supply and installation of solar plant constitute a works contract service or it is composite supply of goods and services.

Entry 234 of Notification No. 1/2017 – Central Tax (Rate) dt. 28-06-2017 prescribes the tax rate for supply of solar power system. Notification No. 24/2018 – Central Tax (Rate) dt. 31-12-2018 inserted an explanation in said entry. The said explanation provides that in case of supply of solar power generating system along with other goods and services, the value of the goods will be taken at seventy percent and balance thirty percent will be treated as value of services. In short, seventy

percent of value of solar power system will attract levy of 5% and balance thirty percent of value will attract tax at 18%.

One would appreciate that if supply of solar power system is treated as works contract, the entire contract would attract 18% tax. This explanation will provide great relief to the suppliers of solar power system as explained here under:

Particulars	₹	₹
Contract value for supply of solar power system along with installation and other services		100 crores
(A) If treated as works contract, tax would have been payable at 18%		18 crores
(B) Tax payable as per explanation:		
Value of goods is ₹ 70 crores [70% of ₹ 100 crores] – Taxable at 5%	3.50 crores	
Value of service is ₹ 30 crores [30% of ₹ 100 crores] – Taxable at 18%	5.40 crores	8.90 crores
Reduction in tax incidence [(A) – (B)]		9.10 crores

Issuance of tax invoice

As discussed earlier, works contract is classified as 'supply of service' under Entry 6(a) of Schedule II to CGST Act.

Section 2(33) of CGST Act defines continuous supply of service to mean a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligation.

Generally, works contract is a long duration contract (period exceeding three months) with periodic payment obligation. Such works contract squarely falls under the definition of 'continuous supply of services' as defined u/s 2(33) of CGST Act.

Section 31(2) of CGST Act mandates registered person supplying services to issue a tax invoice within prescribed period.

Section 31(5) of CGST Act provides for time limit for issuing invoice in respect of continuous supply of services which is as under:

- where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment;
- where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment;
- where the payment is linked to the completion of an event, the invoice shall be issued on or before the date of completion of that event.

The works contractor (providing continuous supply of service) is obliged to issue the invoice on the date on which he is due for payment as per contract.

The works contractor (providing works contract with duration lesser than three months) is required to issue the invoice within 30 days from completion of such works contract.

Time of supply ('TOS')

The obligation to declare value of supply in GST returns and to discharge tax liability in respect of supply is linked to the time of supply.

Section 12 of the CGST Act prescribes TOS for supply of goods. Section 13 of CGST Act prescribes TOS for supply of services.

As discussed in foregoing paragraphs, works contract is classified as 'supply of service' and hence section 13(3) of CGST Act determines TOS for works contract service.

Where the works contractor raises the invoice within prescribed time, TOS shall be *earlier* of following:

- Date of issue of invoice; or
- Date of receipt of payment

Where the works contractor does not raise the invoice within prescribed time, TOS shall be *earlier* of following:

- Date of completion of service; or
- Date of receipt of payment

In case of delayed issuance of invoices, the date of completion of service would be the

date on which the works contractor is due for consideration as per contract.

Place of Supply ('POS')

Section 12(3)(a) and 13(4) of Integrated Goods and Services Tax Act, 2017 ('IGST Act') prescribes the POS for services directly in relation to immovable property.

As discussed earlier, the works contract service is always in relation to immovable property.

Usually, POS for works contract service would be the place where immovable property is located.

However, as per proviso to section 12(3) of IGST Act, the situs of immovable property is irrelevant for determining POS where such property is situated outside India where both service recipient and service provider are located in India. In such a case, the POS would be location of service recipient.

The location of supplier and POS will determine the nature of tax to be paid by works contractor. Following table depicts POS and tax payable by works contractor under different scenario:

Location of works contractor	Location of service recipient	Location of immovable property	Place of supply	Tax payable
Maharashtra	Maharashtra	Maharashtra	Maharashtra	CGST and SGST
Maharashtra	Gujarat	Gujarat	Gujarat	IGST
Maharashtra	Maharashtra	Gujarat	Gujarat	IGST
Daman	Daman	Daman	Daman	CGST and UTGST
Daman	Gujarat	Gujarat	Gujarat	IGST
Maharashtra	Maharashtra	Outside India	Maharashtra	CGST and SGST
Maharashtra	Gujarat	Outside India	Gujarat	IGST
Maharashtra	UAE	Outside India	Outside India	Export of services provided service consideration is realised in convertible foreign exchange
Dubai	Maharashtra	Maharashtra	Maharashtra	It is an import of service. The service receiver is obliged to discharge GST under reverse charge mechanism*

**There is difference in view whether importer of services is liable to discharge CGST+SGST or IGST. The authors are of considered view that IGST is payable on such transaction as the transaction is with foreign national or entity.*

Export or supply to SEZ units or developers

Works contractor located in India provides works contract services to overseas service recipient in respect of property located outside India and receives consideration in convertible foreign exchange, same will be treated as export of services u/s 16(1) r.w. section 2(6) of IGST Act. Such works contract services will be treated as zero rated supply and contractor will not be liable to discharge GST on such export of services.

Similarly, works contract services provided to SEZ developer / units is also treated as zero rated supply u/s 16(1) of IGST Act. In short works contractor will not be liable to discharge GST on services provided to SEZ developer or SEZ units.

The works contractor will be entitled to input tax credit relatable to above zero-rated supplies.

The works contractor will also be entitled to refund of unutilised ITC u/s 54 of CGST Act provided he has filed letter of undertaking ('LUT').

Exemptions in respect of works contract

Notification No. 12/2017 – Central Tax (Rate) dt. 28-06-2017 (as amended from time to time) provides an exemption in respect of certain services. This notification does not grant any exemption in respect of works contract services.

ITC availability for works contractor

The works contractor is entitled to input tax credit in respect of inputs, capital goods and input services (including works contract services) used in course or furtherance of his business.

ITC availability for recipient of works contract service

Section 17(5)(c) of CGST Act blocks ITC pertaining to works contract services when supplied for construction of an immovable property (other than plant and machinery) to the extent of capitalisation to the said immovable property.

If the service recipient uses the works contract services for further supply of works contract services, such ITC will be available even if it is used for construction of immovable property.

Service recipient is entitled to ITC in respect of works contract services relating to improvement, modification, repair, maintenance, renovation and alteration of building, civil structure or immovable property when such expenditure is not capitalised to such immovable property. Such ITC is not blocked u/s 17(5)(c) of CGST Act.

Service recipient will be entitled to ITC in respect of works contract for supply, erection and installation of plant and machinery even if such plant and machinery results into immovable property.

Conclusion

Taxation of works contract was complicated affair for taxpayers, tax collectors and judiciary in pre-GST regime. The taxation of works contract is simplified to some extent in GST regime. However, whether the particular contract is a 'works contract' as defined under GST law or it is a composite supply of goods or services still remains unclear and may result into long drawn litigation as evident from various jurisprudence and advance ruling cited in this article. It is a matter of great concern for all stakeholders. However, lets hope that law in this regard will settle soon. Till that time, the taxpayers may have to live with this uncertainty and vagary of law.





Registration under the GST Regime Part I: Aspects from the GST Act(s) (Interplay of Section 22, 23 and 24)



CA Yash Dhadda & CA Shuchi Sethi

Introduction

Registration under any tax regime is a fundamental requirement for identification of persons to be covered under the regulation of the law. Registration under the GST Law implies obtaining a unique number from the jurisdictional tax authorities for the recognition as an authorized entity for tax purposes and for having a verification mechanism for its compliances.

In GST, the registration requirement are linked with the levy of tax. The provision of levy of GST brought through Section 9 of the CGST Act casts the liability for payment of levied tax on the taxable person. Taxable person has been defined to mean a person who is registered or liable to be registered under section 22 or section 24. Hence the registration provisions not only bear significance for compliance purposes, but also for identification of person liable to be pay tax.

In one of the landmark case of *Mathuram Agarwal vs. State of Madhya Pradesh* (1999) 8 SCC 667 (SC), it was held by Hon'ble Supreme Court of India that:

"The statute should clearly and unambiguously convey the three components of the tax law i.e.

- *the subject of the tax,*
- *who is liable to pay the tax and*
- *the rate at which the tax is to be paid.*

If there is any ambiguity regarding any of these ingredients in a taxation statute then there is no tax in law. Then it is for the legislature to do the needful in the matter."

It is clear from above that one of the pillars of levy is identification of the person who is liable to pay tax and in case of GST same is linked with the person who is liable to take registration.

In the series of articles, authors shall discuss about nuances of various substantive and procedural aspects of registration along with various unsettled and settled issues and possible solutions to make them workable.

An important and distinct feature of GST is that it is a levy of both Union and State implemented by a parliamentary law as well as respective State Legislatures in all the States/Union Territories (UTs). So for balanced implementation, both the Central law and the State law need to go hand in hand. For the registration purposes, the registration provisions shall be read as under:

In case of intra-state supplies, Section 9 of both CGST and SGST Act has to be read for levy and hence registration provision of both the laws has to be referred and implemented.

In case of inter-state supplies, IGST Act has to be referred for levy under Section 5 and Section 20 of IGST Act only requires application of provisions of CGST Act for registration purposes. Hence registration provision of CGST Act shall be referred.

Interplay of 22, 23 & 24

An overview of the basic registration provisions under GST is as under:

Sec. 22(1) lays down the requirement of registration for a supplier if his aggregate turnover crosses a threshold of ₹ 20 lakhs/10lakhs.

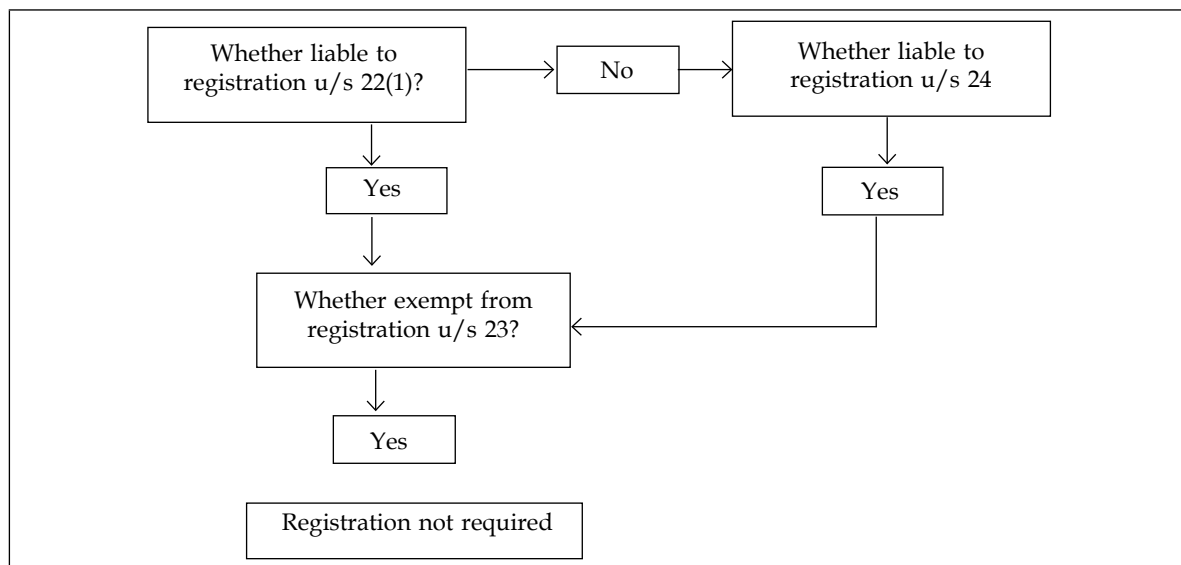
Sec. 24 is an over-riding provision to Sec. 22(1) which requires compulsory registration for certain categories of persons even if they are not liable to be registered as per Sec. 22(1).

Sec. 23(1) of the Act provides for persons who shall not be liable to registration and under Sec. 23(2) Government has specified categories

of persons who are exempted from obtaining registration.

The flow of provisions is such that Section 22(1) lays down the liability to be registered in general circumstances and irrespective of that Section 24 calls out for compulsory registration for certain category of persons. However Section 23 set aside the liability to registration for certain persons. So whether the liability arises from Section 22(1) or 24, persons covered under Sec. 23(1) shall not be liable to registration as per the literal and purposive interpretation to make the provision workable.

The flow is depicted in a flow chart as under:



Hence the article deals with the provisions in such flow accordingly.

Analysis of Section 22: Person liable to registration

The important aspects of Section 22(1) of CGST Act placing liability to get registered on a person are bifurcated as follows:

- Liability to be registered under the Act has been placed on a supplier
- Registration is required if his aggregate turnover in a financial year exceeds a threshold.
- Supplier shall be **liable to be registered** under CGST Act **in the State or UT from where he makes a taxable supply** of goods or services

1. Supplier

- In addition to the person himself supplying goods or services, as per the definition under S. 2(105) of the Act, supplier also includes an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied.
- The term agent has also been defined under Sec. 2(5) of the Act to mean a person who carries on the business of supply or receipt of goods or services or both on behalf of another, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called.
- Hence an agent is also considered as the person who is liable for registration on basis of turnover of goods or services supplied by him on behalf of his principal.
- Further in case of categories of services that may be notified under Sec. 9(5), being supplied through E-commerce operator, the electronic commerce operator is the person liable to pay tax and it is deemed as the supplier liable for paying the tax in relation to the supply of such services. Hence it will be the supplier for the purposes for registration under GST also.

2. Threshold of aggregate turnover

- a. The liability for registration arises on supplier under Sec. 22(1) only if his aggregate turnover in a financial year exceeds ₹ 20 lakhs.
- b. In cases where supplier makes taxable supply from any of the special category states, liability for registration arises if his aggregate turnover in a financial year exceeds ₹ 10 lakhs. The special category states are Manipur, Mizoram, Tripura and Nagaland.

Meaning of Aggregate Turnover - Inclusions and Exclusions

Aggregate Turnover, as defined under Sec 2(6) of the Act will include aggregate value of all-

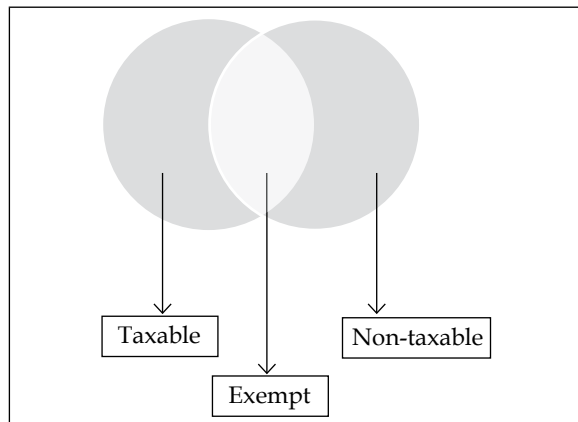
- a. Taxable supplies
- b. Exempt supplies
- c. Exports of goods or services or both
- d. Inter-state supplies of persons having same PAN (distinct persons), on all India basis.

Notes:

- 1) Aggregate turnover will include supplies made by taxable person on his own account or made on behalf of all his principals. Hence turnover of supplies made on behalf the principal will be included in the aggregate turnover of agent.
- 2) The provision also explains that the supply of goods by a registered job worker, after completion of job work shall be treated as supply of goods by the principal and the value of such goods shall not be included in the aggregate turnover of the registered job worker. This has been brought in law out of abundant caution since the job worker might have to supply the goods on which it has undertaken the job work activity on behalf of the principal. But it is not engaged in the business of supplying goods on behalf of principal and rather is engaged in providing job work services on goods belonging to the principal. Thus otherwise also a job worker cannot be covered under the definition of agent.

Further, there are various terms used above for supplies covered under the meaning of aggregate turnover. There is an overlap among such supplies which is observed on

perusal of definition of these terms which is explained with the chart below:



The term '**Taxable Supply**' has been defined precisely as supply leviable to tax.

The levy of GST through Section 9 of CGST/SGST or Section 5 of IGST is on all supplies except alcoholic liquor for human consumption, petrol, diesel, natural gas and turbine fuel.

These supplies which do not attract levy through Section 9 or Section 5, as the case may be are called **non-taxable supplies** under GST.

Now, apart from the two counterparts i.e., taxable and non-taxable supplies, there is a term **exempt supplies** defined under Act. It covers supplies which

- attracts nil rate of tax or
- which may be wholly exempt from tax
- and includes non-taxable supply;

The exempt supplies which are leviable to tax, attracting NIL rate of tax and which may be exempt from tax u/s 11 are also part of taxable supplies. These are covered under aggregate turnover by virtue of both taxable supplies and exempt supplies.

On the contrary, exempt supplies which are non-taxable supplies (liquor, petrol etc. mentioned above) are not part of taxable supplies. These are covered under aggregate turnover by virtue of exempt supplies.

However, there are transactions specified in Schedule III of CGST Act which are **neither treated as supply of goods nor supply of services**. Further, there may be various transactions beyond Schedule III which do not fit into the ambit of supply per se or within the definition of goods or services or both or may not be in course or furtherance of business of the supplier. Such transactions shall not be included for computation of aggregate turnover. The illustrative list is:

Type of Transaction	Reason for Exclusion from Scope of Supply
Donations	No act of supply for a consideration
Duty Drawbacks	No goods or services supplied
Bank FDR Receipts (In case personal funds are engaged)	Not in course or furtherance of business
Balance of creditors written off	No goods or services supplied
Sale of securities	Securities are neither goods nor services
Transactions in money	Money is neither goods nor services

However there is a contradictory ruling pronounced by Karnataka AAR in case of *Anil Kumar Agrawal- 2020 (36) G.S.T.L. 596 (A.A.R. - GST - Kar.)*, where on the question raised in context of registration for certain nature of incomes for an unregistered person it was pronounced:

Nature of transaction	Includible in Aggregate Turnover (As per AAR)
Interest Income received from different sources	Yes
Partner's salary received as partner from applicants partnership firm:	No
Salary Received as Director from a Private Limited Company	
Executive Director	No
Nominated director (Non Executive Director)	Yes
Rental Income	Yes
Dividend on shares and capital Gain/ Loss on shares	No
Receipt of Maturity Proceed of Life Insurance Policy	No

Very humbly authors are of the understanding that AAR has missed proper appraisal of certain basic provisions of the Act.

One more inclusion in aggregate turnover is Export of goods which by definition means taking goods out of India to a place outside India. The scope of supply is governed only by Sec. 7 of CGST Act. An export of goods does not become a supply in isolation from Sec. 7. It is only a movement of goods which has to pass the tests of Sec. 7 like any other transaction for being a supply.

According to Sec. 16 of IGST Act, “zero rated supply” means any of the following supplies of goods or services or both, namely export of goods or services or both.

Sec. 22(1) of CGST Act requires registration in the state from where the taxable supply is made and only exports may trigger this taxable supply to govern in which state registration has to be taken, a movement of goods not passing test of Sec. 7 cannot.

However, it is noteworthy that when a supplier makes any taxable supply from a state, then he is liable to register if he his aggregate turnover is crossing specified threshold. Such aggregate turnover includes export of goods and supply of export of goods in its definition. Hence movement of goods to a place outside India even if it is not a supply as per Sec. 7 will be included in the aggregate turnover of the supplier.

For example, a jeweller makes a taxable supply of ₹ 9 lakhs during a Financial Year within India and he takes goods of ₹ 50 lakhs outside India on consignment basis in the said year, his taxable supplies may not exceed the threshold but his aggregate turnover will be ₹ 59 lakhs and he will be liable for registration u/s 22(1).

3. Registration in which state?

Analysis of Registration provisions in CGST Act vis-à-vis SGST/UTGST Act(s)

As discussed earlier, the provisions of Sec 22(1) of CGST Act are relevant both from the perspective of intra-state and inter-state supplies. By virtue of Sec 20 of the IGST Act, the provisions of Sec 22(1) are applicable for the purpose of determining the state in which registration is required to be taken by the taxable person to comply with the provisions of IGST Act for effecting the inter-state supply. The provision of Sec 22(1) of the SGST Act 2017 are not relevant in the context of inter-state supplies.

Whereas, the provisions of respective SGST Act(s) are relevant when a taxable person is effecting intra-state supplies. As mentioned, due to design of the GST Law(s) in India, same have to be read parallelly with the provisions of CGST Act 2017.

An interesting facet of GST regime is that it is a levy of both Union and State implemented by a parliamentary law as well as respective State Legislatures in all the States/Union Territories (UTs). So for balanced

implementation, both the Central law and the State law need to go hand in hand. A person has to get registered under both CGST Act and respective SGST/UTGST Act.

Interestingly the provisions of Sec 22(1) of CGST Act and respective SGST Act(s) are worded differently. This gives rise to a pertinent question that how both of the provisions should be reconciled with each other.

Sec 22(1) of the CGST Act says that Supplier is required to register in the state **from where he makes taxable supply**.

Whereas same provision of SGST Act(s) says that Supplier is required to register **in the state if he is making taxable supply in the state**.

On a plain interpretation of the English language it appears that “from where” depicts the starting point of supply and “in the state” depicts the end point of the supply.

It also leads to a bigger question to answer that how one can identify that from where the supply has been made and in which state the supply has been made. It appears that the anchor point to decide where registration has to be taken is driven by the provision of 7 & 8 of the IGST Act 2017 i.e. determination of nature of supply as inter state or the Location of Supplier and the Place of Supply to determine whether the transaction is an intra-state supply or an inter-state supply.

In case of intra-state supplies, the interpretation would remain same for both the above provisions as the Location of supplier and Place of supply will fall in the same state. Thus from the state and in the state as mentioned in CGST and respective SGST Act(s) would reconcile.

In case of inter-state supplies, IGST Act has to be referred for levy and for registration purposes the provisions of CGST Act are made applicable under IGST. Hence registration

provision of CGST Act only will be referred which require registration in the state from where the supply is made.

Location of Supplier needs to be understood to addressed for this.. Location of supplier of services is precisely defined under the Act as the place of business or fixed establishment from where the supply is made. Location of Supplier of Goods has not been defined. However, the location of supplier in such cases also rationally appears to be place of business from where the supply is made i.e. the place from where the contract for supply is executed or billing is done, de horse the location of goods.

“Fixed establishment” means a place (other than the registered place of business) which is characterised by

- Sufficient degree of permanence and
- Suitable structure in terms of human and technical resources
- to supply services, or to receive and use services for its own needs

Issue:

Registration requirement in case Location of Supplier of Goods and Location of Goods to be supplied are in separate states

Generally, an entity importing goods has its registered place in one State (say Rajasthan) but imports goods at a port located in another State (say Maharashtra). In order to optimise logistics, the entity may choose to temporarily store the goods in a customs warehouse or even a private warehouse in the state where port is located and may plan to directly dispatch the goods from the said warehouse/port to the required locations for use in business to any of its branches or to customers for supply.

The question in these cases generally arises that whether this will entail registration requirement in the state of port or warehouse?

View:

The point for determination is the place 'from' where the supply is made. There is no definition of location of supplier of goods. So the point to ponder is whether this has to be interpreted qua location of supplier or qua location of goods.

The view is that the location of supplier from where agreement has been executed i.e. precisely the place from where the invoice will be issued, is considered as the place from where supply is made. The said understanding gets force by inferring that the meaning of the term "location of supplier of goods" in common parlance should take colour from location of supplier of services.

Further if the entity does not satisfy the requirement of presence of people, place and permanence in the state where goods are imported and stored, the assumption of location of entity as supplier of goods in the said state is quite atrocious. The goods are only the subject matter of supply but their location at the time of dispatch should not become the anchor point to decide as to from where the supplier has supplied those goods to the recipient.

There are various Advance Rulings on this matter, so far all in favour of the view that registration is not required in the state of port, some of which are undermentioned for reference.

- *Aarel Import Private Limited (GST AAR Maharashtra) 2019*
- *Sonkamal Enterprises Pvt. Ltd. (Maharashtra AAR)*

Registration in case of Amalgamation and Demerger & succession

In cases of restructuring of business by way of amalgamation or demerger of 2 or more companies, the transferee company is liable to be registered, with effect from the date on

which the Registrar of Companies (ROC) issues a certificate of incorporation (COI) giving effect to the order of court or of Tribunal or otherwise for such restructuring.

Section 87 also provides for status of registration of companies undergoing mergers as under:

- The 2 or more companies undergoing amalgamation or merger shall be treated as distinct companies for the period up to the date of the order of court or of Tribunal or otherwise.
- The registration certificates of the said companies shall be cancelled with effect from the date of the order of court or of Tribunal or otherwise.

However in case of succession business as a going concern otherwise than by way of amalgamation or demerger (example business transfer agreement or conversion etc) the successor is required to take registration on the date of execution of such agreement of transfer or succession.

Analysis of Section 24: Compulsory Registration

The provision of Sec. 24 is overriding the provisions of Sec. 22(1). This means that the categories of persons specified under this provision are required to be registered under GST irrespective of whether their aggregate turnover crosses the basic threshold limit of ₹ 20 lakhs/10 lakhs for registration or not. Such persons are as listed and explained further.

1. Person making any inter-state taxable supply

Exception: Supplier making inter-state supply of taxable services where the aggregate turnover of ₹20L/10L. (Notification No. 10/2017 – Integrated dated the 13th October, 2017)

2. Casual taxable person making taxable supply

Exception: Person or Casual taxable person making inter-state taxable supplies of notified handicraft goods made by craftsmen predominantly by hand upto ₹20L/10L.

3. Person who is required to pay tax under RCM basis, i.e., recipient of supply.

4. Non-resident taxable person making taxable supply.

5. TDS Deductors

Persons who are required to deduct TDS u/s 51 of the Act are compulsorily required to obtain a separate registration under the Act as TDS Deductor, whether or not they possess a regular GSTIN under the Act or not. This requirement is irrespective of the aggregate turnover of the person.

Requirement to deduct TDS lies on the following persons:

- a. A department or establishment of the Central Government or State Government; or
- b. Local authority
- c. Governmental agencies
- d. An authority or a board or any other body
 - Set up by an act of Parliament or state legislature, or
 - Established by any government, with 51% or more participation by way of equity or control
- e. A society established under Society Registration Act, 1860
- f. Public sector undertakings.

The above persons are required to deduct tax at the rate of 2% from the payment made

or credited to the supplier of taxable goods or services or both, where the total value of such supply, under a contract, exceeds ₹ 250000.

6. Person who make taxable supply on behalf of other taxable persons

Agents acting on behalf of other taxable persons, being their principals, are expressly required to have compulsory registration.

However, since this provision uses the words Agents or otherwise, in order to interpret the complete coverage of this provision, it is important to understand which persons are considered to be supplying on behalf of other taxable persons.

A person may have right to represent another person for limited purposes. Only having such representational rights or right to act on behalf of a person in any respect does not entail registration requirement in itself. Only when a person is making taxable supply acting on behalf of other person and not in his own capacity, then such person requires compulsory registration.

Issue:

Whether Franchisees are required to compulsorily register under the Act if their aggregate turnover does not cross the threshold limit?

View:

The word “Franchise” is not registered under the GST Act. However, meaning from Finance Act 1994 (i.e Service Tax) can be borrowed to understand the term according to which, ‘Franchise’ means an agreement by which the franchisee is granted representational right to sell or manufacture goods or to provide service or undertake any process identified with franchiser, whether or not a trade mark, service mark, trade name or logo or any such symbol, as the case may be, is involved.”

It is clearly evident that there are various other representational rights which may be given under a franchise agreement. Hence it depends on the franchise agreement as to what nature of rights have been tendered to the franchisee and it should not be a blanket assumption that every franchisee has to register compulsorily under GST. Only those franchisees which are supplying goods/services on behalf of franchiser according to the agreement, should be liable to registration under the GST Acts.

An AAR has been pronounced by Gujarat AAR in case of **Patrator (Advance Ruling No. GUJ/GAAR/R/28/2020)** where AAR held as under:

According to clauses of the agreement, it is crystal clear that the applicant is only authorized to supply the goods and service under the brand name of "ALOHA" and cannot supply the other goods and service. Hence applicant is supplying the goods and service on behalf of the taxable person i.e. Xplore Knowledge Resources LLP.

Accordingly, we rule that applicant covers under the Sr. No. (vii) of the Section 24 of CGST Act, 2017. Therefore, applicant is liable for taking GST registration. Since applicant is liable for GST registration, he is required to pay GST on supply of goods and services.

However, the interpretation was not based on rights given by franchisor given but restrictions placed under the agreement for sale of goods under a specific brand name, which by itself does not imply that the sale was made on behalf of the brand owner.

7. Input service distributor, whether or not separately registered under this Act.

Input service distributor (ISD) has been defined under Sec. 2(61) of the Act. The attributes of ISD arising from the definition are:

- an office of the supplier of goods or services or both

- which receives tax invoices issued under section 31
- towards the receipt of input services and
- issues a prescribed document
- for distributing the credit of GST paid on the said services
- to a supplier of taxable goods or services or both
- having the same Permanent Account Number as that of the said office;

Hence an officer of a supplier which issues an invoice to distribute the credit to respective suppliers of same PAN is termed as ISD under the law and ISD has to compulsorily obtain a separate registration under the Act, irrespective of whether such office is separately registered or not under GST.

8. E-commerce Operators for specified services

There are certain specific categories of services for which, the E-commerce operator through which they are provided, is considered as person liable to pay tax under Sec. 9(5) of the Act. Such services are notified as under:

a. Passenger Transportation Services

Transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle.

b. Accommodation Services

Services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purpose.

c. Housekeeping Services

Services by way of house-keeping, such as plumbing, carpentering etc,

Exception (in case of b. and c. above):
When supplier of such service himself is liable

for registration since his aggregate turnover is more than 20 lakhs/10 lakhs, E-com operator is not liable to pay tax.

E-commerce Operators of above services are compulsorily liable to be registered GST.

9. E-Commerce Operators for services other than specified u/s 9(5) and Persons supplying through E-commerce operator

The following persons need compulsory registration under GST:

- Every E-commerce operator who is required to collect tax at source under section 52
- Any person who is supplying goods or services or both through such E-commerce operator

Since the law places the requirement of compulsory registration on such category of person, it is important to understand what is electronic commerce and who is an Electronic Commerce Operator'. Electronic commerce" has been defined to mean as the supply of goods or services or both, including digital products over digital or electronic network and any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

However, TCS requirement under Sec. 52 is placed on E-commerce operators when:

- E-commerce operator is not an agent
- Taxable supplies are made through it by other suppliers
- The consideration with respect to such supplies is to be collected by the operator

The above taxable supplies exclude services notified under sub-section (5) of section 9.

Hence only such E-commerce operators through which supplies are made by other

suppliers and consideration is collected by it from customers at first hand are compulsorily liable to be registered under this clause.

Exception:

Person who is making supply of service through E-commerce operator is not compulsorily required to register under the Act if his aggregate turnover is within the threshold limit of ₹20L/10L. (*Notification No. 65/2017 - Central Tax dated the 15th November, 2017*)

10. Person supplying Online information and database access or retrieval services (OIDAR).

Online information and database access or retrieval services are services characterized by following features:

- Their delivery is mediated by information technology over internet or an electronic network
- Nature of service requires its supply to be essentially
 - o Automated
 - o Involving minimal human intervention and
 - o Impossible to ensure in the absence of information technology.

It includes electronic services such as,--

- (i) advertising on the internet;
- (ii) providing cloud services;
- (iii) provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;
- (iv) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;

- (v) online supplies of digital content (movies, television shows, music and the like);
- (vi) digital data storage; and
- (vii) online gaming;

Analysis of Section 23: Exemption from Registration requirement

1. **Any person** engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax.

Issue: Whether persons requiring compulsory registration u/s 24 due to liability to pay tax under RCM are also exempted from registration requirement under above provision?

View:

On an analysis of the provision, it is observed that instead of only using the term supply, the provision has used the phrase business of supplying goods or services or both. It is a settled principle of interpretation of statutes no word in a statute should be rendered otiose by the proposed interpretation. Hence considering the purpose of using the word business, the legislature intends to cover every transaction in the course of business of supplying and not particularly the outward supplies. This means that if a person is engaged in the business of supplying goods or services that are not liable to tax or wholly exempt, and in course of such business he is undertaking some inward supplies liable to tax under RCM, still he will be said to be engaged exclusively in business of supplying goods or services that are exempt or not liable to tax and hence registration requirement will not be attracted even by virtue of Sec. 24.

Issue: Whether the above exemption applies on whole entity together or state-wise?

In case of a multi-state entity, if one state is engaged exclusively in making exempt

supplies, is it required to be registered or it can avail this exemption from registration.

View:

The issue needs determination of the question whether this exemption can be tested and applied state-wise separately or its applicability has to be tested for the entity as a whole.

For this, two words in the provision are of prime significance viz. **Person and Business**.

Person has been defined to mean as an entity under the Act. However, the concept of distinct persons under Sec. 25 needs to be emphasized here. Under the GST law, certain persons are deemed to be distinct for the purposes of this Act.

Distinct Persons

A person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory shall be treated as distinct persons for the purposes of this Act in respect of each such registration.

Establishment of Distinct Persons

- o A person has obtained or is required to obtain registration in a State or UT in respect of an establishment and such person has an establishment in another State or UT.
- o Such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

Hence, although person refers to a legal entity as whole with its definition but where a person has registered or required to be registered in one state, its establishments in another state are treated as establishments of distinct person.

Hence conclusion reflected here is that if an entity has registration in 1 state or UT, and

establishments in another state, it will not be treated as same person in respect of both or all such establishments. Therefore, Sec. 23(1) has to be read separately for the distinct persons or establishment of distinct persons.

Further, business as already explained above has been used to give a wider context to the provision. Hence if the state is undertaking transactions in the course of providing supplies not liable to tax or wholly exempt, then such state should not be required to take registration even if other states of same entity are registered or liable to be registered.

Sec. 23 vis-à-vis 24

Section 24 has a non-obstante clause but it is important to note that it is only notwithstanding Section 22(1) of the Act which lays down registration requirement based on aggregate turnover threshold and not Section 23 or any other provision of the Act. Though Section 23 is not expressly notwithstanding any provision of the Act, however when exemptions under Section 23 are analysed applying the principle of interpretation of statutes, it is understood that provision will be workable only in case it is overriding compulsory registration provisions. Otherwise the exemption provisions will become redundant.

For instance, when a person is exclusively engaged in the business of supply exempt goods/services and making such supplies in inter-state course also, then Sec. 23 would be operative only if it interpreted that the exemption under Section 23 overrides.

Further, the exemption under Section 23(1) is overriding as it is based on business of the person. However, Sec. 23(2) lays down certain exemptions which are based on making specific nature of outward supplies. If a person fulfils such criteria, then a question arises whether the exemption will prevail or the requirement for compulsory registration? In such cases, since a wider connotation like business is not used, it is

difficult to say that it will override compulsory registration requirement under Section 24.

For instance, when a person is making inter-state supply of taxable services up to turnover of ₹ 20 lakhs and also liable to pay tax under reverse charge, whether registration will be required? The answer appears to be yes.

Various Advance Rulings for exemption from registration have been sought to ask whether compulsory registration is required in case of exclusive business of exempt goods/services, rulings for which have been pronounced against the assessee to hold that registration will be required. Some of them are:

1) *Jalaram Feeds (GST AAR Maharashtra) 2019*

Issue: Whether the applicant, who is exclusively engaged in the manufacture of animal compound feed, which is exempt under GST, procures services of Goods Transport Agency (GTA) on which it is liable to pay GST under the reverse charge mechanism (RCM), is liable to obtain registration.

Ruling: The AAR held that the Applicant would be required to obtain registration in order to discharge his duty liability under RCM.

2) *Joint Plant Committee (AAR West Bengal) 2018*

On similar issue as above, the AAR held Section 24 is not subject to the provisions of Section 23 of the GST Act. If a person, therefore, is not liable to be registered for making exclusively exempt supplies but is liable to pay tax under Reverse Charges under Section 9(3) of the GST Act or 5(3) of the IGST Act, he shall be required to get himself registered under the GST Act, irrespective of the quantum of the aggregate turnover.

However very humbly the authors do not agree with the understanding pronounced by the AAR Authority and the same needs to be tested at higher forums.

2. Agriculturist limited to supply of produce out of cultivation of land.
3. Persons notified by government for being exempt from registration.

So far, government has notified following categories of persons as exempt from registration u/s 23(2):

- a. Person who are only engaged in making supplies of such specified taxable goods or services or both on which tax is liable to be paid by recipient on RCM basis u/s 9(3) of CGST Act or 5(3) of IGST Act. *(Notification No. 5/2017 – Central Tax dated 19.06.2017 w.e.f 22.06.2017)*

The list of services liable to tax under RCM are notified in Notification No. 13 – Central Tax dated 28.06.2017 and Notification No. 10/2017 – Integrated Tax dated 28.06.2017.

The list of goods liable to tax under RCM is notified in Notification number 04/2017-Central Tax (Rate), dated 28.06.2017.

- b. Job-worker making inter-state supply of service to a registered person except who is involved in making supply of services in relation to jewellery, goldsmiths and silversmiths wares and other articles. *(Notification No. 7/2017 – Central Tax dated the 27th June, 2017)*
- c. Person making inter-state supply of taxable services within the threshold limit of ₹ 20L/10L. *(Notification No. 10/2017 – Integrated dated the 13th October, 2017)*
- d. Person making supply of service through E-commerce operator within the threshold limit of ₹ 20L/10L. *(Notification No. 65/2017 – Central Tax dated the 15th November, 2017)*

- e. Person or Casual taxable person making inter-state taxable supplies of notified handicraft goods made by craftsmen predominantly by hand upto ₹ 20L/10L. *(Notification No. 65/2017 – Central Tax dated the 15th November, 2017)*

- f. Exclusive Supplier of Goods up to aggregate turnover of ₹ 40 lakhs

(Notification No. 10/2019-Central Tax dated 7th March, 2019, effective from 01.04.2019)

By way of an exemption from registration notified under the power of Section 23 of CGST Act, the threshold for registration under CGST Act has been increased to ₹ 40 lakhs for persons engaged in exclusive supply of goods. Similar notifications have been issued under the State GST Acts.

Exceptions where above exemption is not available:

1. Persons required to take compulsory registration under section 24 of the Act.
2. Persons engaged in making intra-State supplies in following states:
Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand.
3. Persons exercising option to take Voluntary registration
4. Registered persons who intend to continue with their registration under the Act.
5. Supplier engaged in making supplies of goods falling under below tariff and description:

Sl. No.	Tariff item, sub-heading, heading or Chapter	Description
1.	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa
2.	2106 90 20	Pan masala
3.	24	All goods, i.e. Tobacco and manufactured tobacco substitutes

A person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in exempt supply of services provided by way of extending deposits, loans or advances as far as the consideration is represented by way of interest or discount.

Analysis of Relevant Provisions of Section 25

Section 25(1): Availment of ITC within 30 days of registration

Every person who is liable to be registered in any state or UT shall apply for registration within 30 days from the date on which he becomes liable to registration.

A person who has applied for registration under this Act within 30 days from the date on liability to register shall be entitled to take ITC in respect of closing stock on the day immediately preceding the date from which he becomes liable to pay tax under the Act as allowed by virtue of Section 18(1) of the Act.

Section 25(3): Voluntary Registration

A person may get himself registered voluntarily, even when he does not have aggregate turnover more than 20 lakhs/10 lakhs and he is not compulsorily liable to be registered under the Act

Once registered voluntarily, all the provisions of the Act are applicable to such person.

Issue:

If a person has taken voluntary registration, can his turnover up to threshold limit of aggregate turnover for registration requirement be exempted or total turnover would be liable to be taxed?

View:

The turnover threshold of ₹ 20 lakhs/10 lakhs u/s 22 or ₹ 40 lakhs u/s 23 is not exemption an exemption from liability to pay tax on taxable supplies. However liability to pay under GST falls upon the taxable person and hence turnover up to these limits is not taxable in the hands of persons who are not registered under the Act.

However, taxable person covers persons who are registered voluntarily. So once the person becomes a taxable person, there is no such exemption from liability to pay tax up to turnover threshold and hence whole turnover would be liable to tax.

The analysis of provisions of cancellation, suspension and revocation of registration shall be taken in Part-II of this article series.





Summon under GST



Milind M. Bhonde
Advocate

The dictionary meaning of the term Summon is to officially ask someone to be present. The term Summon has not been defined in CGST Act. Section 70 of the CGST Act deals with the powers of the proper officer to Summon any person for the purpose of the act. Before proceeding further it would be worth to reproduce the said section as under-

Power to Summon persons to give evidence and produce documents- 1) The proper officer under this act shall have power to Summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry in the same manner, as provided in the case of a Civil Court under the provisions of the Code of Civil Procedure, 1908 (5 of 1908)

2) Every such inquiry referred to in sub-section (1) shall be deemed to be a “judicial proceedings” within the meaning of section 193 and section 228 of the Indian Penal Code (45 of 1860).

After going through the provisions of Sec. 70 we can intersect and analyze the section as under-

1. The proper officer means the Commissioner or the officer of the Central Tax who has been assigned that function by the Commissioner (Sec. 2(91) CGST Act). As per the said definition the proper officer means the authority who has been delegated the power in him under Sec. 167 of the CGST Act. In order to give the

effect to Sec. 167 the notification no 9/2017 Central Tax has been issued on 28th June 2017.

Thus, the authority so authorized can only exercise the powers narrated in section 70 of CGST Act. As per the circular No. 3/3/2017 dt. 5th July 2017 the superintendent has been authorized to issue the Summon. Relevant notification has been issued under MGST Act authorizing State tax officer, Asstt. Commissioner of State Tax and Dy. Commissioner of State Tax to issue the Summon. In other words the state tax authority or central tax authority, having the jurisdiction on the person to be Summoned, can issue the notice to that effect.

The proper officer through the Summon so issued require the presence of the person. The term person as defined in Sec. 2(84) of CGST Act includes different entities and enumerated from clause (a) to clause (n). In case of the persons other than individual the person who is in incharge of the affairs of such entity and believed to be connected with the subject matter may be required to attend.

Such individual may be called to give evidence or to produce the document or any other thing. The term evidence has been defined in Indian Evidence Act (1872) to mean and includes.

1. All statements in relation to matters of fact under inquiry. Such statement is called oral evidence.
2. All documents including records to be produced for the purpose of inspection.

Following the definition of “Evidence” in Indian Evidence Act the proper officer may require giving those statements and documents relating to the intended inquiry. Description made in clause (1) limits the scope of calling the evidence limited to the proposed enquiry only.

The term “Documents” as per Indian Evidence Act means any matter expressed or described upon any substance by means of letters, figures or marks or by more than one of those means intended to be used for the purpose of recording that matter.

From the meaning given above strictly speaking documents may be demanded only if the proper officer intended to record them in writing Typical examples of documents are Final Accounts of the business subsidiary accounts used to prepare final accounts, which are demanded to record the contents of the same.

The term “any other thing” used in the said section resembles with earlier two terms i.e. evidence and documents. Within the scope of “any other thing” the proper officer has not been authorized to ask anything going out of the way of the framed provision.

In the latter part of subsection (1) reference has been made to the provisions of Code of Civil Procedure 1908 and the functioning of Civil Court. This part has given scope for further discussion amid the fact that the CGST Act has been enacted with 174 sections but still reference required to be made to of CPC 1908 order 5. Does it mean that the CGST Act is incomplete and inadequate to provide the powers to proper officer given in Section 70.

Explanation to the said question is the proper officer are the quasi-judicial authority unable to exercise the powers narrated in order 5 of CPC 1908 whereas the CPC is very established Court’s procedure script and widely followed years together. Instead of reproducing those power in CGST Act, the said sub-section (1) of Sec. 70 referred to CPC to achieve the objects of the Act.

As per order 5 of CPC following are the powers delegated on the proper officer.

- a) Proof of facts by affidavit.
- b) Summoning and enforcing the attendance of any person and examining him on oath or affirmation.
- c) Compelling the production of documents; and
- d) Issuing commission for the examination of witnesses.

Need to study the provision of Summon.

The tax professional who has had on opportunity to practice in Sales Tax Law, VAT Law must have noticed the provisions of Summon. But in day today profession they rarely came across the occasion to reply to the Summon or to guide their client to attend against the Summon. But after introduction of GST the restructured indirect tax, issuing Summon likely to be regular procedure and replying to the same or attending against it would be part of the normal profession on the backdrop of established practice prevailed under Excise Law and service tax of issuing the Summon. It used to be considered under both levies as preliminary procedure before issuing SCN for the purpose of adjudication.

After studying the legal provisions of Summon, delegated power as per order 5 of CPC 1908, need to study the common

circumstances under which Summon is likely to be issued in present and in future, the procedural rules of Summon and defense available to the taxpayers against the possible hardship of the Summon proceeding. Last but not the least, the result or consequences for not attending or responding to Summon. Those have been discussed as under-

1. Most common and widely discussed reason of issuing Summon is on the suspicion of issue of Tax Invoices without actual supply of goods and services and observed that the someone has taken the ITC on the basis of those Tax Invoices.
2. In case of visit to any warehouse or godown and the authorities ascertain unaccounted stock of goods lying in the godown.
3. During the course of the proceedings relating to the inspection, search or interruption of vehicle, the proper officer observed that the goods or cash of third party been in the possession of the person whose premises of business have been inspected or searched or such person declares in writing that he holds such goods or cash on behalf of third party.
4. The proper officer during the course of examination of statement of accounts noticed the entries relating to third parties suspicious and not founded on genuine transaction basis.
5. Any other circumstances which in the opinion of the proper officer warrants to demand the affidavit examination on oath relating to the documents in his possession so that such person shall not shift or deny his/her statement while framing

the proceedings to fix the liability of such person or third person.

Since the procedure relating to Summon has been governed by the order 5 of CPC 1908 strict adherence to the rules of order 5 of CPC is warranted to make the proceedings of Summon lawful and those rules are as under. Since Summon proceedings u/s 70 of CGST Act are being initiated for the purpose of conducting enquiry before framing any charges, in this writeup, reference has been made to the relevant rules of Order 5 of CPC.

Rule 1. A person to whom a Summon has been issued may appear-

Sub rule (2)(a) In person,

- (b) Through an authorized person along with such person, in his absence of such person, to whom Summon issued who has been duly authorized and able to answer all material issues for which Summon has been issued.
- (c) Even an authorized representative may be accompanied by any employee of the person on whom Summon has been served, who would be able to answer all the questions raised by the proper officer.

Sub-rule (3) the Summon shall be signed by the proper officer bearing the seal on the face of Summon who has been authorized to issue the Summon u/s 50 of CGST Act.

Rule 2. Every Summon shall be accompanied by an intended subject matter for which Summon has been issued so that the said person may prepare the papers to the best of the knowledge to answer or reply to the queries. In other words Summon shall be informative to express about the subject matter for which enquiry intended to be held.

Rule 3. The Summon cannot compel the attendance of the person on whom it has been served on the date therein specified unless the proper officer is satisfied of the circumstances requiring personal presence.

In other words personal attendance of the person Summoned is not the rule but by exception it may be required. Normally we are under impression that once the Summon has been issued personal attendance of the said person is mandatory, but Rule (3) has clarified on it.

Rule 4. Summon seeking appearance in person can be issued by the proper officer on a person having the jurisdiction within the meaning of Sec. 6(1) of the CGST Act or Sec.6(1) of the SGST Act.

Thus, issuing Summon is not unrestricted power of the authority but limited to the person who comes under the jurisdiction of such authority on the basis of allotment of GSTN in case of the registered person and residential jurisdiction of unregistered person.

Rule 5. The proper officer shall record in writing while issuing the Summon whether the person whose attendance called is for initiating any proceedings or for concluding any proceedings.

Thus, the Summon cannot be issued by way of any guess work or speculation but the proper officer must have something concrete in his mind and reduced it in writing to achieve specific object.

Rule 6. The Summons shall specifically state the date on which and the place at which the attendance of the person has been sought. Normally, reasonable time say of 15 days expected to be allowed and the place shall be within reasonable access of to the person called.

Rule 7. The Summon shall clearly state the expected documents or statement to be carried for the purpose of enquiry of

the person. The proper officer shall have conviction about the documents needed to complete the enquiry or to conclude the proceedings.

This rule demands that the proper officer has to do the homework of the issue before him/her. The rule restricts the powers of the officer to demand bunch of documents irrelevant to the proceedings.

Rule 8. Where Summon has been issued to conclude the proceedings, the proper officer shall require the person Summoned to attend with all documents and paper on which the person relies to defend the stand taken. This rule also demands the attendance of the person along with person Summoned who is likely to provide required information to conclude the proceedings.

Rule 9. Sub-rule 3 provides for service of Summon through RPAD on the person concerned or the person empowered for such purpose or by speed post or through electronic mail service.

Sub-rule 5 provides for service of Summon on the person concerned or duly authorized agent through speed post and the person concerned or duly authorized agent refuses to take delivery then such service of Summon will be declared to be duly served.

Rule 10 clearly states Summon issued on person or agent after complying all the requirements of issuing valid Summon, such person or agent cannot refuse the service of Summon for any reason. And even in case of such refusal the Summon would be deemed to be served.

Rule 11. Where the proper officer requires the presence of more than one person in that case independent Summon needs to be served on each person.

Rule 12. This rule warrants that the Summon needs to be served on the person

only whose presence has been sought by the proper officer. Only if after reasonable efforts the Summon cannot be served on the said person then only the Summon to be served on the person who expressly or impliedly empowered to accept the service.

This rule is very important to safeguard the interest of the person concerned from initiating the proceedings ghastly by serving the Summon in inappropriate manner. The proper officer ought to record that the Summon could not be served on intended person even after reasonable efforts and therefore served on the person duly empowered.

Rule 13. In case of person on whom Summon to be served is not available in local limits for significant period or operating from the area outside the local jurisdiction, out of state or out of India, in that case the Summon can be served on the person who is working in the capacity of Manager Agent or any other representational capacity.

Rule 15. In case the person whose attendance has been sought is not available at residence or at place of business due to some reasons and not likely to be found for 10 days to 15 days and not appointed anyone in representational capacity then Summon may be served on any adult person of the family but not a servant.

While enumerating the rules as above some of the rules of Order V have been eliminated for the reason that those are not applicable in respect of the proceedings before quasijudicial authorities and not related to the subject matter covered by Sec. 70 of CGST Act.

Since the rules listed above are derived from Order-V of CPC 1908 stringent observation of those rules is mandatory for proper officer without resorting to any shortcuts or gimmicks otherwise the proceedings initiated or concluded on the

basis of such omissions or commissions may become defective and likely to suffer from the Principles of Natural Justice. Under the circumstances such proceedings could be challenged on the grounds of procedural infirmity.

The proceedings u/s 70 are initiated to achieve desired objects of the statute therefore responding to the Summon is the duty of each person on whom it has been served and to provide the information as demanded. Any cost incurred by the person including employing the services of the pleader or advocate needs to be born by the concerned person only.

Sub-Section 2 of Sec. 70 further states that the proceeding initiated as per sub-section 1 and following the procedure narrated in order V of CPC would be considered judicial proceeding have been initiated by the quasi-judicial authority. In order to ensure the strict compliance by the person Summoned the provision of Sec. 193 and Sec. 228 of the IPC 1860 have been made applicable.

Co-Joint reading of both the Sections imply that in case of failure of the person to whom Summon has been issued to attend and/or submit documents or statement would be considered as a cognizable offence and the Chief Judicial Magistrate or any other Judicial Magistrate of first class may require the attendance of defaulting person and may try the offence following procedure of warrant based trial framed on police report and punish the default.

After going through the provisions of Sec. 70 of CGST Act and the Order V of CPC, it can be noticed that the Summon is a very effective tool in the hands of proper officer requiring the presence of anyone to hold the enquiry, needless to say subject to certain procedural conditions, to call for the information without resorting to lengthy procedure of adjudication.





Classification of Goods and Services under GST Regime



CA Tejashree
Kamat

Classification means a systematic arrangement in groups or categories according to established criteria. Under the Indirect Tax regimes prevalent across the Globe including India, the classification of various items which are the subject matter of tax, be it goods or services, is an essential and integral part of the whole levy and collection mechanism. It is important both from the taxpayer's perspective and tax collector's perspective to have a definite class or group under which subject matters of tax can be divided. The primary intention of classifying them is to determine whether the same would be encumbered by the levy of these taxes and if so, under which category the tax liability would arise. There is always a tug of war between taxpayer & revenue in respect of classification of goods or services or both. There is nothing new about this. Such disputes were there in the earlier regimes as well. However, it was expected that said issue will be addressed once GST is introduced since almost all indirect taxes have been subsumed under GST. However, if one looks at the schedule under the GST law, our understanding in respect of classification of goods or services or both will require deeper knowledge. If one looks at the recent Advance Rulings, classification appears to be complicated under GST. Therefore, it is very important to follow certain principles as laid down in the Act with the help of judicial pronouncements so that the dispute in determining the correct classification is avoided between taxpayer & revenue. In the present article an attempt has been made to present in a simplified manner,

the classification goods, or services or both under GST.

Basis of classification under GST

➤ Goods

The Central Government, on the recommendations of the GST Council, has issued Notification Number 01/2017-CT (Rate) dated 28.06.2017 prescribing the Rate of Tax (Schedules) for specified goods under CGST/IGST ("Rate Notification"). This Notification is divided into 6 Schedules, as follows:

Schedule	Rate of Tax
I	2.5%
II	6%
III	9%
IV	14%
V	1.5%
VI	0.125%

The goods exempted from CGST have been separately notified vide Notification no. 02/2017-CT (Rate) dated 28.06.2017. Notifications having identical exemptions have been notified by the Central government for IGST and respective State governments for SGST.

The Charging section does not refer to HSN codes in any manner. However, the afore-mentioned notifications have reference to chapter, heading, sub-heading and tariff items

of the Customs Tariff Act. The Customs Tariff Act, 1975 is based on HSN. The Act has been amended from time to time to align the same with HSN Tariff developed by World Customs Organization. Therefore, it is important to know what exactly HSN is.

- Harmonised System of Nomenclature (HSN)

The main purpose of HSN is to classify goods available all over the World in a systematic and logical manner. This brings in a uniform classification of goods and facilitates international trade.

India is a member of World Customs Organization (WCO) since 1971. It was originally using 6-digit HSN codes to classify commodities for Customs and Central Excise. Later Customs and Central Excise added two more digits to make the codes more precise, resulting in an 8-digit classification.

In 1983, under the auspices of the World Customs Organization (WCO), most of the major trading countries of the world agreed to a single numbering system, which became the Harmonized coding System. This system was brought to effect from January 1, 1988. The Customs Tariff in India was aligned to the HSN w.e.f. 28.02.1986

The HSN system does not only help Customs agents – it also has important implications for GST. It helps in implementing GST law systematically which is globally facilitated & accepted. By using HSN codes, there is no need to upload a detailed description for each good falling under the GST. This allows for the automation of GST returns, saving time and money for both the tax payer & the tax authority.

HSN system has become even more important in the current times due to the implementation of **Notification no. 78/2020 – Central Tax**. The said notification comes into effect from 01st April 2021. As per the

said notification, it has been made mandatory for a GST taxpayer, having turnover of **more than five crore rupees** in the preceding financial year, to furnish **6 digits** HSN Code (Harmonised System of Nomenclature Code), or SAC (Service Accounting Code) on the invoices issued for supplies of taxable goods and services. A taxpayer having turnover of **up to five crore rupees** in the preceding financial year is required to mandatorily furnish **4 digits** HSN code on B2B invoices. Earlier, the requirement was 4 digits and 2 digits, respectively.

- Applicability of the Customs Tariff Act, 1975: [Referential legislation]

The GST rate notifications (01/2017 of both CGST and IGST Act) have a reference to the Customs Tariff Act, 1975 in the Explanation part. A brief outline of the Customs Tariff, 1975 is as follows:

- a) **Section**
Section is a grouping of several Chapters which codify a particular class of goods. Each Section is related to a broad class of goods.
- b) **Chapter**
Chapter and sub-chapters contain a particular class of goods. The first two digits of 8-digit HSN code denotes the chapter under which it falls.
- c) **Headings**
Each chapter is further divided into various headings accompanied by a four-digit number. Thus, first four digits of an 8-digit HSN code denotes the heading under which it falls.
- d) **Sub-Headings**
Each heading is further divided into various sub-headings accompanied by a six-digit number, thus first 6 digits of an 8-digit HSN code denote the sub heading

under which it falls. Internationally HSN of only 6-digit coding is used. Last 2 digits are used by a country if it decides or requires.

e) Tariff Item

Each Sub-heading is further divided into various tariff items accompanied by an 8-digit number, thus all 8 digits of HSN code denotes the tariff item. The last 2 digits of HSN is added by respective countries to cater to local needs.

- Rules of Interpretation under Customs Tariff Act, 1975

Rule 1: General Rule

The titles of Sections, Chapters and sub-chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require.

Rule 2 (a): Incomplete/ Unfinished goods

Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished articles has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this rule), presented un-assembled or dis-assembled.

E.g.: (a) A bicycle without its seat is an incomplete product. However, it would still be classified as a bicycle.

(b) A set of wooden panels meant for assembly into a cupboard are unfinished goods. However, they would still be classified as a cupboard.

Rule 2 (b): Mixtures or Combinations

Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances.

Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance.

The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.

E.g.: (a) Cornflakes would also include a pack of cornflakes that includes small amounts of nuts and raisins.

(b) Coffee would also include coffee mixed with chicory.

Rule 3 (a): Specific heading preferred over General heading

When by application of rule 2(b) or for any other reason, goods are, prima facie, classifiable under two or more headings, classification shall be effected as follows:

- (a) The heading which provides the most specific description shall be preferred to headings providing a more general description.
- (b) However, when two or more heading search refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

E.g.: Steel spoons are classified under 8215 (Spoons, forks etc.) and not under 7323 (Kitchen or household articles of steel).

Rule 3 (b): Essential characteristic principle

Mixtures, composite goods consisting of different material is or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to (a), shall be classified as if they consisted of the material or component which gives them their essential character, in so far as this criterion is applicable.

E.g.: (a) Lead pencil with an eraser at the back is a composite product. However, it would be classified as a Pencil since the essential character to the product is given by the pencil, the eraser stub at the back is only for convenience.

(b) Liquor filled chocolates are classified under 1806 (Chocolate and other forms of cocoa) since the essential characteristics of the product is given to it by Chocolate and liquor is only added to it for taste.

Rule 3 (c): Latter the better

When goods cannot be classified by reference to (a) or (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

E.g.: A gift set which includes socks (Heading number 6115) and ties (Heading number 6117) cannot be classified by the previous rule since neither item gives the gift set its essential character. The gift set must be classified under the Heading number for ties which is the Heading that occurs last in numerical order.

Rule 4: Akin Rule

Goods which cannot be classified in accordance with the above rules shall be classified under the heading appropriate to the goods to which they are most akin.

Rule 5: Containers, packing materials etc.

In addition to the foregoing provisions, the following rules shall apply in respect of the goods referred to therein:

- (a) Camera cases, musical instrument cases, gun cases, drawing instrument cases, necklace cases and similar containers, specially shaped or fitted to contain a specific article or set of articles, suitable for long-term use and presented with the articles for which they are intended, shall be classified with such articles when of a kind normally sold therewith. This rule does not, however, apply to containers which give the whole its essential character;
- (b) Subject to the provisions of (a) above, packing materials and packing containers presented with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision does not apply when such packing materials or packing containers are clearly suitable for repetitive use.

Rule 6: Goods are comparable at the same level only

For legal purposes, the classification of goods in the sub-headings of a heading shall be determined according to the terms of those sub headings and any related sub headings Notes and, *mutatis mutandis*, to the above rules, on the understanding that only sub headings at the same level are comparable. For the purposes of this rule the relative also apply, unless the context otherwise requires.

Common Parlance Test

In case an item or term is not statutorily defined in taxing statute then ordinary meaning according to the common parlance would prevail over scientific or technical meaning.

It is to be noted that trade parlance is to be examined only if the tariff entry is ambiguous.

E.g.: "Soft serve" dispensed through vending machines is understood to be ice cream by a

common consumer hence classifiable under heading 2105 - Ice Creams and not under 0404 - Dairy Products.

(*CCE New Delhi vs. Connaught Plaza Restaurant (P) Ltd* 2012 (2012) 13 SCC 639))

Residuary entry

The last entry in Schedule III of Notification no. 01/2017 dated 28/06/2017 of both IGST and CGST is very important and hence requires special attention.

Sr. No.	Chapter/Heading/ Sub-heading/ Tariff item	Description of Goods
453	Any Chapter	Goods which are not specified in Schedule I, II, IV, V or VI

Since the entry refers to 'any chapter', therefore, any goods which are classifiable under any Chapter of Customs Tariff Act 1975 but do not fall in any other entry of schedule III, or any entry of the other five schedules, would be taxable at the rate of 18% (IGST).

Apart from the General rules of Interpretation, in case of ambiguity in interpretation, it is always necessary to refer to the rules of Interpretation of Statutes such as Liberal Construction, Reasonable Construction, Harmonious Construction, Beneficial Construction, Exceptional Construction, Ejusdem Generis, Noscitur A Sociis etc. The Rule of Ejusdem Generis has been enumerated below.

Ejusdem Generis

Ejusdem Generis is a Latin term which means "of the same kind". The term Ejusdem Generis in other words means words of a similar class. The rule is that where particular words have a common characteristic (i.e., of a class) any general words that follow should be construed as referring generally to that class; no wider construction should be afforded.

E.g.: If an entry refers to automobiles, trucks, tractors, motorcycles and other motor-powered vehicles, "vehicles" would not include airplanes, since the list was of land-based transportation.

➤ Services

As far as the supply of services are concerned, the Council has notified a separate

schedule vide Notification No. 11 of 2017 dated 28/06/2017 classifying various categories of services and the tax rates thereon, which have equally found place in the State Legislation. Similarly, the Central Government vide Notification No. 12 of 2017 dated 28/06/2017 has prescribed NIL rate of tax for certain classes of services which are equivalently found in the State Legislation.

Service Accounting Code (SAC)

Service Accounting Code (SAC) is a unique code that is identical to the International HSN codes in many ways.

SACs are issued by Central Board of Indirect Tax to classify each service so as to identify the applicable rate of tax on the respective services. These SACs are used at the time of generating invoices for the services rendered.

The SAC code is a unique 6-digit number that contains two number each for:

- 1) Chapter
- 2) Heading
- 3) Sub-heading

Advance Rulings:

While classification rules are specified in order to make taxation of goods and services easier, sometimes certain ambiguities in interpretation of entries may create confusion

on the classification of a product or service. In such cases, it is advisable to take the help of Court Judgements or Advance Rulings where available.

A recent Advance Ruling that caused a lot of debate is mentioned below:

In the case of *M/s SI Air Springs Pvt Ltd* (AAR No. 01/AAR/2021 dt. 24.02.2021), the applicant is engaged in the manufacture and sale of “Air Springs” which are used in air suspension systems for buses, trucks and trailers. The applicant had sought the advance ruling on the issue whether “Air Springs” manufactured and supplied by them will be correctly classifiable under Tariff heading 40169990 as opposed to Tariff heading 87089900 and attract GST at the rate of 18%.

- Entry 40169990 includes “Other articles of Vulcanised Rubber other than Hard Rubber” and attracts GST at the rate of 18%
- Entry 87089900 includes “Parts and Accessories of Motor Vehicles” and attracts GST at the rate of 28%

As per the Advance Ruling, it was held by the Tamil Nadu Advance Ruling Authority that the product is classifiable under 87089900 as “Parts and accessories of Motor Vehicles” and attract GST at 28%

In my opinion, considering Rule 3 (a) of the General rules of Interpretation of the Customs Tariff Act, 1975 in this case the Advance Ruling has correctly classified the goods. According to the Rule 3 (a), Specific heading is preferred over General heading. Therefore, in my view where the air springs are being used specifically for motor vehicles, they can be specifically classified under heading 87089900 as Parts or Accessories of Motor Vehicles rather than as other articles of Vulcanised Rubber.

Another interesting issue that created a lot of confusion and debate in recent times is the

rulings of different AARs on the classification of Flavoured milk under GST. The same has been discussed below:

Different Authorities for Advance Rulings (AARs) of different states have different opinions over GST rates applicable on flavoured milk. Gujarat AAR in case of *M/s Gujarat Co-Operative Milk Marketing Federation Ltd (Amul)* (GUJ/GAAR/R/04/2021 dt. 20.01.2021) and in case of *M/s Vadilal Industries Ltd* (GUJ/GAAR/R/05/2021 dt. 20.01.2021) has followed the ruling of Tamil Nadu AAR (*M/s Britannia Industries Ltd*) (AAR No. 08/AAR/2020 dt. 25.02.2020), and Andhra Pradesh AAR (*M/s Tirumala Milk Products Pvt Ltd*) (AAR No. 28/AP/GST/2019 dt. 15.07.2019) and held that GST at the rate of 12% is applicable on flavoured milk. Contrarily, Karnataka AAR (*M/s Karnataka Co-operative Milk Producers Federation Ltd*) (KAR ADRG 88/2019 dt. 26.09.2019) has held that GST at the rate of 5% is applicable on flavoured milk.

Since the case of *M/s Gujarat Co-Operative Milk Marketing Federation Ltd (Amul)* (GUJ/GAAR/R/04/2021 dt. 20.01.2021) is the most recent one, I would like to mention the same here. The matter in question was the classification of the product under the trade name Amul Kool/ Amul Kool café. The applicant contended that the same is taxable under HSN 04029990 i.e., under the broad head – Milk and Cream, Concentrated or containing added sugar or other sweetening matter.

However, the Gujarat AAR held that the product was classifiable under CTH 22029930 i.e., Beverages containing milk. It was held that the word “beverage”, though not defined under CGST Act is considered, in common parlance, as a drink that can be consumed directly and the instant product “flavoured milk” can be consumed as it is and hence is a beverage with a basis of milk.

However, in case of *M/s. Karnataka Co-operative Milk Producers Federation Ltd* (KAR ADRG 88/2019 dt. 26.09.2019) it was held that

flavoured milk should be classified under HSN 0402 i.e., taxable at 5%.

In my opinion, if such contradictory opinions are held by different AARs, it is bound to create confusion and chaos in classification. GST was introduced in order that the discrepancies in various State taxes and central taxes is reduced. However, if there are such contrary views, instead of clearing confusions, it is bound to cause more confusion. There needs to be a centralised mechanism in our country to tackle these issues. Such a mechanism will help maintain uniformity in classification of goods and services within our country. It will help maintain uniformity in classification across various states.

Classification issues during COVID times

The Covid pandemic has led to introduction of new products and services in the market as per the requirement in the war against Corona virus. Difference of opinions on classification of Goods and services has caused many issues in classification of Goods and services.

I would like to mention an example of a product that is very commonly used in the current pandemic: “Face Shields”

Face shields are a part of the Personal Protective Equipment (PPE) kit. They are used

in order to protect the facial area from exposure to the airborne particles containing the virus. There are two entries under which this product may fall:

- Entry 9018 which includes “Instruments and Appliances used in Medical, Surgical, Dental or Veterinary Sciences, Including Scientigraphic Apparatus, Other Electromedical Apparatus and Sight -Testing Instruments” that attracts GST at 12%
- Entry 3926 which includes “Other Articles of plastics and articles of Other materials of headings 3901 to 3914” that attracts GST at 18%

In my opinion, since Face shields in the current use are being used majorly for “medical” purposes, they should ideally be classified under heading 9018. Also, this being a more specific entry compared to 3926 should be applicable for Face shields.

From above referred examples and AARs one can say that classification of goods and services is a very debatable topic. Further, there are many entries which could apply to a single product. However, due reference to classification rules, court judgements and advance rulings must be made to make correct classification of goods and services.



I see clear as daylight that there is the one God in all, in them and in me – one Shakti dwells in all.

The only difference is of manifestation.

– Swami Vivekananda



Income Tax Update

– Highlights on Recent Amendments



CA Sonakshi Jhunjhunwala &
CA Sunil Jhunjhunwala

1. Department to launch new e-filing portal on 7th June, 2021- existing portal won't be available from 1st to 6th June: D.O. F. No. Pr. DGIT(S)/486-2020-21, dated 19th May, 2021 and Press Release dated 20th May, 2021

The Income-tax Department launched its new e-filing portal www.incometax.gov.in on 7th June, 2021. The new e-filing portal (www.incometax.gov.in) is aimed at providing taxpayer convenience and a modern, seamless experience to taxpayers:

- New taxpayer friendly portal integrated with immediate processing of Income Tax Returns (ITRs) to issue quick refunds to taxpayers;
- All interactions and uploads or pending actions will be displayed on a single dashboard for follow-up action by taxpayer;
- Free of cost ITR preparation software available online and offline with interactive questions to help taxpayers fill ITR even without any tax knowledge, with pre-filling, for minimizing data entry effort;
- New call center for taxpayer assistance for immediate answers to taxpayer queries with FAQs, Tutorials, Videos and chatbot/live agent;

- All key portal functions on desktop will be available on Mobile App which will be enabled subsequently for full anytime access on mobile network;
- New online tax payment system on new portal will be enabled subsequently with multiple new payment options using netbanking, UPI, Credit Card and RTGS/NEFT from any account of taxpayer in any bank, for easy payment of taxes.

In preparation for this launch and for migration activities, the existing portal of the Department at www.incometaxindiaefiling.gov.in was not available to taxpayers as well as other external stakeholders for a brief period of 6 days i.e. from 1st June, 2021 to 6th June, 2021.

In order to avoid any inconvenience to taxpayers, the Department did not fix any compliance dates during this period. Further, directions were issued to fix hearing of cases or compliances only from 10th June, 2021 onwards, to give taxpayers time to respond on the new system. If, any hearing or compliance which requires submissions online was scheduled during this period, the same was preponed or adjourned and the work items were rescheduled after this period.

The Department had also intimated external entities including Banks, MCA, GSTN, DPIIT, CBIC, GeM, DGFT who avail services of PAN verification etc. about the non-availability of the services and to request them to make

arrangements to ensure that their customers/ stakeholders are apprised, so that any relevant activity can be completed prior to or after the blackout period.

Taxpayers were encouraged to complete all their urgent tasks involving any submission, upload or downloads before 1st June, 2021 to avoid any difficulty during the blackout period.

The Department requested the patience of all taxpayers and other stakeholders during the switch over to the new e-filing portal and the subsequent initial period while they get familiarized with the new system. This is another initiative by CBDT towards providing ease of compliance to its taxpayers and other stakeholders.

Accordingly, the new e-filing portal 2.0 was launched on 7th June, 2021 at 20.45 hours. There are certain technical issues which are being remedied by Infosys who has made this portal for income tax department. As of now the website is not fully functional. However, by the time we receive this journal it will be fully operational and will work smoothly.

2. Extensions of time limits of certain compliances: Circular No 9 of 2021, dated 20th May, 2021

The Central Board of Direct Taxes (CBDT) in exercise of powers u/s 119 of the Income Tax Act, 1961 (the Act) provides relaxation in following compliances:

Sr. No.	Particulars	Section / Rules/ Form	Original due date	Extended due date
1	Statement of Financial transaction (SFT)	R - 114 E	31st May, 2021	30th June, 2021
2	Statement of Reportable Account	R- 114 G	31st May, 2021	30th June, 2021
3	Return of TDS for last Quarter of Financial Year 2020-21	R - 31A	31st May, 2021	30th June, 2021
4	Furnishing of TDS certificate to employees	Form 16	15th June, 2021	15th Jul, 2021
5	TDS / TCS book adjustment statement for the month of May 2021	Form 24 G: R-30 & 37CA	15th June, 2021	30th June, 2021
6	Statement of Deduction of tax from contribution paid by trustees of an approved superannuation fund	R-33	31st May, 2021	30th June, 2021
7	Statement of Income paid or credited by investment fund to unit holder	Form no 64 D R-12CB	15th June, 2021	30th June, 2021
8	Statement of Income paid or credited by investment fund to unit holder	Form no 64C R-12CB	30th June, 2021	15th July, 2021
9	Furnishing of Return of Income - non audit cases	139(1)	31st July, 2021	30th September, 2021
10	Furnishing of Report of Audit	44AB rws 139(1)	30th September, 2021	31st October, 2021
11	Furnishing of Report of Accountant - transfer pricing report	92E rws 139(1)	31st October, 2021	30th November, 2021

Sr. No.	Particulars	Section / Rules/ Form	Original due date	Extended due date
12	Furnishing of Return of Income – audit cases	139(1)	31st October, 2021	30th November, 2021
13	Furnishing of Return of Income – audit cases	139(1)	30th November, 2021	31st December, 2021
14	Furnishing of belated / revised Return of Income	139 (4) and (5)	31st December, 2021	31st January, 2022

Clarification:

- 1) Interest u/s 234 A of the Act will continue where the self-assessment tax liability exceeds Rs. 1,00,000/-.

For this purposes, in case of an Individual Taxpayer, the tax resident of India, the tax paid by him as self-assessment tax, before the original due date will be deemed to be the advance tax.

- 2) For all the compliances, extension has not been allowed and couple of such immediate compliances are stated hereinbelow:

S r . No.	Particulars	due date
1	Application for Registration / Re-registration u/s 12A / 12AA / 12AB and 80G of the Act	30th June 2021
2	Filing of Form 15G – 15H	30th June 2021

3. **CBDT notifies online procedure for withdrawing application pending before ITSC: Notification No. 5 of 2021, dated 24th May, 2021**

The Finance Act, 2021 has discontinued the Income-tax Settlement Commission w.e.f., 01-02-2021. It has also been provided to constitute an Interim board for settlement of cases pending with the settlement commission.

The assessee (who had filed an application with the settlement commission) has the option to withdraw such application within 3 months from the date of commencement of the Finance Act, 2021. If not withdrawn, the application will be deemed to be received by the Interim Board on the date on which the application was allotted by the Board.

The Central Board of Direct Taxes (CBDT) vide Notification No. 40/2021, dated 30-04-2021 has notified a new Rule 44DA & Form no. 34BB to allow an assessee to choose option to withdraw his pending application.

Now the board has notified the procedure for furnishing and uploading of Form no. 34BB. The assessee has to follow steps for exercising option to withdraw pending application.

- Assessee shall provide basic details in format available at <https://tinyurl.com/Form34bb>. The details shall be provided by June 15, 2021.
- Based on the detail furnished, a system generated letter shall be generated through ITBA system of the assessee on his e-filing account.

- c) The assessee should be a registered user on the E-filing Portal of the Department to proceed further.
- d) Assessee, to whom intimation to upload Form No. 34BB is generated, shall upload scanned printout of Form No. 34BB on the e-Filing portal of the Department www.incometax.gov.in.
- e) Scanned printout of the Form should be in pdf format with a scan clarity of 300 DPI. Date of upload of signed printout of the Form shall be the date on which such application is withdrawn.
- f) Online submission of Form No. 34BB would be treated as submission to the Assessing Officer as per sub-section (1) of section 245M of the Act.

4. **CBDT notifies rule for computation of FMV of Capital Assets for section 50B: Notification No. 68 of 2021, dated 24th May, 2021**

The Finance Act, 2021, has amended Section 50B of the Act to provide that in case of slump sale, the Fair Market Value (FMV) of undertaking or division transferred shall be deemed as the full value of the consideration received or accruing as a result of the transfer of such capital asset. The CBDT was empowered to prescribe how the FMV of such undertaking or division is to be determined.

In exercise of such power, CBDT has inserted a new Rule 11UAE. Rule 11UAE provides that the higher of the following on the date of slump sale shall be deemed to be its FMV:

- (a) Fair Market Value of the capital assets transferred by way of slump sale; or
- (b) Fair Market Value of the consideration received or accruing due to transfer by way of slump sale.

Determination of FMV of capital assets transferred

FMV of the capital assets transferred by way of slump sale shall be computed as per the following formula:

$$\text{FMV of capital assets} = A+B+C+D - L$$

Where,

A = Book value of all assets (other than jewellery, artistic work, shares, securities, and immovable property) appears in the books of account of the undertaking or the division transferred by way of slump sale. However, the following shall be reduced from such book value of assets if it relates to such undertaking or the division:

- (a) Income-tax paid as reduced by the amount of Income-tax refund claimed; and
- (b) Amount shown as asset, including the unamortised amount of deferred expenditure, which does not represent the value of any asset;

B = The price which the jewellery and artistic work would fetch if sold in the open market, based on the valuation report obtained from a registered valuer;

C = Fair Market Value of shares and securities determined in accordance with Rule 11UA;

D = The value adopted or assessed or assessable by any authority of the Government for payment of stamp duty in respect of the immovable property;

L = Book value of liabilities as appearing in the books of accounts of the undertaking or the division transferred by way of slump sale. However, the following shall be reduced from such book value if it relates to such undertaking or division:

- (a) Paid-up capital in respect of equity shares;

- (b) Amount set aside for payment of dividend on preference shares and equity shares if such dividends have not been declared (before the date of transfer) at a general body meeting of the company;
- (c) Reserves and surplus (even if the resulting figure is negative) other than those set apart towards depreciation;
- (d) Excess provision for tax (including deferred tax liability)
- (e) Provisions for unascertained liabilities;
- (f) Contingent Liabilities other than arrears of dividends payable in respect of cumulative preference shares

Determination of FMV of Consideration received or accrued

FMV of the consideration received or accruing as a result of a transfer by way of slump sale determined in accordance with the formula:-

$$\text{FMV of consideration} = A+B+C+D$$

Where,

A = Monetary consideration received or accruing as a result of the transfer;

B = FMV of the property referred to in Rule 11UA(1), i.e., property other than immovable property, determined in the manner provided therein;

C = The price which property, other than immovable property, which is not covered in point B above, would fetch if sold in the open market based on the valuation report obtained from a registered valuer, in respect of the property;

D = The value adopted or assessed or assessable by any government's authority for payment of stamp duty in respect of the immovable property.

5. CBDT clarifies on time-limits extension pursuant to SC order: Circular No. 10 of 2021, dated 25th May, 2021

CBDT issues Circular to clarify on extension of time limits notified by Circular No. 8/2021 dated 30th April, 2021 that includes filing of appeal before CIT (A). It notes that SC's suo motu order dated 27th April, 2021 directed that periods of limitation for all judicial/quasi-judicial proceedings were extended until further orders. It is clarified that where different relaxations are available to the taxpayers, the more beneficial relaxation can be opted for calculating the period of limitation.

6. ITAT to launch e-filing portal; Delhi Zone would be effective from 21-06-2021: Notice, dated 4th June, 2021

The Income Tax Appellate Tribunal (ITAT) has announced that it is going to launch e-Filing Portal for online proceedings of court. ITAT said that the e-filing portal has been developed, extensively tested by in-house as well as by pre-identified external users and the user acceptance has been reported of a satisfactory level.

The e-Filing Portal shall be initially soft-commissioned at Delhi Zone Headquarter with effect from 21st June, 2021, and would be gradually rolled out at all other Zonal Headquarters and other subordinate Benches across the country within 4 weeks thereafter.

The Practice Note regarding launch of the Portal, the detailed Standard Operating Procedures (SOPs) and Frequently Asked Questions (FAQs) for the guidance and understanding of the end-users has also been released.

7. CBDT amends annexure to Forms 26Q, 27EQ & 27Q to incorporate changes related to FA 2020 & 2021:

Notification No. 71 of 2021, dated 8th June, 2021

Finance Act, 2020 and Finance Act, 2021 has brought in changes in TDS/TCS provisions.

The provisions of Section 194, 194A, and 196D have been amended to provide that deduction of tax shall not be made or shall be made at such lower rate, from such payment to such person or class of persons as may be specified by the CBDT.

Section 194Q has been inserted by the Finance Act, 2021 to provide for deduction of tax at source on payment made for the purchase of goods (subject to fulfilment of prescribed conditions). However, tax is not deductible if tax is deductible under any of the provisions of this Act or tax is collectible under the provisions of section 206C other than a transaction to which section 206C(1H) applies.

Accordingly, the Central Board of Direct Taxes (CBDT) has amended Rule 31A and annexure to Forms 26Q, 27EQ & 27Q which is used for filing TDS/TCS statement., to give effect to the same.

A deductor is required to furnish particulars in the TDS statement if tax is not deducted or deducted at a lower rate in view of the above provisions. Thus, new notes have been inserted in the annexure to Forms 26Q, 27EQ & 27Q to furnish such details.

8. CBDT approves IIT, Bhilai for scientific, statistical research u/s 35: Notification No. 70 of 2021 dated 8th June, 2021

CBDT notifies approval of Indian Institute of Technology, Bhilai under the category of 'University, College or other institution' for Scientific Research and Research in Social Science and Statistical Research for the purposes

of Sec. 35(1)(ii) and (iii) read with Rules 5C and 5E; Apprises that the said notification shall be applicable from AY 2021-22 to 2025-26.

9. Guidelines for compulsory selection of returns for complete scrutiny during financial year 2021-22: Guidelines dated 10th June, 2021

The CBDT has issued guidelines for compulsory selection of returns for Complete Scrutiny during the financial year 2021-22. Income tax authorities are directed to select the cases based on these guidelines by 30th June, 2021.

The details of guidelines are provided under following broad parameters:

1. Cases pertaining to survey u/s 133A of the Act.
2. Cases pertaining to search and seizure.
3. Cases in which notices u/s 142(1) of the Act, calling for return have been issued.
4. Cases in which notices u/s 148 of the Act, have been issued.
5. Cases where registration/approval under various sections of the Act such as, section 12A, 35(1)(ii)/(iia)/(iii), 10(23C), etc. have not been granted or have been cancelled/withdrawn by the Competent Authority, yet the assessee has been found to be claiming tax exemption/deduction in the return.
6. Cases already selected by International taxation and Central Circle charges; The cases, which are selected for compulsory scrutiny by the International Taxation and Central Circle charges following these parameters issued by CBDT, shall continue to be handled by these charges





Do You Know?



Moti B. Totlani,
Advocate

1. That a document containing the terms and recitals of a family arrangement or family settlement under the document is required to be registered u/s 17(2) of the Registration Act as opposed to a document prepared after the family arrangement has happened, is made for the purpose of record or for information of the court for mutation purpose, does not require registration as it does not create or extinguish any rights in immovable property.
(*Ravinda Kaur Grewal vs. Manjit Kaur CA NO. 7764/2014 DT. 31-07-2020*)
2. That right to apply for probate is dictated by necessity viz. when disputes in relation to WILL are raised and there is no limitation of 3 years from death of testator, accordingly provisions of section 137 of Limitation Act 1963 do not apply.
(*Hanuman Prasad Agarwal Anr vs. Satyanarain Agarwal & Ors. G.A.NO. 990/2018 with T.S. NO. 7 of 2016 dt. 11-06-2020 Bombay H.C.*)
3. In the above case the court also held that there was no outer limit within which one must apply for grant of probate and this was deliberate legislative omission pointing to a larger rational underlying cases involving grant of probate.
4. That it is assessee's prerogative to choose a prescribed method for ascertaining the market value of as required by section 56(2) (viib) r. w. Rule 11UA i.e. DCF method. The AO has no power to change that method to another method.
(*Karnik Labs P. Ltd vs. ITO – ITANO. 3955/MUM/2018 dt. 28-07-2020*)
5. That reassessment proceedings u/s 147/148 were quashed as AO failed to provide complete details of reasons recorded, hence the assessee could not prepare its defence effectively.
(*WIMCO Seedling Ltd. vs. JCIT – 117 taxmann. com 425-DEL-ITAT*)
6. That where assessment order is passed u/s 143(3) based on compliance to scrutiny notice received by assessee, then no penalty u/s 271(1)(b) can be levied on allegation of non-compliance.
(*Viswanath Gupta vs. ITO – ITA NO. 1597/2019 –KOL - DT. 08-07-2020*)
7. That notice u/s 147 r.w.s. 148 was issued as assessee failed to voluntarily disallow expenditure u/s 14A, in the reasons recorded for reopening, there was no allegation by AO that assessee had failed to truly and correctly disclose all material facts relating to assessment as basic conditions of proviso to section 147 were not fulfilled and order passed u/s 143(3) was quashed.
(*Bharat C. Parekh vs. ITO – ITAT Mumbai*)
8. That provisions of section 50C would not get attracted where market value of property is depressed due to litigation involved resulting in defect in title of property.
(*Aruna Kommuri vs. ACIT – ITANO. 2030/HYD/2017 DT. 23-07-2020*)
9. Further, in above case, as sale consideration was equivalent to 60% of Reckoner value the Tribunal accepted the same as sale consideration and did not remand matter to AO as "it will cause great inconvenience to assessee."





Important Judgments

2021-VIL-448-TEL

HIGH COURT FOR THE STATE OF TELANGANA

Writ Petition No.9688 of 2020

Date: 02.06.2021

M/s SATYAM SHIVAM PAPERS PVT LTD

Vs

ASST. COMMISSIONER ST AND 4 OTHERS

Petitioner Advocate: TEJPRAKASH TOSHNIWAL

Respondent Advocate: J ANIL KUMAR SC FOR APHC

Bench

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

HONOURABLE SRI JUSTICE T.VINOD KUMAR

ORDER

Per Sri Justice M.S. Ramachandra Rao

The petitioner is a Private Limited Company registered under the Companies Act, 1956, and carries on trading business in all kinds of paper. It is also registered under the CGST Act, 2017, SGST Act, 2017 and IGST Act, 2017 on the rolls of the Assistant Commissioner (ST), Osmanganj, Circle, Charminar Division, Hyderabad (**for short, 'the 1st respondent**).

2. According to petitioner, it is the sole distributor of M/s. International Papers Limited, Andhra Pradesh, and it also effects inter-State purchases of papers from M/s. Emami Papers Ltd., Orissa and receives supplies of paper from these two companies and submits monthly GST returns on-line and also pays GST payable under the CGST and SGST Act, 2017.

3. Petitioner contends that it made an intra-State supply of paper through a tax invoice dt.04.01.2020 (Ex.P.2) to M/s. Sri Ayappa Stationery and General Stores, Station Road, Medchal in Telangana State which is also registered under the GST Act and had also generated an e-way bill dt.04.01.2020 (Ex.P.3). According to it, the goods were delivered to a transporter for making delivery to the consignee by an auto trolley bearing No.TS 07 UF 1008.

4. Petitioner contends that the auto trolley started for delivery of the paper at 04:33 p.m. on 04.01.2020 to the consignee, but on its way, on account of a political rally being conducted by certain political parties opposing Citizenship Amendment Act (CAA) and National Register of Citizens (NRC), traffic was blocked at Basheerbagh, Hyderabad, that the road got jammed from all corners and the auto trolley could not move forward or backward. Petitioner alleges that this continued till 08:30 p.m. and by that time, the shop of the buyer could be closed, and so the auto trolley driver took the trolley to his residence with the goods so as to deliver them on the next working day.
5. 04.01.2020 was a Saturday, and 5.1.2020 was a Sunday, and the next working day was 06.01.2020.
6. Petitioner contends that on 06.01.2020, the auto trolley was on its way for delivery of the paper to the buyer/consignee but it was detained by the Deputy State Tax Officer, Bowenpally-II, Circle, Begumpet Division (**for short, '2nd respondent'**) at Tadbund at 12:35 p.m.; and a Detention Notice in Form GST MOV-07 dt.06.01.2020 (Ex.P.4) was served alleging that the validity of the e-way bill had expired proposing to impose tax and penalty.
7. It was further alleged by the petitioner that the 2nd respondent unloaded the paper boxes at a private premises in the house of 2nd respondent's relative's at Marredpally, Secunderabad without tendering any acknowledgment of receipt of detention of the goods in his custody, and released the auto trolley by unloading the goods in such a manner. Petitioner alleges that this action of the 2nd respondent is arbitrary and illegal and he could not have taken physical possession of the goods in such a manner.
8. Petitioner alleges that it made representation on 07.01.2020 to the 2nd respondent (Ex.P.5) and sought for release of the detained goods by explaining reasons which resulted in expiry of the e-way bill. He also submitted representation on 08.01.2020 by enclosing copy of the Rule 138 of the CGST Rules, 2018 wherein the validity period of the e-way bill for more than 20 kms can be extended for one more additional day and also enclosed copy of the decision rendered by the Allahabad High Court in Writ Tax No.1471 of 2018 - 2018-VIL-532-ALH.
9. Petitioner further alleges that the 2nd respondent received the said letter dt.08.01.2020, but did not acknowledge receipt of the same and did not also release the goods.
10. Petitioner alleges that he waited for release of the detained goods till 19.01.2020 and since it did not seem likely that the 2nd respondent would release the goods in spite of submitting explanation for release, it made payment of (i) Rs.17,250/- under CGST Act, (ii) Rs.17,250/- under SGST Act, (iii) Rs.17,250/- towards penalty under CGST Act and (iv) Rs.17,250/- towards penalty under SGST Act through NEFT, amounting to Rs.69,000/-, and also submitted a letter dt.20.01.2020 in the office of the 1st respondent (Ex.P.7). According to petitioner, some of the paper packets in the boxes had also gone missing in the mean time.
11. Petitioner further alleges that the 2nd respondent passed an order on 22.01.2020 in Form GST MOV-09 ignoring the representations submitted by petitioner on 07.01.2020 and 08.01.2020 and also the decision of the Allahabad High Court, and mentioning that petitioner admitted that tax and penalty are payable, which is factually incorrect since the petitioner had never admitted the same.
12. According to petitioner, only after payment of the amount of Rs.69,000/- on 22.01.2020, release order was issued by the Senior Assistant attached to the Office of the 2nd respondent.
13. Petitioner also alleges that the impugned order has been passed by the Senior Assistant on behalf of the 2nd respondent and he is not authorized to pass such an order.

Counter-affidavit of 2nd respondent

14. Counter-affidavit was filed by 2nd respondent stating that he was authorized by the Joint Commissioner (ST), Begumpet Division to conduct vehicular checks; that three vehicles including the vehicle bearing No.TS 07 UF 1008 were stopped by him and the documents were checked and since the e-way bills were valid only up to 05.01.2020 12:00 a.m. and were not valid on 06.01.2020 when the checking was done by him, he was entitled to detain them; and that the drivers of the auto trolleys expressed ignorance of the expiry of the e-way bill.

15. The 2nd respondent further quoted Rule 138(10) of the GST Act, 2017 which extended the validity of an e-way bill for one additional day and contended that the distance from the destination was less than 100kms and so the e-way bill was valid only for an extra 24 hrs; that such extension can be made four hours before expiry or four hours after expiry, but the e-way bill of petitioner was not so extended.

16. He further contended that though there were three vehicles there was only one e-way bill mentioning the vehicle No.TS 07 UF 1008 and the numbers of the other two vehicles, viz., AP 09 Y 2935 and TS 13 UB 6441, were written manually on the e-way bill which the drivers acknowledged.

17. It was further contended by the 2nd respondent that on 06.01.2020, there was rain and due to non-cooperation of the drivers, the 2nd respondent's staff ensured the safety of the goods under CCTV camera surveillance. The 2nd respondent further stated he received the letter dt.08.01.2020 enclosing the judgment of the Allahabad High Court, and stated that he did not follow it because in the instant case there was a clear evidence of evasion of tax. Thereafter, certain provisions of the GST and the Rules framed thereunder were quoted in extenso.

18. The 2nd respondent also stated that the goods were kept in the premises of a known person on 06.01.2020 because it was a rainy day.

19. He stated that he had applied for leave for four days and in his absence, on the request of petitioner, he directed his Senior Assistant to release the vehicle by signing the release order; and that such release was done in order to ensure that there is no further delay in delivery of goods to the dealer.

20. It was also alleged that to cover up the failure of the dealer to extend the validity of the expired e-way bill, the dealer made self-serving statements which did not prove his bona fides.

21. It was stated that petitioner had approached the 2nd respondent on 18.01.2020 which was a Saturday, and on 20.01.2020, the following Monday, the dealer had remitted the tax and penalty; and on 22.01.2020, the payment details were furnished by him and so release orders were issued.

22. It was also stated that as per the Act, a dealer can extend the validity of an e-way bill in Part-B and the same can be sent even to the driver's mobile phone, but the dealer willfully did not do so, and expiry of the e-way bill cannot be treated as a technical mistake. He justified the levy of penalty and tax on the petitioner in this manner.

Reply-affidavit of petitioner

23. Reply-affidavit was filed by petitioner refuting the allegations leveled by 2nd respondent.

24. The petitioner contended that the 2nd respondent did not disclose the proceedings number through which the Joint Commissioner (ST), Begumpet Division, Hyderabad authorized him to conduct the check of vehicles and he did not even file it along with the counter-affidavit.

25. The petitioner further contended that though there were four auto trolleys, one of which had reached the destination and delivered the paper boxes, the remaining three trolleys could not deliver the paper on 04.01.2020 due to CAA and NRC rallies at Bashierbagh, Hyderabad. It stated that they started on 06.01.2020 for delivery of goods before the expiry of the e-way bill period, and hence the detention notice issued is illegal and bad in law.

26. Petitioner further alleges in this reply-affidavit that the detention notice dt.06.01.2020 is signed by the Assistant Commissioner (C.T.O.), but, the first page of the detention notice mentions the 2nd respondent's name as the first person who intercepted it.

27. It is also stated that the 2nd respondent admitted that he did not sign the release order as he was on leave and there is no provision under the Act to sub-delegate the powers to the 2nd respondent.

28. It was also contended that the 2nd respondent's plea that petitioner has admitted the payment of tax and penalty is absurd, baseless and high-handed, and he did not look into the replies submitted by petitioner. It is stated that there is no document in which the petitioner had admitted liability to pay the tax and liability. It was also stated that the representations given by petitioner in fact show that petitioner never gave consent to pay tax and penalty.

29. The petitioner also contended that there was no evidence of evasion of tax and pointed out that validity of the e-way bill is different from evasion of tax, and the 2nd respondent should have noted the distinction between the two.

30. It was also stated that the 2nd respondent could not have kept the goods in his relative's house, and such a course of action is not permissible under the Act. It was also denied that 06.01.2020 it was a rainy day.

31. Petitioner also alleged that withholding of the goods was permissible only for three days under the Act and the 2nd respondent was duty-bound to bring it to the notice of the Joint Commissioner who allegedly authorized him to detain them, but 2nd respondent could not have detained them for more than 16 days; and that such an action is without the authority of law.

32. According to petitioner, the e-way bill had a validity up to 12:00 p.m. on 06.01.2020, and so, withholding the auto trolley beyond 12:00 a.m. and issuing detention notice at 12:35 p.m. on 06.01.2020 is contrary to law.

33. It was further alleged that the office of 2nd respondent is at Marredpally, Hyderabad. It was also further contended that before issuing release order of the goods, the office of 2nd respondent obtained acknowledgment from the driver that they received the entire stock so as to escape liability for loss of goods while they were in custody of the 2nd respondent.

34. The petitioner further alleged that for minor mistake of expiry of e-way bill which is beyond the control of petitioner company, it cannot levy such tax and penalty particularly when there is no dispute raised by the 2nd respondent about the holding of political rally opposing the CAA and NRC at Bashierbagh, Hyderabad on 04.01.2020 resulting in traffic jam; and that the 2nd respondent also did not dispute that the consignee's shop would be closed by 08:30 p.m. on 04.01.2020. According to him, there was no occasion to levy penalty because the 2nd respondent failed to prove any mens rea on the part of petitioner, that penalty proceedings are quasi criminal in nature and

reliance is placed on the decision of Andhra Pradesh in Delta Lubricants, Vijayawada vs. Deputy Commercial Tax Officer, 43 APTJ 27 - 2006-VIL-92-AP.

35. We have noted the submissions of both sides.

Consideration by the Court

36. The admitted facts are that petitioner had dispatched goods on the auto trolley bearing No.TS 07 UF 1008 on 04.01.2020 and the driver of the auto trolley had in his possession tax invoice (Ex.P.2) dt.04.01.2020 as well as e-way bill (Ex.P.3) dt.04.01.2020, and that the distance to be traveled by the auto trolley was only 36 kms.

37. Petitioner alleges that the said auto trolley along with other auto trolleys started for delivery of the paper at 04:33p.m. on 04.01.2020 to the consignee, but on its way to Bashierbagh since there was a political rally opposing CAA and NRC by political parties, the roads were blocked and the traffic could not move forward or backward; that the driver of the said auto trolley waited till 08:30 p.m. on the road; by that time having realized that the shop of the buyer would be closed, the driver of auto trolley took the goods to his residence with a desire to deliver the goods on the next day. The following day 5.1.2020 being a Sunday, the attempt was made by the driver of the auto trolley to deliver them to the buyer on 6.1.2020 when it was detained at 12.35 pm by issuing detention notice dt.06.01.2020.

38. Though according to 2nd respondent, there were three auto trolleys which were detained, the present Writ Petition is confined only to the auto trolley bearing No.TS 07 UF 1008 carrying paper weighing 4366 kgs. which is clearly mentioned in the e-way bill.

39. Therefore, we are not concerned with the story set-up by the 2nd respondent about the other two auto trolleys which were also detained by him on 06.01.2020 along with the auto trolley No.TS 07 UF 1008 nor expressing any view thereon.

40. As rightly contended by counsel for petitioner, Form GSTMOV-07 (notice under Section 129(3) of the CGST Act) on 4.1.2020 to petitioner mentions on the first page, the name and description of the 2nd respondent as the proper officer who detained the vehicle, but on the last page thereof the rubber stamp of the Assistant Commissioner Tax Officer is mentioned. This is not explained by the 2nd respondent.

41. Secondly, petitioner gave representation on 07.01.2020 to the 1st respondent and handed over a copy of the same to the 2nd respondent on 08.01.2020 explaining about obstruction to the movement of the auto trolley on account of rally conducted in the city of Hyderabad on 04.01.2020 preventing the vehicle from reaching its destination on that day.

The order of demand of tax and penalty in From GST MOV-07 issued on 22.01.2020 is signed by the Senior Assistant attached to the Office of 2nd respondent, and not by the 2nd respondent, by wrongly stating therein that petitioner had no objection to pay proposed tax and penalty in spite of the petitioner giving representations on 08.01.2020 and 20.01.2020 to the contrary.

Why the 2nd respondent has not chosen to refer to these two explanations offered by petitioner is nowhere mentioned in the counter-affidavit filed by 2nd respondent.

It was the duty of 2nd respondent to consider the explanation offered by petitioner as to why the goods could not have been delivered during the validity of the e-way bill, and instead he is harping

on the fact that the e-way bill is not extended even four (04) hours before the expiry or four (04) hours after the expiry, which is untenable.

The 2nd respondent merely states in the counter affidavit that there is clear evasion of tax and so he did not consider the said explanations.

This is plainly arbitrary and illegal and violates Article 14 of the Constitution of India, because there is no denial by the 2nd respondent of the traffic blockage at Basher Bagh due to the anti CAA and NRC agitation on 4.1.2020 up to 8.30 pm preventing the movement of auto trolley for otherwise the goods would have been delivered on that day itself. He also does not dispute that 04.01.2020 was a Saturday, 05.01.2020 was a Sunday and the next working day was only 06.01.2020.

42. How the 2nd respondent could have drawn an inference that petitioner is evading tax merely because the e-way bill has expired is also nowhere explained in the counter-affidavit.

In our considered opinion, there was no material before the 2nd respondent to come to the conclusion that there was evasion of tax by the petitioner merely on account of lapsing of time mentioned in the e-way bill because even the 2nd respondent does not say that there was any evidence of attempt to sell the goods to somebody else on 06.01.2020. On account of non-extension of the validity of the e-way bill by petitioner or the auto trolley driver, no presumption can be drawn that there was an intention to evade tax.

43. We are also unable to understand why the goods were kept for safe keeping at Marredpally, Secunderabad in the house of a relative of 2nd respondent for (16) days and not in any other place designated for such safe keeping by the State.

44. In our opinion there has been a blatant abuse of power by the 2nd respondent in collecting from the petitioner tax and penalty both under the CGST and SGST and compelling the petitioner to pay Rs.69,000/- by such conduct.

45. We deprecate the conduct of 2nd respondent in not even advertent to the response given by petitioner to the Form GST MOV-07 in Form GST MOV - 09, and his deliberate intention to treat the validity of the expiry on the e-way bill as amounting to evasion of tax without any evidence of such evasion of tax by the petitioner.

46. In this view of the matter, the Writ Petition is allowed; the order dt.22.01.2020 passed by the Senior Assistant of the 2nd respondent in Form GST MOV - 09 and levying tax and penalty of Rs.69,000/- on the petitioner, is set aside. The respondents are directed to refund the said amount collected from petitioner within four (04) weeks with interest@ 6% p.a from 20.1.2020 when the amount was collected from petitioner till date of repayment. The 2nd respondent shall also pay costs of Rs.10,000 to the petitioner in 4 weeks.

47. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

DISCLAIMER: Though all efforts have been made to reproduce the order accurately and correctly however the access, usage and circulation is subject to the condition that VATinfoline Multimedia is not responsible/liable for any loss or damage caused to anyone due to any mistake/error/omissions.

(Courtesy: VIL)





Association News



Pravin Shinde & Mahesh Madkholkar,
Hon. Jt. Secretaries

I. Past Events

1. Intensive Study Course

Sr. No.	Date	Day	TIME	Topic	Faculties
1	22nd May, 2021	Saturday	4.00 pm TO 7.00 pm	Issues in Place of Supply under GST	Group Leader CA Deepali Mehta, Monitor : CA Vikram Mehta
2	29th May, 2021	Saturday	4.00 pm TO 7.00 pm	Issue in Logistics Industry	Group Leader : CA Sahil Parghi, Monitor : CA Samir Kapadia

2. Organised Webinar jointly with Maharashtra National Law University:

Sr. No.	DATE	DAY	TIME	TOPIC	FACULTIES
1.	25th May 2021	Tuesday	11.00 am to 12.30 pm	Inspection, Seizure and Arrest along with penal provisions under GST	Adv. Dinesh M. Tambde, Speaker

3. Certificate Course on GST

Smt. Mithibai Motiram Kundnani College of Commerce & Economics in association with The Goods & Services Tax Practitioners' Association of Maharashtra announces Certificate Course on GST.

DATE	DAY	TOPICS	SPEAKERS
24th May 2021	Monday	Composite and Mixed Supply	CA Prasad Kshirsagar
		TDS / TCS & E-COMMERCE +COMPOSITION LEVY	CA Bharat Gosar
26th May 2021	Wednesday	Reverse Charge MECHANISM under GST	CA Ankit Chande
		ITC and Refund under GST	Shri Tanmay Mody

DATE	DAY	TOPICS	SPEAKERS
28th May 2021	Friday	Imports under GST	CA Forum Bhanushali
		Exports & Supply to SEZ under GST	CA Anvesh Vakharia
31st May 2021	Monday	Type of Invoices, Credit / Debit Notes and Maintenance of Accounts under GST	CA Vandana Dodhia
		E-Way Bill	Adv. Sonali Bapat
2nd June 2021	Wednesday	Returns and Payment of Taxes under GST (New and Old Returns)	CA Shantanu Bagwe
		Recent Amendments under GST	CA Shantanu Bagwe
4th June 2021	Friday	Annual Return	CA Rupa Gami
		Audit under GST	CA Aditya Seema Pradeep
7th June 2021	Monday	Assessments & Penalties/ Demand & Recovery under GST	Adv. Sejal Shah
		Appeals & AAR	Adv. Amol Mane
9th June 2021	Wednesday	Overview of Profession Tax & OTPT Scheme	CA Sujoy Mehta
		Overview of GST Website	Shri. Sachin Gandhi
12th June 2021	Saturday	Finalisation of Accounts under GST	CA Ritesh Mehta

4. GSTPAM Jointly with AIFTP (WZ), Marathwada Regional Association, NMTPA, VTPA & WMTPA had organised Virtual Workshop on GST in MARATHI

Date	Time	Topic	Speaker
26th May, 2021 Wednesday	4.00 PM to 6.00 PM	Levy and Scope of Supply (including Exemptions under GST) + Threshold Exemptions + Registration under GST Act	CA Unmesh Patwardhan
27th May, 2021 Thursday	4.00 PM to 6.00 PM	TDS / TCS & E-Commerce + Composition Levy + Reverse Charge Mechanism under GST	CA Aditya Seema Pradeep
28th May, 2021 Friday	4.00 PM to 6.00 PM	ITC	CA Aditya Surte
29th May, 2021 Saturday	4.00 PM to 6.00 PM	Type of Invoices, Credit / Debit Notes E-Way Bill and Maintenance of Accounts under GST	CA Chetan Bumb
31st May, 2021 Monday	4.00 PM to 6.00 PM	Assessments & Penalties/ Demands & Recovery under GST	Adv. Amol Mane

5. 12th Study Circle Meeting

Sr. no.	DATE	DAY	TIME	TOPIC	FACULTIES
1.	5th June, 2021	Saturday	04.00 pm to 06.00 pm	Intricate issues arising out of mismatch provisions in ITC under GST Laws	Adv. Bharat Raichandani

6. 5 Days Virtual Workshop on GST in Gujarati

GSTPAM, AIFTP(WZ), SGCTBA, CGTC & MCTC had Jointly Organised Workshop on GST in Gujarati

Timing of All Lecture between 4 to 6 pm

Sr. No.	Date	Topic	Keynote Address	Speaker
1	14th June, 2021 Monday	Important judgements useful in day to day practice	Adv. Nikita Badheka	Adv. Kuntal Parikh
2	15th June, 2021 Tuesday	Input Tax Credit	CA Deepak Thakkar	CA Abhay Desai
3	16th June, 2021 Wednesday	Audit (Sec.65), Assessment, Appeal & Penalty	Adv. Nayan Sheth	CA Punit Prajapati
4	17th June, 2021 Thursday	How to reply SCN & E-way Bill (Sec.129 & 130), E-Invoicing	CA Rajat Talati	Adv. Samir Siddhpuriya
5	19th June, 2021 Saturday	Inspection, Search, Seizure and Arrest	Adv. C B Thakar	Adv. Uchit Sheth

7. *GSTPAM Jointly with AIFTP(WZ), & TBA had organised Webinar on the topic of "Legal Issues in E-way Bill Provisions" on 20th June, 2021 from 11.00 am to 1.00 pm onwards. Speaker for the same was Adv. Sujit Ghosh and Moderator Adv. Milind Bhonde.*

8. *Access to all workshop videos for the year 2020-21*
Opportunity missed is not the opportunity lost.

GSTPAM had organized the various paid workshops:

1. Learning Series on Basic to Advanced including Automation in Excel (5 sessions)
2. Introduction to Customs Law (5 sessions)
3. Charitable Trusts (3 sessions)
4. Panel Discussion on GST (4 sessions)
5. Practical Aspects of GSTR 9 & 9C (2 sessions)

However, everyone could not attend them all. Consolidated charges for these events were ₹ 2450 + GST. So GSTPAM has launched Access to Video Recordings of Workshops Series on Google Drive valid upto 31st October, 2021 at a nominal price of ₹ 825/- plus GST (for members) & ₹ 1200/- plus GST (for non members)

Link for payment: <http://bit.ly/accessvideos-workshops>

Do avail of this opportunity, if you have missed these workshops and enhance and refresh your knowledge on the above topics.

9. For the information of members

Due to this pandemic situation, GSTPAM has joined hands with The Cosmos Co-operative Bank Ltd for the Scheme of "Cosmos Professional Comfort Loan" @ 8.90% interest rate p.a. *

For Individual Professional Loan up to ₹ 5 Lakhs (Unsecured)	For Individual Professional Loan up to ₹ 25 Lakhs (No Collateral Security)	For Enterprise of Professional Loan upto ₹ 50 Lakhs (No Collateral Security)	For Enterprise of Professional Loan upto ₹ 1 Crore (Collateral Security)
--	--	--	--

* Subject to the conditions & CIBIL Score applies*

Many professionals must be facing the financial crunches & difficulties in paying Salary, Operating Expenses in these months, so to overcome the financial difficulties, any member can approach to the COSMOS Bankbranches respectively.

Contact Details: Phone number: 18002330234; email id: retailloans@cosmosbank.in

Our Publications Available for Sale

Sr. No.	Name	Price (₹)
1	Maharashtra GST Act with Rules & Case Laws Digest	575/-
2	21st NNRC Book	100/-
3	22nd NNRC Book	225/-
4	Export of Goods and Services & Supplies to & from Special economic zones under the GST Laws	60/-
5	Import of Goods and Services under the Goods & Services Tax Laws	50/-
6	Transitional Provision	50/-
7	43rd RRC Book	250/-
8	Seminar Booklet 29.06.2018	100/-
9	MSTT Case Law Digest 2009-14	400/-
10	GST Acts with Rules & Forms (BARE ACT)	610/-
11	44th RRC Book	200/-
13	Seminar Booklet 14.02.2020	125/-
14	Pocket Diary 2020-21	100/-
15	GST Referencer 2021-22	700/-

Please Note: News Bulletin for the month of June 2021 is available on the website of GSTPAM.

ANNOUNCEMENT

- i) All members are requested to renew their Membership for the period from April 2021 to March 2022. Renewal forms are available on our website www.gstpam.org and Mazgaon Library.
- ii) Subscribers are requested to renew subscription of GST Review for the period from April 2021 to March 2022. Subscription forms are available on our website www.gstpam.org and Mazgaon Library.

Online payment links of GSTPAM REFERENCER FOR YEAR 2021-22

Book Referencers at rate of ₹ 700/- by making payment on following link :

<https://www.stpam.org/node/55252>

RENEWAL OF MEMBERSHIP & SUBSCRIPTION FOR YEAR 2021-22

Payment can be made on following link for renewal of membership & subscription:

<https://www.stpam.org/payonline/845>

NEW MEMBERSHIP

Fees for new membership can be paid on following link: <https://www.stpam.org/payonline/864>

Please make use of above links for making respective payments to avoid further delay.

We have received complaints with regard to technical problem in making online payments towards membership fees, subscription charges and booking of referencers through the provided online payment links. Therefore, those who are facing problem in making said online payments, are requested to make payment in following respective Bank Accounts through NEFT and send the relevant information along with screen shot of payment made on email address of GSPTAM (i.e. "office@gstpam.org").

NEW MEMBERSHIP, RENEWAL OF MEMBERSHIP & SUBSCRIPTION FOR YEAR 2021-22

The Goods & Services Tax Practitioners Association of Maharashtra

Bank Name: Bank of India, Mazgaon Branch

Account No: 007020100001816

IFSC Code: BKID0000070

REFERENCER FOR YEAR 2021-22

The Goods & Services Tax Practitioners Association of Maharashtra

Bank Name: Bank of India, Mazgaon Branch

Account No : 007020100001817

IFSC Code : BKID0000070

Prize Distribution to the Children of the Members of our Association who have obtained Highest Percentage For the Academic Year 2020-21

To recognize bright students of members some prizes have been instituted by our association out of specific funds received from our members.

The following cash prizes are to be awarded to the children of the members of our association who have obtained highest percentage of marks at the following subject or examinations held in the academic year 2020-21

1. POURANA MEMORIAL PRIZE

(For securing the highest percentage of marks at the B.Com. Examination)

2. GALA & GALA PRIZE

(For securing the highest percentage of marks in paper of Accountancy paper at the B.Com. Examination)

3. SHRI VADILAL C. SHAH PRIZE

(For securing highest percentage of marks at the H. S. C. Examination)

4. M/S. CHHAJED & DOSHI PRIZE

(For securing highest percentage of marks at the S.S.C. Examination.)

5. LATE SMT. BHANUBEN H. VORA PRIZE

(For securing highest percentage of marks at the M.Com. Examination)

6. MR. BHARAT D. VASANI PRIZE

(For passing C.A. Final Exam)

The members are therefore requested to send the Scan copies of the Mark sheet stating the percentage of marks obtained by their children at the Examination or subject as stated above on or before 10th July, 2021 on following email ID office@gstpam.org





From the Courts



CA Mayur R.
Parekh

6 Whether Revenue was justified in denying Refund of IGST paid in respect of the exported goods by citing a Circular under the provisions of CGST Act ?

Held : No

The petitioner is a proprietor of M/s. Modern India Products, who is a merchant exporter having Goods and Service Tax registration No.33ABAFM6278M1ZW. It is stated that as provided in Rule 96 of the CGST Rules, 2017, the shipping bill filed by an exporter of goods shall be deemed to be an application for refund of integrated tax paid on the goods exported out of India and such application shall be deemed to have been filed only when the person in charge of conveyance carrying the export goods duly files and export manifest or an export report covering the number and the date of shipping bills or bills of export and the applicant has furnished a valid return in Form -GSTR-3 or Form GSTR-3B. Accordingly, the petitioners have for the purpose of exporting goods out of India issued Commercial Invoice and Export Invoice. The goods were exported through Tuticorin Port and Shipping Bills, Export General Manifest and Bill of Lading were also generated. It is further submitted that as provided in Section 54 of CGST Act, 2017, read with Section 16 of IGST Act, 2017, immediately after the goods are exported, considering the shipping bills as application for refund of IGST paid in regard to the export goods, the respondent authorities are supposed to refund the said amount of IGST to the petitioner

immediately. The grievance of the petitioner is that exports were made in September 2017, but till date, IGST is not refunded to the petitioner.

The petitioner relied on a judgment stating that the issue involved in this Writ Petition is covered by the orders of various Courts across the Country. More particularly, he relied on the order of this Court in 2020(1) TMI 90 - 2019-VIL-616-MAD - Madras High Court, M/s. Precot Meridian Limited vs. The Commissioner of Customs, The Assistant Commissioner of Customs in W.P.(MD) No.20504 of 2019, dated 19.11.2019 and the relevant portion is extracted as under:-

"9. It is not in dispute that the petitioner exported cotton through seven shipping bills and paid a sum of ₹ 4,80,355/- towards IGST. It is also not in dispute that the statute provides for refund of IGST on export of materials. The only condition is that if the export is made after payment of tax, he is entitled to get refund. According to the petitioner, he has complied with the requirements of Sub-Clauses (a) and (b) of Sub-Rule (1) of rule 96 of CGST Rules, 2017. Accordingly, he is entitled for refund and it cannot be ignored by citing the circular.

10. The Hon'ble Supreme Court, in a similar circumstance, in the case of Commissioner of Central Excise, Bolpur vs. Ratan Melting and Wire Industries [2008(12) S.T.R.416 (S.C) - 2008-VIL-04-SC-CE-CB] has held as follows:-

'6. Circulars and instructions issued by the Board are no doubt binding in law on the authorities under the respective statutes, but when the Supreme Court

or the High Court declares the law on the question arising for consideration, it would not be appropriate for the Court to direct that the circular should be given effect to and not the view expressed in a decision of this Court or the High Court. So far as the clarifications /circulars issued by the Central Government and of the state Government are concerned they represent merely their understanding of the statutory provisions. They are not binding upon the Court. It is for the Court to declare what the particular provision of statute says and it is not for the Executive. Looked at from another angle, a circular which is contrary to the statutory provisions has really no existence in law'

...

12. When the above circular was dealt with by the Hon'ble Division Bench of Gujarat High Court at Ahmedabad in M/s. Amit Cotton Industries through partner, Velijibhai Virjibhai Ranipa vs. Principal Commissioner of Customs, in R/Special Civil Application No.20126 of 2018, dated 27.06.2019 - 2019-VIL-315-GUJ, the Division Bench has held that it has nothing to do with the IGST refund and it is incumbent on the respondents to refund the IGST as claimed by the petitioner herein. There respondents have already passed a circular when they were facing lot of problems because of the fact that the refunds are completely system managed and they have taken a conscious decision to refund the amount vide Circular No.40/2018-Customs, dated 24.10.2018.

13. In view of the above discussion, the respondents are directed to refund the amount of ₹ 4,80,355/- of IGST paid by the petitioner for the goods exported from India which are zero rated supplies, within a period of six weeks from the date of receipt of a copy of this order."

However, the Court relied on aforesaid judgement held that the above judgment is squarely applicable to the present factual

circumstances of the case. In the light of the above, the Writ Petition stands allowed. The first respondent herein is directed to sanction the refund of IGST of ₹ 2,54,449/- paid by the petitioner in respect of the goods exported i.e. 'Zero Rated Supplies' made vide shipping bills mentioned herein above along with entitled interest @ 9% to the petitioner till the date of actual refund, within a period of six weeks from the date of receipt of a copy of this order.

[Modern India Products vs 1. The Assistant Commissioner of Customs, Custom House, IGST Section, Tuticorin Sea Port, Tamilnadu and 2. Union of India, (Through The Minister of Finance), Ministry of Finance, Parliament Street, Central Secretariat, New Delhi (2021-VIL-401-MAD)]

7 (a) In the facts and circumstances of the case, whether the Hon'ble tribunal was right in remanding the matter to the Assessing Authority for passing fresh reassessment order after verifying transactions under dispute in detail, when the said transactions had already been verified by the JCCT (Appeals) and findings on the same were recorded by him in the order impugned before the Hon'ble Tribunal?

(b) Whether the transaction effected by the petitioner, disputed in the present case, amounts to 'sale in the course of import' as per Section 5(2) of the Central Sales Tax Act, 1956 thereby being exempt from sales tax?

(c) Whether the import of products by the petitioner on the basis of purchase order placed by end customers in India qualifies for exemption as 'sale in the course of import' under Section 5(2) of the Central Sales Tax Act, 1956?

(d) Whether there is an inextricable link between the import of products from foreign vendors and the subsequent sale to end customers in India by the petitioner?

Held : Matter Remitted to Tribunal

The Petitioner is a public limited company and is registered as a dealer under the provisions of Central Sales Tax Act, 1956 and Karnataka Value Added Tax Act, 2003. The petitioner is engaged in trade of electronic / electrical goods and medical diagnostic equipments. The petitioner secures purchase orders from various hospitals and medical diagnostic centers in India for purchase of medical equipments. The purchase orders prescribe that goods which are required to be supplied by the petitioner have to be imported from vendors outside India. The petitioner purchases orders from suppliers outside India and on importation, the Bill of Entry is filed in the name of the petitioner for discharging appropriate customs duty payable on such imported goods. The medical equipment so imported, are supplied as such directly to the hospital of the medical diagnostic centers without any diversion.

For the period in question i.e., 2006-07, the claim for exemption under Section 5(2) of the Central Sales Tax Act, 1956 was sought to be disallowed. Therefore, notice dated 04.03.2014 was issued to the petitioner by which it was proposed to levy tax on the sales claimed to be in the nature of import by treating the same to be interstate sales. The aforesaid demand was affirmed and an order of re-assessment was passed on 27.03.2014, on the ground that petitioner is not available to claim SICOI exemption. The appeal preferred by the petitioner was dismissed by the first appellate authority by an order dated 31.12.2015 on merits and it was held that there is no direct link between the purchasers by way of import and sale to the local customers. The petitioner thereupon preferred an appeal before the tribunal. The tribunal by an order dated 20.08.2018 remitted the matter to the assessing authority with the direction to verify the documents under dispute in detail and pass fresh orders of re-assessment.

In the aforesaid factual background, this petition has been filed.

The petitioner submitted that the tribunal erred in remitting the matter for adjudication to the adjudicating officer without examining the documents available on record. It ought to have been appreciated that the tribunal that the first appellate authority had adjudicated the controversy on merits and therefore, it should have adjudicated the appeal on merits. It is also urged that there is an in-extricable link between the import and the sale made to the local customer, therefore, the transactions in question are eligible for exemption under Section 5(2) of the Central Sales Tax Act, 1956 as sales made by the petitioner to the end customer qualifies to be in the nature of sale in the course of import. In support of aforesaid submission, reliance has been placed on decisions in '*ABB LIMITED VS. COMMISSIONER, DELHI VALUE ADDED TAX*', (2012) 55 VST 1 (DEL) - 2012-VIL-83-DEL, '*COMMISSIONER, DELHI VALUE ADDED TAX VS. ABB LIMITED*', (2016) 55 VST 1 (DEL) - 2016-VIL-17-SC.

The respondent submitted that the tribunal vide impugned judgment dated 20.08.2018 has remitted the matter to the adjudicating authority without recording any finding on merits and the petition does not involve any substantial questions of law.

However, the Court observed that from close scrutiny of the order passed by the first appellate authority, it is evident that the first appellate authority has adjudicated the controversy on merits and therefore, the tribunal, which is the last fact finding authority was bound to verify the documents on record and to give a finding on law and facts. [See: '*CHOLAMANDALAM MS GENERAL INSURANCE AND CO. VS. ASSISTANT / DEPUTY COMMISSIONER OF INCOME TAX*', (2013) 357 ITR 597 (MAD.)]. In the instant case, instead of adjudicating the controversy on merits, the tribunal has remanded the matter to the adjudicating authority. An unnecessary order

of remand gives longitivity to the litigation, which is not warranted. For the aforementioned reasons, the first substantial question of law is answered in favour of the petitioner and against the respondent. The impugned judgment dated 20.08.2018 passed by the tribunal is hereby quashed. Therefore, it is not necessary for us to answer the remaining substantial questions of law.

In the result, the matter is remitted to the tribunal for decision afresh on merits. The tribunal is directed to decide the appeal expeditiously preferable within three months from the date of appearance of the parties.

[M/s Philips India Ltd vs. The State of Karnataka (2021-VIL-404-KAR)]

8 Whether passing of attachment orders issued under Section 83 of the CGST Act pursuant to search and investigation for future receivables was justifiable under the Provisions of CGST Act ?

Held : No

This Writ Petition has been filed challenging the attachment orders dated 12.01.2021 and 28.01.2021. These attachment orders have been issued under Section 83 of the Central Goods and Services Tax Act, 2017 [hereinafter referred to as 'CGST Act, 2017'], pursuant to a search and investigation ordered against the petitioner company some time during October, 2020.

It is noticed that during the pendency of the investigation, the respondents have already appropriated a sum of ₹ 5.68 Crores, which were lying in the accounts of the petitioner company. The Directors of the petitioner company were also arrested and they were released on bail subsequent to bail order dated 19.02.2021 in Crl.O.P.Nos.2175 and 2176 of 2021. This order is a conditional order, which reads as under:-

"7. Considering the facts and circumstances, considering the period of incarceration suffered

by the petitioners, and also considering the submissions of the petitioner regarding the difficulties in mobilising funds, this Court is inclined to permit the petitioners to pay entire tax due in instalments. It is stated that the petitioners already deposited a sum of ₹ 2.5 crores, and it is stated that, a sum of ₹ 3.23 crores is in the bank deposit, which was freed by the department. At this stage, the Addl. Director General of G.S.T., who was present in the Court submitted that so far as the amount deposited in the bank instead of defreezing their account, it can be directly transferred to the Government account by the authorities, if the petitioners provide the user ID. and password of the accounts, so that they can transfer the amount directly. Considering the said request, the petitioners are directed to furnish the user I.D. and password of all the three accounts to the concerned authority and the authorities are at liberty to transfer the amount from petitioners' account.

Thereafter, the petitioners are directed to pay the remaining amount in four equal instalments. The first instalment should be paid on or before 30.04.2021, the second instalment should be paid on or before 30.06.2021, the third instalment should be paid on or before 30.08.2021, and the fourth instalment should be paid on or before 31.12.2021. If the petitioners have committed any default in payment of anyone of the instalments, it is always open to the department to file necessary application for cancellation of bail.

The Petitioner submits that apart from ₹5.68 Corres (sic) which have been appropriated so far against the projected demand of ₹ 21 Crores, the petitioner has agreed to pay another sum of ₹1 Crore, within a period of one weeks' time. The aforesaid undertaking stands recorded.

The petitioner further submits that Section 67 cannot be against the future receivables so as to strangle the entire business module of the petitioner. It was further submitted that as against the bail order dated 19.02.2021 in Crl.O.P.Nos.2175

and 2176 of 2021, the Directors of the petitioner company have moved to the Hon'ble Supreme Court insofar as the condition, which mandates recovery/payment of entire balance amount in four instalments. It is submitted that the manner in which the entire recovery proceedings is being initiated is contrary to Section 73 and Section 74 of the CGST Act, 2017. The petitioner also submits that the accounts will be maintained transparently and therefore, prays for lifting of the impugned attachment orders, pending issuance of show cause notice under Section 73 and determination of tax under Section 74 of the CGST Act, 2017.

The Respondent submits that the petitioner has indulged in large scale fraud and therefore, the department was compelled to initiate proceedings under Section 67 of the CGST Act, 2017. He submits that under Section 83 of the CGST Act, 2017, the respondents are entitled to order provisional attachment of any assets to protect the interest of the revenue. He further submits that it is open for the petitioner to move to the appropriate authority under Rule 159 of the CGST Rules, 2017, against the impugned attachment orders. He also submits that the attachment orders merely freezes the power to debit the account and there is no restriction for receiving the amount. He further submits that the Directors of the petitioner company had breached the bail order dated 19.02.2021. It is further submitted that for the last few months, the customers/clients of the petitioner company have directly paid the salaries/wages to the employees including the amount due under the Provident Funds Act and therefore the continuance of the impugned attachment orders will be of no prejudice to the petitioner.

However, the Court Observed that no doubt, wide powers have been vested with the Officers under Section 67 of the CGST Act, 2017. The said proceedings also entails a provisional attachment of assets during the pendency of the proceedings under Sections 62, 63, 64, 67, 73 and 74 of the said Act. However, such protection cannot be made against future receivables.

The Court further observed that admittedly, an amount of ₹5.68 Crores, which was lying in the account has been appropriated till date. The petitioner has also agreed to remit another sum of ₹ 1 Crore. Thus, as against the proposed/estimated tax due involved i.e. ₹ 21 Crores, the petitioner has already discharged a sum of ₹5.68 Crores i.e. 27.05%. After all, there is a mechanism provided under the Act for proper adjudication of the tax due and determination under Sections 73 and 74 of the Act. Therefore, there is no meaning in attaching the bank accounts further. The respondents have reportedly commenced the investigation during October, 2020. The respondents can issue notice under Section 73 of the CGST Act, 2017 and thereafter, determine the amount due and recover the amounts. In the facts and circumstances of the case, the court sufficient reasons to interfere with the impugned attachment orders dated 12.01.2021 and 28.01.2021. It is made clear that the attachment proceedings cannot be at the cost of right of provision under Article 19(1) (g) of the Constitution of India. However, it is made clear that the petitioner shall deposit a sum of ₹ 1 Crore within a period of one week from the date of receipt of a copy of this order, as was undertaken by the petitioner. On such deposit of Rupees One Crore, the impugned attachment orders shall stand vacated. Further, the accounts shall be maintained transparently, as undertaken by the petitioner. The Respondents are directed to complete the investigation and issue appropriate show cause notice as expeditiously as possible, to protect the interest of the revenue. It is also open to the respondents to take steps for canceling the bail order in case, the Managing Director and the Director of the petitioner company have violated any of the conditions of the bail order dated 19.02.2021.

[Sri Marg Human Resources Pvt Ltd vs 1. The Principal Additional Director General, DGCI, Chennai Zonal Unit, Chennai and 2. The Senior Intelligence Officer, DGCI, Chennai Zonal Unit, Chennai (2021-VIL-424-MAD)]





CA Ashit Shah

Gist of Advance Rulings



9 Renting or Hiring of Mini AC Buses to BEST for transportation of passengers

Facts of the matter

Applicant entered into an agreement with BEST for operation of stage carriage services for public transport of AC mini buses. Pursuant to clause 15 of the agreement, applicant is responsible for operation of the buses as per the routes provided by BEST and has to provide competent drivers for the buses. Applicant shall procure only new buses i.e. buses newly built on the brand new chassis procured for this Agreement and shall have registration done within 6 months prior to the day of starting of the respective bus ; buses to be procured by applicant shall have valid Type Approval from the competent authorities notified under Central Motor Vehicles Rules, 1989, applicable at the time of delivery of Buses at the area of operation ; the Buses shall have Regional Transport Officer Nos. and BEST Nos. painted as per the BEST'S requirements and shall be as per the specifications and standard colour scheme, wheel base, seating capacity and seating pattern prescribed by BEST ; applicant shall install necessary infrastructure for maintenance of Buses in the space allocated to them for parking and maintenance of Buses; A separate energy meter for requirement of electricity should be

installed by the applicant and the applicant should pay electricity charges accordingly; and the maintenance of such infrastructure shall be carried out by the Operator. Applicant will be paid monthly service charges by BEST on kilometer basis, as per statement showing total run kilometers, Dead kilometers covered from parking place to starting point, extra kilometers covered due to road diversions, effective operated kilometers (after deduction of dead and extra kilometers) However dead kilometers as mentioned herein above shall be paid separately.

Applicant, seeking an advance ruling in respect of the following questions.-

1. Whether the service of operating mini AC buses by the applicant for B.E.S. T (Brihan Mumbai Electricity Supply Transport Undertaking) would be exempt from payment of GST under Tariff Heading 9966 i.e. 'services by way of giving on hire to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers ' in terms of Notification No. 12/2017-CT(R) dated 28.06.2017 or not?
2. Whether the service of operating mini AC buses by the applicant for BEST would be subject to GST @12% under Tariff Heading 9966 i.e. 'renting of any motor vehicle designed to carry

passengers where the cost of fuel is included in the consideration charged from the service recipient' inserted by way of Notification No. 31/2017 dated 13.10.2017? (Amended Notification No. 11/2017-CT(R) dated 28.06.2017).

3. Whether the service of operating mini AC buses by the applicant for BEST would be subject to GST @18% under Tariff Heading 9966 i.e. 'rental service of transport vehicles with or without operators' under Notification No. 11/2017-CT(R) dated 28.06.2017?

Contention of the appellant

There is transfer of right to use the buses to BEST. Effective possession (as distinguished from physical possession) and effective control is with BEST. The buses are used by BEST as "stage carriage" and are plying as per directions and control of BEST. Applicant is not free to use the said buses for any purpose other than complete dedication to BEST. Applicant has no right and/or authority in deciding routes, schedules and the frequency of the buses and to decide the fares. Even though the drivers are appointed by the applicant, it is BEST which decides the routes for them.

The activity, in the instant case, would be renting and not hiring. In case of renting, there is a transfer of possession & effective control to another person. In the instant case, the 'effective control' of the vehicle is with BEST in entirety. The passengers boarding the buses do not even know that the buses are owned and operated by the applicant. The primary activity of "actual running" of buses is carried out by BEST. This fact is conclusive evidence that the goods (buses) are under the effective possession, control and enjoyment of BEST. Thus, it is clear that the applicant has rented out these buses to BEST.

Appellant had relied on the following judicial pronouncement -

- i. *State of AP vs. Rashtriya Ispat Nigam Limited* (2002) 89 AIR 1305 SC;
- ii. *G. S. Lamba and Sons vs. State of Andhra Pradesh* 2012-TIOL-49-HC-AP;
- iii. *Krushna Chandra Behera vs. State of Orissa* (1991) 83 STC 325 (HC)
- iv. *Sachin Malhotra* (2014) 10 TMI 816;
- v. *R. S. Travels vs. CCE* (2008) 12 STR 27;
- vi. *Lakshmi Auto Visual vs. Assistant Commissioner* (2001) 124 STC 426 Kar (HC)

In view of above, applicant would be covered by the second entry under Tariff Heading 9966. Hence, the activity will squarely fall under 'renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient' at the rate of 12%.

Observations of the Authority

There is transfer of right to use the buses to BEST by way of effective possession as well as effective control as is seen from the fact that the buses are plying as per directions and control of BEST; applicant is not free to use the said buses for any purpose other than complete dedication to BEST; the buses are parked only in the depots owned by BEST; applicant has no right and/or authority in deciding the routes, schedules and the frequency of the buses and to decide the fares. All the buses are painted in red colour and are embodied with "BEST" logo on all sides. The drivers are also under the administrative control of BEST, who decides the routes for them.

Hence such rental services of buses as in the subject case would attract 18% GST.

However Notification No. 11/2017 – CT (Rate) dated 28.06.2017 was amended by Notification No. 31/2017 – CT (Rate) dated 13.10.2017. Therefore for the period up to 13.10.2017 i.e. when the said Sr. No. 10 was amended, the applicant's activity would attract GST @ 18%. The said Sr. No. 10 has been amended w.e.f. 13.10.2017, and all the activities of Renting of any motor vehicle/transport vehicle which is designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient are chargeable to either 2.5% GST or 12% GST depending on availment of Cenvat Credit. Therefore in the subject case since there is a Renting of any motor vehicle/transport vehicle which is designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient i.e. BEST, the applicant will have to pay GST @ 12% , if credit of input tax charged on goods and services used in supplying the service, other than the input tax credit of input service in the same line of business (i.e. service procured from another service provider of transporting passengers in a motor vehicle or renting of a motor vehicle) has not been taken.

Ruling

Service of operating mini AC buses by the applicant for B.E.S. T would not be exempt from GST service of operating mini AC buses by the applicant for BEST would be subject to GST @12% under Tariff Heading 9966 and GST @ 12% is chargeable from 13-10-2017 and till 13-10-2017 GST @ 18% would be chargeable.

[M. P. Enterprises & Associates Ltd. – GST AAR Maharashtra – Order No. GST-ARA-37/2020-2021/B-16, dated 14-06-2021]

10 Liaison Office of the Foreign Company

Facts of the matter

Dubai Chamber of Commerce and Industry – Liaison office – applicant

is established by DCCI UAE in Mumbai, Maharashtra. Applicant is a non-profit organization, formed to represent, support and protect the interests of the Dubai business community in India, by creating a favourable environment, promoting Dubai businesses and by supporting development of business in India. All expenses incurred by applicant (predominantly office rent, salaries, consultancy services), are to be reimbursed from DCCI UAE on cost-to-cost basis. Thus, no consideration is to be charged/ paid for aforementioned activities. Applicant seeks the ruling on the following questions –

- i. Whether activities performed by DCCI LO shall be treated as supply under GST law?
- ii. Whether DCCI LO is required to obtain GST registration?
- iii. Whether DCCI LO is liable to pay GST?

Contention of the Appellant

Applicant only undertakes Liaison activities between India office and Dubai office; Attends and represents DCCI UAE in various seminars, conferences & trade fairs and connects businesses in India with business partners in UAE and vice versa. As per the statutory provisions, any supply of goods or services (except supply of alcoholic liquor for human consumption and specified petroleum products) would be subject to a levy of GST and the prima facie condition to describe any transaction as service/ supply under GST is receipt of consideration against such supply and the same is absent in the subject case. Moreover, for treating activities between related/ distinct person as supply, the pre-condition is that the said activity should be made in the course of furtherance of business, which is absent in the subject case. Applicant also relies on the following judicial pronouncement –

- i. *Habufa Meubelen B.V. – 2018 (14) G.S.T.L. 596 (AAR – Rajasthan)*
- ii. *Takko Holding GMBH – 2018 (19) G.S.T.L. 692 (AAR – Tamilnadu)*

and hence require registration under GST Law as she is liable to pay tax (GST).

[Dubai Chamber of Commerce and Industry – GST AAAR Maharashtra - Order No. GST-ARA-35/2019-20/B-14, dated 24-05-2021]

Observations

Applicant has submitted that it is not undertaking any supply, on the other hand applicant accepts that it connects businesses in India with business partners in Dubai, which is nothing but supply of services. Thus the applicant acts as a conduit between some business partners in Dubai and certain businesses in India. It therefore appears that the applicant is acting as an intermediary in the subject case. The applicant has not categorically mentioned that it is arranging or facilitating supply of goods or services or both but has definitely said that it connects businesses in India with business partners in Dubai. The term business, in a general sense, means an activity which generates income, where there may be trading of goods or provision of services, etc. The applicant has not given details of their business partners in Dubai but we have no hesitation in concluding that these business partners would be companies doing business of some kind involving trading in goods or provision of services or securities or all of them. Similarly is the situation with 'businesses in India'. These businesses also would be involving trading in goods or provision of services or securities or all of them. By connecting businesses in India with business partners in 'Dubai, applicant is actually arranging or facilitating the supply of goods or services or both, or securities, between two or more persons and therefore satisfies condition number (ii) mentioned in the definition of "intermediary services".

Ruling

Activities carried out by applicant shall be treated as "supply" under the GST Law

11 Supply of goods from warehouse located outside India to customers outside India and other incidental recovery of expenses

Facts of the matter

The applicant is engaged in business of selling guitar training books in United States of America (USA), United Kingdom (UK) and Canada through their website. The applicant's vision is to make available the guitar training books to every individual in the countries of USA, UK and Canada either as paperback books or e-books and also reach entire global market at the earliest. The main intention for guitar training books is that, in learning music from musician. The applicant sends soft copy of the book to the printer located in USA, who in turn prints it and ships to the customers located in USA, UK and Canada. Further, in another business model the applicant is having an agreement with Amazon Inc. who through their website "amazon.com" based on the choice of the customers either prints the books and sells it to the consumers on their own account or will share the link to download the e-books material in an of the electronic devices and pays royalty to the applicant as agreed between the two parties.

In view of the above, the applicant sought advance ruling, on classification of goods and services, in respect of the following questions:-

- i. Whether the supply of books from the warehouse located in USA (non-taxable territory) to the customers located in USA, UK and Canada (non-taxable territory) without such books entering

into India by the applicant are treated as supply under GST?

- ii. Whether GST is levied on the shipping charges collected by the applicant from the customers located in USA, UK and Canada (non-taxable territory) for the delivery of books from the warehouse located in USA (non-taxable territory) to the customer located in USA, UK and Canada (non-taxable territory)?
- iii. Whether printing charges for printing of books charged by the Printer located in USA (non-taxable territory) is taxable under Reverse Charge Mechanism under GST, where only content is supplied by the applicant?
- iv. Whether the services received by the applicant from Foreign service provider such as warehousing of printed books located in USA (non-taxable territory) is taxable under Reverse Charge Mechanism under GST?

Observations

Whether the supply of books from the warehouse located in USA (non-taxable territory) to the customers located in USA, UK and Canada (non-taxable territory) without such books entering into India by the applicant are treated as supply under GST?

Goods (books) are supplied by the person from the warehouse located in USA which is outside India (a non-taxable territory), to the customers in USA/UK/Canada, which is outside India (a non-taxable territory). Schedule III, relevant to Section 7 of the CGST Act 2017, at clause 7 specifies that "Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India" shall be treated neither as a supply of goods nor a supply of services.

In view of the above, supply of books from the warehouse located in USA (non-taxable territory) to the customers located in USA, UK and Canada (non-taxable territory) without such books entering into India does not amount to supply under GST, in terms of clause 7 of Schedule III, relevant to Section 7 of the CGST Act 2017.

Whether GST is levied on the shipping charges collected by the applicant from the customers located in USA, UK and Canada (non-taxable territory) for the delivery of books from the warehouse located in USA (non-taxable territory) to the customer located in located in USA, UK and Canada (non-taxable territory)?

The applicant is not actually shipping the books to the customers but arranging the shipping through his agent outside India and has not furnished any copy of contractual agreement with the warehousing agent to act as pure agent of the applicant to incur expenditure towards shipping of the books. Thus the applicant is in receipt of the service of shipping the books from the warehousing agent outside India.

In view of the above, it is clearly evident that the supplier providing the shipping services to the applicant is outside India, the recipient of the said service i.e. the applicant is within India and the place of supply is in India in terms of Section 13 of the IGST Act 2017. Thus the impugned service squarely qualifies to be an import of service, in terms of Section 2(11) of the IGST Act 2017, in the hands of the applicant and hence the amount paid by the applicant towards the said shipment service is exigible to GST, under Reverse Charge Mechanism.

Whether printing charges for printing of books charged by the Printer located in USA (non-taxable territory) is taxable under Reverse Charge Mechanism under GST, where only content is supplied by the applicant.

Supplier providing the printing services to the applicant is outside India, the recipient of the said service i.e. the applicant is within India and the place of supply is in India in terms of Section 13 of the IGST Act 2017. Thus the impugned service squarely qualifies to be an import of service, in terms of Section 2(11) of the IGST Act 2017, in the hands of the applicant. Hence the printing charges for printing of books charged by the Printer located in USA (non-taxable territory) is taxable under Reverse Charge Mechanism under GST, where only content is supplied by the applicant.

Whether the services received by the applicant from Foreign service provider such as warehousing of printed books located in USA (non-taxable territory) is taxable under Reverse Charge Mechanism under GST?

Warehousing of printed books located in USA is covered under import of service or not. We invite reference to Section 2 (11) of IGST Act, 2017, in terms of which "import of Service" has been defined as a supply of service where,-

- i. The supplier of service is located outside India;
- ii. The recipient of service is located in India; and
- iii. The place of supply of service is in India;

In the instant case we observe that, though the supplier is located outside India and the recipient is located in India, the place of supply of service is outside India, in terms of Section 13 of IGST Act 2017. Therefore, the impugned service is not covered under import of service and hence is not exigible to GST under RCM basis on expenses incurred on warehousing charges of printed books.

[Guitar Head Publishing LLP – GST AAR Karnataka – Order No. KAR ADRG 23/2021, dated 16-04-2021]

12 Time of supply of Gift Vouchers

Facts of the matter

The Appellant is in the business of manufacturing and trading of Jewellery Products. As a part of sales promotion the Appellant introduced the facility of different types of Pre-Paid Instruments (PPI's) viz., Closed System PPIs, Semi-closed System PPIs, Open System PPIs through its retail outlets, third party PPI issuers and online portals to their Customers and these are generally called "Gift Vouchers/Gift Cards" in trade practice. The Appellant has sought Advance Ruling on the following questions:

- (i) Whether the issue of own closed PPIs by the 'Applicant' to their customers be treated as supply of goods or supply of service?
- (ii) If yes, is the time of issue of PPI's by the Applicant to their Customers is the time of supply of goods or services warranting tax liability?
- (iii) If yes, what is the applicable rate of tax for such supply of goods or services?"
- (iii) If yes, whether the issue of PPIs by the Third party PPI ssuers subject to GST at the time of issue in their hands?
- (iv) Whether the amount received by the Applicant from Third Party PPI issuers subject to GST?
- (v) If No, GST collection at the time of sale of goods or services on redemption of PPIs i.e., own and from Third Party will be a sufficient compliance of the provisions of the Act?
- (vi) The treatment of discount (the difference between Face value and Discounted Value) in the hands of issuer of PPI in case of third party PPIs? Whether the applicant will be liable to pay GST on this difference Value?

Ruling by AAR

- i) The Own closed PPIs issued by the Applicant are 'vouchers' as defined under CGST/TNGST Act 2017 and are a supply of goods under CGST/TNGST Act 2017
- ii) The time of supply of such gift vouchers/ gift cards by the applicant to the customers shall be the date of issue of vouchers if the vouchers are specific to any particular goods specified against the voucher. If the gift vouchers/gift cards are redeemable against any goods bought, the time of supply is the date of redemption of voucher.
- iii) In the case of paper based gift vouchers classifiable under CTH 4911 the applicable rate is 6% CGST as per Sl. No. 132 of Schedule II of the Notification No. 1/2017-C.T.(Rate) dated 28.06.2017 and 6% SGST as per Sl. No. 132 of Schedule II of Notification Ms. No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017 as amended. In the case of gift cards classifiable under CTH 8523 the applicable rate is 9% CGST as per Sl. No. 382 of Schedule III of the Notification No. 1/2017-C.T.(Rate) dated 28.06.2017 and 9% SGST as per Sl. No. 382 of Schedule III of Notification Ms. No. II(2)/CTR/532(d-4)/2017 vide G.O. (Ms) No. 62 dated 29.06.2017.
- iv) The questions raised at Sl. No. 4,5,6 and 7 are not answered for the reason that the said questions are not admitted as this authority does not have jurisdiction.

Contention of the applicant

Vouchers issued by the appellant are of the nature of actionable claims. Actionable

claims, though included within the definition of goods under section 2(52), have been included in schedule III as entry 6 and therefore cannot be treated either as supply of goods or supply of services. It follows that vouchers are not subject to levy of tax under the GST act.

Observations by AAAR

There is an inherent contradiction in this argument, with the provision in sub sections (4) of section 12 and 13, that deal with determining the time of supply for goods and services respectively, both use the term 'voucher', and therefore indicate that voucher relate to both goods and services. If vouchers are to be treated as actionable claims, they are only goods and not services. Notwithstanding the above, we are also of the view that vouchers are neither goods nor services, and to that extent, without the need to examine whether voucher is an actionable claim, agree with the appellant, but for different reasons. Our reasoning is as follows:

A voucher is a means for advance payment of consideration for future supply of goods or services:

S. 2 (75) 'money' means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognized by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value;

S. 2 (118) – 'voucher' means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both

and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument;

Voucher, being an instrument used as consideration to settle an application, is a type of money, and as long as such instrument is recognised by the Reserve Bank of India. Even if such voucher is not recognised by Reserve Bank of India, it would still form a means of payment of consideration, though it does not constitute money under the above definition.

Sub section (4) of Section 12 & 13 specify the time of supply for goods and services respectively. For instance, section 12 (2) deems the supply of goods to have taken place on the date of issue of invoice or date of receipt of payment, whichever is earlier, even if the goods are actually delivered to the recipient later. Likewise, subsection (4) of section 12 and 13 deem the supply of the underlying good(s) or service(s) for which the voucher has been issued, to have taken place on the date of issue of voucher, if the supply is identifiable at that point, or the date of redemption of voucher in all other cases.

To conclude, when a voucher is issued, though it is just a means of advance payment of consideration for a future supply, subsection (4) of section 12 and 13 determine the time of supply of the of the underlying good(s) or service(s). Voucher per se is neither a goods nor a service. It is a means for payment of consideration. Therefore, there is no need to determine whether voucher is an actionable claim to arrive at a conclusion that it is neither a goods nor a service.

It therefore follows that where a voucher identifies the goods or service that can be

received on redeeming, the supply of the underlying goods or service takes place at the time of issue of the voucher. This is the case with vouchers issued by a metro rail company for monthly trip tickets. In such cases, it may not even be possible to know when vouchers would be redeemed for availing of train service,, and therefore, the law provides for taxing of the service at the point of time of issue of voucher itself when the supply is clearly known at the time of issue. The supply of underlying goods or service therefore gets taxed only at the time of issue of voucher and not at the time of actual availing of service or time of redeeming the voucher. The same is true in the case of the gold voucher presently under our consideration. Since the gold voucher clearly indicates that the voucher can be redeemed for gold jewellery at a known rate of tax, gold voucher also falls under this category. Therefore, it is our view that the gold voucher (representing the underlying future supply of gold jewellery) would be taxable at the time of issue of the voucher. It must be emphasised that this interpretation does not result in double taxation as transfer of gold subsequently will not be subject to tax at the time of redeeming the voucher for gold, as the supply is deemed to have been done at the time of issue of voucher itself (section 12(4)).

Ruling

The time of supply of the gift vouchers / gift cards by the applicant to the customers shall be the date of issue of such vouchers and the applicable rate of tax is that applicable to that of the goods.

[Kalyan Jewellers India Limited - GST AAAR Tamilnadu - Order No. TN/AAAR/11/2021 (AR), dated 30-03-2021]





DGFT Update



CA Ashit Shah

17 Reduction in rate of Integrated Tax on import of Oxygen Concentrator

Reduction in rate of Integrated Tax (IGST) on import of Oxygen Concentrators covered under HSN 9804, from any country, in India, for personal use, is reduced from 28% to 12% till 30th June, 2021.

[N. No. 30/2021 – Customs, dated 01-05-2021]

18 Exemption of Integrated Tax on certain COVID related materials

Certain COVID 19 related materials such as Remdesivir injection, Remdesivir API and Beta Cyclodextrin (SBEB CD) used in the manufacture of Remdesivir, oxygen, oxygen related equipment and COVID-19 vaccines, when these are imported in to India, Custom Duty and Health Cess were exempted vide

19 N. No. 28 & 29/2021 – Customs. In line with the same, now IGST is also exempted on import of such materials with certain conditions. FAQ's is also published for specified material covered under IGST exemption.

This exemption is applicable till 31st August, 2021

[Ad-hoc Exemption Order No. 4 & 5 – Customs, dated 03-05-2021 and 31-05-2021]

Import policy of Methyl Acetoacetate

Antidumping Duty (ADD) on import of Mehtyl Acetoacetate covered under HSN 2914 6990, 2915 3910, 2915 3940, 2915 3999, 2918 3040 and 2918 9990 from any country including China PR for a period of 5 years.

[Notification No. 31/2021 – Customs (ADD), dated 29-05-2021]



Youth and beauty vanish, life and wealth vanish, name and fame vanish, even the mountains crumble into dust. Friendship and love vanish. Truth alone abides.

– Swami Vivekananda

Recent Amendments



CGST NOTIFICATION AND CIRCULARS

Government of India
Ministry Of Finance
(Department of Revenue)
(Central Board Of Indirect Taxes And Customs)

Notification No. 16/2021 - Central Tax New Delhi, the 1st June, 2021

S.O. (E).— In exercise of the powers conferred by sub-section (2) of section 1 of the Finance Act, 2021 (13 of 2021) (hereinafter referred to as the said Act), the Central Government hereby appoints the 1st day of June, 2021, as the date on which the provisions of section 112 of the said Act shall come into force.

[F. No. CBIC-20001/5/2021]

(Rajeev Ranjan)
Under Secretary to the Government of India



Notification No. 17/2021 - Central Tax New Delhi, the 1st June, 2021

G.S.R (E).- In exercise of the powers conferred by the second proviso to sub-section (1) of section 37 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Commissioner, on the recommendations of the Council, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 83/2020 - Central Tax, dated the 10th November, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 699(E), dated the 10th November, 2020, namely: —

In the said notification, in the second proviso, after the word and figure “April, 2021”, the words and figure “and May, 2021” shall be inserted.

[F. No. CBIC-20001/5/2021]

(Rajeev Ranjan)
Under Secretary to the Government of India

Note: The principal notification number 83/2020 - Central Tax, dated the 10th November, 2020, was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 699(E), dated the 10th November, 2020 and was last amended by notification No. 12/2021-Central Tax, dated the 1st May, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 308(E), dated the 1st May, 2021.



Notification No. 18/2021 - Central Tax New Delhi, the 1st June, 2021

G.S.R (E).- In exercise of the powers conferred by sub-section (1) of section 50 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with section 148 of the said Act, the Government, on the recommendations of the Council, hereby makes the following further amendments in notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 13/2017 - Central Tax, dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 661(E), dated the 28th June, 2017, namely: —

In the said notification, in the first paragraph, in the first proviso,-

(i) for the words, letters and figure “required to furnish the returns in **FORM GSTR-3B**, but fail to furnish the said return along with payment of tax”, the words “liable to pay tax but fail to do so” shall be substituted;

(ii) in the Table, in column 4, in the heading, for the words “Tax period”, the words “Month/Quarter” shall be substituted;

(iii) in the Table, for serial number 4, 5, 6 and 7, the following shall be substituted, namely: —

(1)	(2)	(3)	(4)
“4.	Taxpayers having an aggregate turnover of more than rupees 5 crores in the preceding financial year	9 per cent for the first 15 days from the due date and 18 per cent thereafter	March, 2021, April, 2021 and May, 2021
5.	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year who are liable to furnish the return as specified under sub- section (1) of section 39	Nil for the first 15 days from the due date, 9 per cent for the next 45 days, and 18 per cent thereafter	March, 2021
		Nil for the first 15 days from the due date, 9 per cent for the next 30 days, and 18 per cent thereafter	April, 2021
		Nil for the first 15 days from the due date, 9 per cent for the next 15 days, and 18 per cent thereafter	May, 2021
6.	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year who are liable to furnish the return as specified under proviso to sub-section (1) of section 39	Nil for the first 15 days from the due date, 9 per cent for the next 45 days, and 18 per cent thereafter	March, 2021
		Nil for the first 15 days from the due date, 9 per cent for the next 30 days, and 18 per cent thereafter	April, 2021
		Nil for the first 15 days from the due date, 9 per cent for the next 15 days, and 18 per cent thereafter	May, 2021
7.	Taxpayers who are liable to furnish the return as specified under sub-section (2) of section 39	Nil for the first 15 days from the due date, 9 per cent for the next 45 days, and 18 per cent thereafter	Quarter ending March, 2021”.

2. This notification shall be deemed to have come into force with effect from the 18th day of May, 2021.

[F. No. CBIC-20001/5/2021]

(Rajeev Ranjan)

Under Secretary to the Government of India

Note: The principal notification number 13/2017 - Central Tax, dated the 28th June, 2017, was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub- section (i) vide number G.S.R. 661(E), dated the

28th June, 2017 and was last amended vide notification number 08/2021 – Central Tax, dated the 1st May, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 304(E), dated the 1st May, 2021.



Notification No. 19/2021 – Central Tax New Delhi, the 1st June, 2021

G.S.R (E). – In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 76/2018– Central Tax, dated the 31st December, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 1253(E), dated the 31st December, 2018, namely: –

In the said notification, –

(i) in the eighth proviso, with effect from the 20th day of May, 2021, for the Table, the following Table shall be substituted, namely: –

“Table

S. No. (1)	Class of registered persons (2)	Tax period (3)	Period for which late fee waived (4)
1.	Taxpayers having an aggregate turnover of more than rupees 5 crores in the preceding financial year	March, 2021, April, 2021 and May, 2021	Fifteen days from the due date of furnishing return
2.	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year who are liable to furnish the return as specified under sub-section (1) of section 39	March, 2021	Sixty days from the due date of furnishing return
		April, 2021	Forty-five days from the due date of furnishing return
		May, 2021	Thirty days from the due date of furnishing return
3	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year who are liable to furnish the return as specified under proviso to sub-section (1) of section 39	January-March, 2021	Sixty days from the due date of furnishing return.”;

(ii) after the eighth proviso, the following provisos shall be inserted, namely: –

“Provided also that for the registered persons who failed to furnish the return in **FORM GSTR-3B** for the months /quarter of July, 2017 to April, 2021, by the due date but furnish the said return between the period from the 1st day of June, 2021 to the 31st day of August, 2021, the total amount of late fee under section 47 of the said Act, shall stand waived which is in excess of five hundred rupees:

Provided also that where the total amount of central tax payable in the said return is nil, the total amount of late fee under section 47 of the said Act shall stand waived which is in excess of two hundred and fifty rupees for the registered persons who failed to furnish the return in **FORM GSTR-3B** for the months / quarter of July, 2017 to April, 2021, by the due date but furnish the said return between the period from the 1st day of June, 2021 to the 31st day of August, 2021:

Provided also that the total amount of late fee payable under section 47 of the said Act for the tax period June, 2021 onwards or quarter ending June, 2021 onwards, as the case may be, shall stand waived which is in excess of an amount as specified in column (3) of the Table given below, for the class of

Recent Amendments

registered persons mentioned in the corresponding entry in column (2) of the said Table, who fail to furnish the returns in **FORM GSTR-3B** by the due date, namely: –

Table

S. No. (1)	Class of registered persons (2)	Amount (3)
1.	Registered persons whose total amount of central tax payable in the said return is nil	Two hundred and fifty rupees
2.	Registered persons having an aggregate turnover of up to rupees 1.5 crores in the preceding financial year, other than those covered under S. No. 1	One thousand rupees
3.	Taxpayers having an aggregate turnover of more than rupees 1.5 crores and up to rupees 5 crores in the preceding financial year, other than those covered under S. No. 1	Two thousand and five hundred rupees".

[F. No. CBIC-20001/5/2021]

(Rajeev Ranjan)

Under Secretary to the Government of India

Note: The principal notification No. 76/2018-Central Tax, dated 31st December, 2018 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 1253(E), dated the 31st December, 2018 and was last amended vide notification number 09/2021 – Central Tax, dated the 1st May, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 305(E), dated the 1st May, 2021.



Notification No. 20/2021 – Central Tax New Delhi, the 1st June, 2021

G.S.R (E).— In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 4/2018– Central Tax, dated the 23rd January, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub- section (i) vide number G.S.R. 53(E), dated the 23rd January, 2018, namely: –

In the said notification, after the fourth proviso, the following proviso shall be inserted, namely: –

“Provided also that the total amount of late fee payable under section 47 of the said Act for the tax period June, 2021 onwards or quarter ending June, 2021 onward, as the case may be, shall stand waived which is in excess of an amount as specified in column (3) of the Table given below, for the class of registered persons mentioned in the corresponding entry in column (2) of the said Table, who fail to furnish the details of outward supplies in **FORM GSTR-1** by the due date, namely: –

Table

S. No. (1)	Class of registered persons (2)	Amount (3)
1.	Registered persons who have nil outward supplies in the tax period	Two hundred and fifty rupees
2.	Registered persons having an aggregate turnover of up to rupees 1.5 crores in the preceding financial year, other than those covered under S. No. 1	One thousand rupees

3.	Registered persons having an aggregate turnover of more than rupees 1.5 crores and up to rupees 5 crores in the preceding financial year, other than those covered under S. No. 1	Two thousand and five hundred rupees
----	---	--------------------------------------

[F. No. CBIC-20001/5/2021]

(Rajeev Ranjan)

Under Secretary to the Government of India

Note: The principal notification No. 4/2018-Central Tax, dated 23rd January, 2018 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 53(E), dated the 23rd January, 2018 and was last amended vide notification number 53/2020 – Central Tax, dated the 24th June, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 406(E), dated the 24th June, 2020.



Notification No. 21/2021 – Central Tax New Delhi, the 1st June, 2021

G.S.R (E).— In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 73/2017– Central Tax, dated the 29th December, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 1600(E), dated the 29th December, 2017, namely:—

In the said notification, after the fourth proviso, the following proviso shall be inserted, namely: —

“Provided also that the total amount of late fee payable under section 47 of the said Act for financial year 2021-22 onwards, by the registered persons who fail to furnish the return in **FORM GSTR-4** by the due date, shall stand waived -

(i) which is in excess of two hundred and fifty rupees where the total amount of central tax payable in the said return is nil;

(ii) which is in excess of one thousand rupees for the registered persons other than those covered under clause (i).”.

[F. No. CBIC-20001/5/2021]

(Rajeev Ranjan)

Under Secretary to the Government of India

Note: The principal notification No. 73/2017– Central Tax, dated the 29th December, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub- section (i) vide number G.S.R. 1600(E), dated the 29th December, 2017 and was last amended vide notification number 93/2020 – Central Tax, dated the 22nd December, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 785(E), dated the 22nd December, 2020.



Notification No. 22/2021 – Central Tax New Delhi, the 1st June, 2021

G.S.R.....(E).— In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Government, on the recommendations of the Council, hereby waives the amount of late fee payable under section 47 of the said Act by any registered person, required to deduct tax at source under the provisions of section 51 of the said Act, for failure to furnish the return in **FORM GSTR-7** for the month of June, 2021 onwards, by the due date, which is in excess of an amount of twenty-five rupees for every day during which such failure continues:

Recent Amendments

Provided that the total amount of late fee payable under section 47 of the said Act by such registered person for failure to furnish the return in **FORM GSTR-7** for the month of June, 2021 onwards, by the due date, shall stand waived which is in excess of an amount of one thousand rupees.

[F. No. CBIC-20001/5/2021]

(Rajeev Ranjan)

Under Secretary to the Government of India



Notification No. 23/2021 – Central Tax New Delhi, the 1st June, 2021

G.S.R.....(E).– In exercise of the powers conferred by sub-rule (4) of rule 48 of the Central Goods and Services Tax Rules, 2017, the Government, on the recommendations of the Council, hereby makes the following further amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No.13/2020 – Central Tax, dated the 21st March, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 196(E), dated the 21st March, 2020, namely: –

In the said notification, in the first paragraph, after the words “notifies registered person, other than”, the words “a government department, a local authority,” shall be inserted.

[F. No. CBIC-20001/5/2021]

(Rajeev Ranjan)

Under Secretary to the Government of India

Note: The principal notification No. 13/2020- Central Tax, dated the 21st March, 2020, was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 196(E), dated the 21st March, 2020 and was last amended vide notification number 05/2021 – Central Tax, dated the 8th March, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 160(E), dated the 8th March, 2021.



Notification No. 24/2021 – Central Tax New Delhi, the 1st June, 2021

G.S.R.....(E).– In exercise of the powers conferred by section 168A of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), and section 21 of Union Territory Goods and Services Tax Act, 2017 (14 of 2017), the Government, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 14/2021-Central Tax, dated the 1st May, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 310(E), dated the 1st May, 2021, namely: –

In the said notification, in the first paragraph,-

(i) in clause (i), –

a. for the figures, letters and words “30th day of May, 2021”, the figures, letters and words “29th day of June, 2021” shall be substituted;

b. for the figures, letters and words “31st day of May, 2021”, the figures, letters and words “30th day of June, 2021” shall be substituted;

(ii) in proviso to clause (i), –

a. for the figures, letters and words “31st day of May, 2021”, the figures, letters and words “30th day of June, 2021” shall be substituted;

b. for the figures, letters and words “15th day of June, 2021”, the figures, letters and words “15th day of July, 2021” shall be substituted;

(iii) in clause (ii), –

a. for the figures, letters and words “30th day of May, 2021”, the figures, letters and words “29th day of June, 2021” shall be substituted;

b. for the figures, letters and words “31st day of May, 2021”, the figures, letters and words “30th day of June, 2021” shall be substituted.

2. This notification shall come into force with effect from the 30th day of May, 2021.

[F. No. CBIC-20001/5/2021]

(Rajeev Ranjan)

Under Secretary to the Government of India

Note: The principal notification No. 14/2021- Central Tax, dated the 1st May, 2021, was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 310(E), dated the 1st May, 2021.



Notification No. 25/2021 – Central Tax New Delhi, the 1st June, 2021

G.S.R (E).— In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 21/2019- Central Tax, dated the 23rd April, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 322(E), dated the 23rd April, 2019, namely: –

In the said notification, in the third paragraph, in the second proviso, for the figures, letters and words “31st day of May, 2021”, the figures, letters and words “31st day of July, 2021” shall be substituted.

2. This notification shall be deemed to have come into force with effect from the 31st day of May, 2021.

[F. No. CBIC-20001/5/2021]

(Rajeev Ranjan)

Under Secretary to the Government of India

Note: The principal notification No. 21/2019- Central Tax, dated the 23rd April, 2019, was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 322(E), dated the 23rd April, 2019 and was last amended by notification No. 10/2021-Central Tax, dated the 1st May, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 306(E), dated the 1st May, 2021.



Notification No. 26/2021 – Central Tax New Delhi, the 1st June, 2021

G.S.R..... (E).- In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and sub-rule (3) of rule 45 of the Central Goods and Services Tax Rules, 2017, the Commissioner, with the approval of the Board, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 11/2021- Central Tax, dated the 1st May, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 307(E), dated the 1st May, 2021, namely: –

In the said notification, in the first paragraph, for the figures, letters and words “31st day of May, 2021”, the figures, letters and words “30th day of June, 2021” shall be substituted.

Recent Amendments

2. This notification shall be deemed to have come into force with effect from the 31st day of May, 2021.
[F. No. CBIC-20001/5/2021]

(Rajeev Ranjan)
Under Secretary to the Government of India

Note: The principal notification No. 11/2021- Central Tax, dated the 1st May, 2021, was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 307(E), dated the 1st May, 2021.



Notification No. 27/2021 – Central Tax New Delhi, the 1st June, 2021

G.S.R...(E).- In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Government, on the recommendations of the Council, hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely: –

1. Short title and commencement. -(1) These rules may be called the Central Goods and Services Tax (Fifth Amendment) Rules, 2021.

(2) Save as otherwise provided in these rules, they shall come into force on the date of their publication in the Official Gazette.

2. In the Central Goods and Services Tax Rules, 2017, –

(i) in sub-rule (1) of rule 26, in the fourth proviso, with effect from the 31st day of May, 2021, for the figures, letters and words “31st day of May, 2021”, the figures, letters and words “31st day of August, 2021” shall be substituted;

(ii) in sub-rule (4) of rule 36, for the second proviso, the following proviso shall be substituted, namely: –

“Provided further that such condition shall apply cumulatively for the period April, May and June, 2021 and the return in **FORM GSTR-3B** for the tax period June, 2021 or quarter ending June, 2021, as the case may be, shall be furnished with the cumulative adjustment of input tax credit for the said months in accordance with the condition above.”;

(iii) in sub-rule (2) of rule 59, after the first proviso, the following proviso shall be inserted, namely: –

“Provided further that a registered person may furnish such details, for the month of May, 2021, using IFF from the 1st day of June, 2021 till the 28th day of June, 2021.”.

[F. No. CBIC-20001/5/2021]

(Rajeev Ranjan)
Under Secretary to the Government of India

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide notification No. 3/2017-Central Tax, dated the 19th June, 2017, published vide number G.S.R. 610(E), dated the 19th June, 2017 and last amended vide notification No. 15/2021 - Central Tax, dated the 18th May, 2021 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 333 (E), dated the 18th May, 2021.



Notification No. 01/2021 – Central Tax (Rate) New Delhi, the 2nd June, 2021

G.S.R (E).- In exercise of the powers conferred by sub-section (1) of section 9 and sub-section (5) of section 15 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the

Government of India in the Ministry of Finance (Department of Revenue), No.1/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 673(E), dated the 28th June, 2017, namely:-

In the said notification, -

(a) in Schedule I - 2.5%, against S. No. 259A, for the entry in column (2), the entry "9503" shall be substituted;

(b) after Schedule I, in the List 1, after serial number 230 and the entries relating thereto, the following shall be inserted, namely-

"(231). Diethylcarbomazine".

2. This notification shall come into force on the 2nd day of June, 2021.

[F. No. 354/53/2021]

(Rajeev Ranjan)

Under Secretary to the Government of India

Note: - The principal notification No.1/2017-Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 673(E), dated the 28th June, 2017 and was last amended by notification No.03/2020- Central Tax(Rate), dated the 25th March, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number GSR 216(E), dated the 25th March, 2020.

5

Notification No. 02/2021- Central Tax (Rate) New Delhi, the 2nd June, 2021

G.S.R (E).- In exercise of the powers conferred by sub-section (1), sub-section (3) and sub-section (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15, sub-section (1) of section 16 and section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue) No.11/2017- Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 690(E), dated the 28th June, 2017, namely:-

In the said notification, in the Table, -

(a) in serial number 3, against items (i), (ia), (ib), (ic) and (id) in column (3), in the conditions in column (5), in the fourth proviso, in the Explanation, after clause (ii), the following clause shall be inserted, namely-

"(iii) the landowner-promoter shall be eligible to utilise the credit of tax charged to him by the developer- promoter for payment of tax on apartments supplied by the landowner-promoter in such project." ;

(b) in serial number 25,-

(i) after item (ia) in column (3) and the entries relating thereto, in columns (3), (4) and (5), the following items and entries shall be inserted, namely -

(3)	(4)	(5)
"(ib) Maintenance, repair or overhaul services in respect of ships and other vessels, their engines and other components or parts.	2.5	-"

(ii) in item (ii) in column (3), for the word, brackets, figures and letter " and (ia)", the brackets, figures, letter and word ",(ia) and (ib)" shall be substituted.

Recent Amendments

2. This notification shall come into force with effect from the 2nd day of June, 2021.

[F. No. 354/53/2021-TRU]

(Rajeev Ranjan)

Under Secretary to the Government of India

Note: - The principal notification No. 11/2017 - Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, vide number G.S.R. 690 (E), dated the 28th June, 2017 and was last amended by notification No. 02/2020 - Central Tax (Rate), dated the 26th March, 2020 vide number G.S.R. 221 (E), dated the 26th March, 2020.

☐

Notification No. 03/2021-Central Tax (Rate) New Delhi, the 2nd June, 2021

G.S.R (E).- In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby makes the following amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue) No.06/2019- Central Tax (Rate), dated the 29th March, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 253(E), dated the 29th March, 2019—

In the said notification, in the first paragraph,-

(a) for the words “in whose case the liability to”, the words “, who shall” shall be substituted;

(b) for the words “shall arise on the date of issuance of completion certificate for the project, where required, by the competent authority or on its first occupation, whichever is earlier”, the words “in a tax period not later than the tax period in which the date of issuance of the completion certificate for the project, where required, by the competent authority, or the date of its first occupation, whichever is earlier, falls” shall be substituted.

2. This notification shall come into force with effect from the 2nd day of June, 2021.

[F. No. 354/53/2021-TRU]

(Rajeev Ranjan)

Under Secretary to the Government of India

Note: - The principal notification No. 06/2019 - Central Tax (Rate), dated the 29th March, 2019 was published in the Gazette of India, Extraordinary, vide number G.S.R. 253(E), dated the 29th March, 2019.

☐

Notification No. 04/2021- Central Tax (Rate) New Delhi, the 14th June, 2021

G.S.R (E).- In exercise of the powers conferred by sub-section (1), sub-section (3) and sub-section (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15, sub-section (1) of section 16 and section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue) No.11/2017- Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 690(E), dated the 28th June, 2017, namely:-

2. In the said notification, in the Table, against serial number 3, in column (3), in item (iv), after clause (f), the following shall be inserted, namely, -

“Provided that during the period beginning from the 14th June, 2021 and ending with the 30th September, 2021, the central tax on service of description as specified in clause (f), shall, irrespective of rate specified in column (4), be levied at the rate of 2.5 per cent.”.

[F.No. CBIC-190354/63/2021-TO(TRU-I)-CBEC]

(Rajeev Ranjan)

Under Secretary to the Government of India

Note: - The principal notification No. 11/2017 - Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, vide number G.S.R. 690 (E), dated the 28th June, 2017 and was last amended by notification No. 02/2021 - Central Tax (Rate), dated the 2nd June, 2021 vide number G.S.R.377 (E), dated the 2nd June, 2021.



Notification No. 05/2021-Central Tax (Rate) New Delhi, the 14th June, 2021

G.S.R....(E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as “the said Act”), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the goods specified in column (3) of the Table below, falling under the tariff item, sub- heading, heading or Chapter as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), as the case may be, as specified in the corresponding entry in column (2), of the Table below, from the so much of the central tax leviable thereon under section 9 of the said Act, as in excess of the amount as specified in corresponding entry in column (4) of the aforesaid Table, namely:-

Table

Sl. No.	Chapter, Heading, Sub-heading or Tariff item	Description of Goods	Rate
(1)	(2)	(3)	(4)
1	2804	Medical Grade Oxygen	2.5%
2	30	Tocilizumab	Nil
3	30	Amphotericin B	Nil
4	30	Remdesvir	2.5%
5	30	Heparin (anti-coagulant)	2.5%
6	3002 or 3822	Covid-19 testing kits	2.5%
7	3002 or 3822	Inflammatory Diagnostic (marker) kits, namely- IL6, D- Dimer, CRP (C-Reactive Protein), LDH (Lactate De- Hydrogenase), Ferritin, Pro Calcitonin (PCT) and blood gas reagents.	2.5%
8	3804 94	Hand Sanitizer	2.5%
9	6506 99 00	Helmets for use with non-invasive ventilation	2.5%
10	8417 or 8514	Gas/Electric/other furnaces for crematorium	2.5%
11	9018 19 or 9804	Pulse Oximeter	2.5%
12	9018	High flow nasal canula device	2.5%
13	9019 20 or 9804	Oxygen Concentrator/ generator	2.5%
14	9018 or 9019	Ventilators	2.5%
15	9019	BiPAP Machine	2.5%

Recent Amendments

Sl. No.	Chapter, Heading, Sub-heading or Tariff item	Description of Goods	Rate
16	9019	(i) Non-invasive ventilation nasal or oronasal masks for ICU ventilators	2.5%
		(ii) Canula for use with ventilators	
17	9025	Temperature check equipment	2.5%
18	8702 or 8703	Ambulance	6%

2. This notification shall remain in force upto and inclusive of the 30th September, 2021.

[F.No. CBIC-190354/63/2021-TO(TRU-I)-CBEC]

(Rajeev Ranjan)

Under Secretary to the Government of India



Circular No. 148/04/2021-GST New Delhi, dated the 18th May, 2021 CBEC-20/06/04/2020-GST

To,

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners / Commissioners of Central Tax (All)

Madam/Sir,

Subject: Standard Operating Procedure (SOP) for implementation of the provision of extension of time limit to apply for revocation of cancellation of registration under section 30 of the CGST Act, 2017 and rule 23 of the CGST Rules, 2017 - reg.

As you are aware vide Finance Act, 2020, section 30 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act") was amended and the same has been notified with effect from 01.01.2021 vide notification No. 92/2020- Central Tax, dated 22.12.2020. The amended provision provides for extension of time limit for applying for revocation of cancellation of registration on sufficient cause being shown and for reasons to be recorded in writing, by:

- the Additional or Joint Commissioner, as the case may be, for a period not exceeding thirty days;
- the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a) above

Consequently, changes have also been made in rule 23 and **FORM GST REG-21** of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules") vide notification No.15/2021- Central Tax, dated 18.05.2021.

2. In order to ensure uniformity in the implementation of the provisions of above rule across the field formations, till the time an independent functionality for extension of time limit for applying in **FORM GST REG-21** is developed on the GSTN portal, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby provides the following guidelines for implementation of the provision for extension of time limit for applying for revocation of cancellation of registration under the said section and rule.

3. As has been provided in section 30 of the CGST Act, any registered person whose registration is cancelled by the proper officer on his own motion, may apply to such officer in **FORM GST REG-21**, for

revocation of cancellation of registration within 30 days from the date of service of the cancellation order. In case the registered person applies for revocation of cancellation beyond 30 days, but within 90 days from the date of service of the cancellation order, the following procedure is specified for handling such cases:

4.1. Where a person applies for revocation of cancellation of registration beyond a period of 30 days from the date of service of the order of cancellation of registration but within 60 days of such date, the said person may request, through letter or e-mail, for extension of time limit to apply for revocation of cancellation of registration to the proper officer by providing the grounds on which such extension is sought. The proper officer shall forward the request to the jurisdictional Joint/Additional Commissioner for decision on the request for extension of time limit.

4.2. The Joint/Additional Commissioner, on examination of the request filed for extension of time limit for revocation of cancellation of registration and on sufficient cause being shown and for reasons to be recorded in writing, may extend the time limit to apply for revocation of cancellation of registration. In case the request is accepted, the extension of the time limit shall be communicated to the proper officer. However, in case the concerned Joint/Additional Commissioner, is not satisfied with the grounds on which such extension is sought, an opportunity of personal hearing may be granted to the person before taking decision in the matter. In case of rejection of the request for the extension of time limit, the grounds for such rejection may be communicated to the person concerned, through the proper officer.

4.3. On receipt of the decision of the Joint/Additional Commissioner on request for extension of time limit for applying for revocation of cancellation of registration, the proper officer shall process the application for revocation of cancellation of registration according to the law and procedure laid down in this regard.

5. Procedure similar to that explained in paragraph 4.1 to 4.3 above, shall be followed *mutatis-mutandis* in case a person applies for revocation of cancellation of registration beyond a period of 60 days from the date of service of the order of cancellation of registration but within 90 days of such date.

6. The circular shall cease to have effect once the independent functionality for extension of time limit for applying in **FORM GST REG-21** is developed on the GSTN portal.

7. Difficulties, if any, in implementation of these instructions may be informed to the Board (gst-cbec@gov.in). Hindi version follows.

(Sanjay Mangal)
Commissioner (GST)



Circular No. 149/05/2021-GST North Block, New Delhi, Dated the 17th June, 2021
CBIC-190354/36/2021-TRU Section-CBEC

To,

The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/ Commissioner of Central Tax (All) /

The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Sub: Clarification regarding applicability of GST on supply of food in Anganwadis and Schools -reg.

Representations have been received seeking clarification regarding applicability of GST on the issues as to whether serving of food in schools under Mid-Day Meals Scheme would be exempt if such supplies are funded by government grants and/or corporate donations. The issue was examined by GST Council in its 43rd meeting held on 28th May, 2021.

Recent Amendments

2. Entry 66 clause (b)(ii) of notification No. 12/2017-Central Tax (Rate) dated 28th June, 2017, exempts *Services provided to an educational institution, by way of catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory.* This entry applies to pre-school and schools.
3. Accordingly, as per said entry 66, any catering service provided to an educational institution is exempt from GST. The entry further mention that such exempt service includes mid- day meal service as specified in the entry. The scope of this entry is thus wide enough to cover any serving of any food to a school, including pre-school. Further, an Anganwadi interalia provides pre-school non- formal education. Hence, aganwadi is covered by the definition of educational institution (as pre-school)
4. Accordingly, as per recommendation of the GST Council, it is clarified that services provided to an educational institution by way of serving of food (catering including mid- day meals) is exempt from levy of GST irrespective of its funding from government grants or corporate donations [under said entry 66 (b) (ii)]. Educational institutions as defined in the notification include aganwadi. Hence, serving of food to anganwadi shall also be covered by said exemption, whether sponsored by government or through donation from corporates.
5. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours faithfully,
(Rajeev Ranjan) Under Secretary, TRU
Email: rajeev.ranjan-as@gov.in
Tel: 011 2309 5558



Circular No.150/06/2021-GST North Block, New Delhi, Dated the 17th June, 2021 CBIC-190354/36/2021-TRU Section-CBEC

To,
The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/ Commissioner of Central Tax (All) /
The Principal Director Generals/ Director Generals (All)
Madam/Sir,

Sub: Clarification regarding applicability of GST on the activity of construction of road where considerations are received in deferred payment (annuity)-reg.

Certain representations have been received requesting for a clarification regarding applicability of GST on annuities paid for construction of road where certain portion of consideration is received upfront while remaining payment is made through deferred payment (annuity) spread over years.

2. This issue has been examined by the GST Council in its 43rd meeting held on 28th May, 2021.

2.1 GST is exempt on service, falling under heading 9967 (service code), by way of access to a road or a bridge on payment of annuity [entry 23A of notification No. 12/2017-Central Tax]. Heading 9967 covers “supporting services in transport” under which code 996742 covers “operation services of National Highways, State Highways, Expressways, Roads & streets; bridges and tunnel operation services”. Entry 23 of said notification exempts “service by way of access to a road or a bridge on payment of toll”. Together the entries 23 and 23A exempt access to road or bridge, whether the consideration are in the form of toll or annuity [heading 9967].

2.2 Services by way of construction of road fall under heading 9954. This heading *inter alia* covers general construction services of highways, streets, roads railways, airfield runways, bridges and tunnels. Consideration for construction of road service may be paid partially upfront and partially in deferred annual payments (and may be called annuities). Said entry 23A does not apply to services falling under heading 9954 (it specifically covers heading 9967 only). Therefore, plain reading of entry 23A makes it clear that it

does not cover construction of road services (falling under heading 9954), even if deferred payment is made by way of instalments (annuities).

3. Accordingly, as recommended by the GST Council, it is hereby clarified that *Entry 23A of notification No. 12/2017-CT(R)* does not exempt GST on the annuity (deferred payments) paid for construction of roads.

4. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours faithfully,
(Rajeev Ranjan) Under Secretary, TRU
Email: rajeev.ranjan-as@gov.in
Tel: 011 2309 5558



Circular No. 151/07/2021-GST North Block, New Delhi, Dated the 17th June, 2021
CBIC-190354/36/2021-TRU Section-CBEC

To,
The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/ Commissioner of Central Tax (All) /
The Principal Director Generals/ Director Generals (All)
Madam/Sir,

Sub: Clarification regarding GST on supply of various services by Central and State Board (such as National Board of Examination)-reg.

Certain representations have been received seeking clarification in respect of taxability of various services supplied by Centre and State Boards such as National Board of Examination (NBE). These services include entrance examination (on charging a fee) for admission to educational institution, input services for conducting such entrance examination for students, accreditation of educational institutions or professional so as to authorise them to provide their respective services. The issue was examined by GST Council in its 43rd meeting held on 28th May, 2021.

2. *Illustratively*, NBE provides services of conducting entrance examinations for admission to courses including Diplomat National Board (DNB) and Fellow of National Board (FNB), prescribes courses and curricula for PG medical studies, holds examinations and grant degrees, diplomas and other academic distinctions. It carries out all functions as are normally carried out by central or state educational boards and is thus a central educational board.

3. According to explanation 3(iv) of the notification No. 12/ 2017 CTR, "Central and State Educational Boards" are treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students.

Therefore, NBE is an 'Educational Institution' in so far as it provides services by way of conduct of examination, including any entrance examination, to the students.

3.1 Following services supplied by an educational institution are exempt from GST vide sl. No. 66 of the notification No. 12/ 2017- Central Tax (Rate) dated 28.06.2017,

Services provided -

(a) *by an educational institution to its students, faculty and staff;*

(aa) *by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;*

3.2 Similarly, services provided to an educational institution, relating to admission to, or conduct of examination is also exempt from GST [sl. No. 66 (b)(iv)- 12/2017-CT(r)].

Recent Amendments

3.3 Educational institutions are defined at 2(y) of the said notification as follows-

“(y) educational institution” means an institution providing services by way of, -

- (i) pre-school education and education up to higher secondary school or equivalent;*
- (ii) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;*
- (iii) education as a part of an approved vocational education course;”;*

Further, clause (iv) of Explanation of said notification reads as below:

“(iv) For removal of doubts, it is clarified that the Central and State Educational Boards shall be treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students”

4. Taking into account the above, the GST Council has recommended, to clarify as below:

- (i) GST is exempt on services provided by Central or State Boards (including the boards such as NBE) by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution [under S. No. 66 (aa) of notif No. 12/2017-CT(R)]. Therefore, GST shall not apply to any fee or any amount charged by such Boards for conduct of such examinations including entrance examinations.
 - (ii) GST is also exempt on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination, admit card and questions papers etc, when provided to such Boards [under S. No. 66 (b) (iv) of notif No. 12/2017- CT(R)].
 - (iii) GST at the rate of 18% applies to other services provided by such Boards, namely of providing accreditation to an institution or to a professional (accreditation fee or registration fee such as fee for FMGE screening test) so as to authorise them to provide their respective services
5. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours faithfully,
(Rajeev Ranjan) Under Secretary, TRU
Email: rajeev.ranjan-as@gov.in
Tel: 011 2309 5558

✉

Circular No. 152/08/2021-GST North Block, New Delhi, Dated the 17th June, 2021 CBIC-190354/36/2021-TRU Section-CBEC

To,
The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/ Commissioner of Central Tax (All) /
The Principal Director Generals/ Director Generals (All)
Madam/Sir,

Sub: Clarification regarding rate of tax applicable on construction services provided to a Government Entity, in relation to construction such as of a Ropeway on turnkey basis-reg.

Reference has been received by the Board for a clarification whether services supplied to a Government Entity by way of construction such as of “a ropeway” are eligible for concessional rate of 12% GST under entry

No. 3 (vi) of Notification No. 11/2017- CT (R) dt. 28.06.2017. On the recommendation of the GST Council, this issue is clarified as below.

2. According to entry No. 3(vi) of notification No. 11/2017-CT (R) dated 28.06.2017, GST rate of 12% is applicable, inter alia, on-

“(vi) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, (other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above) provided to the Central Government, State Government, Union Territory, a local authority a Governmental Authority or a Government Entity, by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –

(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession; “

....

2.1 Thus, said entry No 3 (vi) does not apply to any works contract that is meant for the purposes of commerce, industry, business of profession, even if such service is provided to the Central Government, State Government, Union Territory, a local authority a Governmental Authority or a Government Entity. The doubt seems to have arisen in the instant cases as Explanation to the said entry states, the term ‘business’ shall not include any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities. However, this explanation does not apply to Governmental Authority or Government Entity, as defined in clause (ix) and (x) of the explanation to said notification. Further, civil constructions, such as rope way for tourism development shall not be covered by said entry 3(vi) not being a structure that is meant predominantly for purposes other than business. While road, bridge, terminal, or railways are covered by entry No. 3(iv) and 3(v) of said notification, structures like ropeway are not covered by these entries too. Therefore, works contract service provided by way of construction such as of rope way shall fall under entry at sl. No. 3(xii) of notification 11/2017-(CTR) and attract GST at the rate of 18%.

3. Difficulty if any, may be brought to the notice of the Board.

Yours faithfully,
(Rajeev Ranjan) Under Secretary, TRU
Email: rajeev.ranjan-as@gov.in
Tel: 011 2309 5558

5

Circular No. 153/09/2021-GST North Block, New Delhi, Dated the 17th June, 2021
CBIC-190354/36/2021-TRU Section-CBEC

To,

The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/ Commissioner of Central Tax (All) /

The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Sub: GST on milling of wheat into flour or paddy into rice for distribution by State Governments under PDS -reg.

Certain representations have been received seeking clarification whether composite supply of service by way of milling of wheat into wheat flour, alongwith fortification, by any person to a State Government for distribution of such wheat flour under Public Distribution System is eligible for exemption under entry No. 3A of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, and also as regards the rate of GST on

Recent Amendments

such milling, if it does not fall in said entry No. 3A. The issue has been examined by GST Council in its 43rd meeting held on 28th May, 2021.

2. Entry at Sl. No. 3A of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 exempts “*composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent of the value of the said composite supply provided to the Central Government, State Government or Union territory or local authority or a Governmental authority or a Government Entity by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution*”.

3. As per the recommendation of the GST Council the issue is clarified as below.

3.1 Public Distribution specifically figures at entry 28 of the 11th Schedule to the constitution, which lists the activities that may be entrusted to a Panchayat under Article 243G of the Constitution. Hence, said entry No. 3A would apply to composite supply of milling of wheat and fortification thereof by miller, or of paddy into rice, provided that value of goods supplied in such composite supply (goods used for fortification, packing material etc) does not exceed 25% of the value of composite supply. It is a matter of fact as to whether the value of goods in such composite supply is up to 25% and requires ascertainment on case-to-case basis.

3.2 In case the supply of service by way of milling of wheat into flour or of paddy into rice, is not eligible for exemption under Sl. No. 3 A of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 for the reason that value of goods supply in such a composite supply exceeds 25%, then the applicable GST rate would be 5% if such composite supply is provided to a registered person, being a job work service (entry No. 26 of notification No. 11/2017- Central Tax (Rate) dated 28.06.2017). Combined reading of the definition of job-work [section 2(68), 2(94), 22, 24, 25 and section 51] makes it clear that a person registered only for the purpose of deduction of tax under section 51 of the CGST Act is also a registered person for the purposes of the said entry No. 26, and thus said supply to such person is also entitled for 5% rate.

4. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours Faithfully,
Shashikant Mehta
Technical Officer (TRU)
Email: shashikant.mehta@gov.in



Circular No.154/10/2021-GST North Block, New Delhi, Dated the 17th June, 2021 CBIC-190354/36/2021-TRU Section-CBEC

To,
The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/ Commissioner of Central Tax (All) /
The Principal Director Generals/ Director Generals (All)
Madam/Sir,

Sub: GST on service supplied by State Govt. to their undertakings or PSUs by way of guaranteeing loans taken by them -reg.

Certain representations have been received requesting for clarification regarding applicability of GST on supply of service by State Govt. to their undertakings or PSUs by way of guaranteeing loans. The issue was examined by GST Council in its 43rd meeting held on 28th May, 2021.

2. Entry No. 34A of Notification no. 12/2017-Central Tax (Rate) dated 28.06.2017 exempts “*Services supplied by Central Government, State Government, Union territory to their undertakings or Public Sector*”.

Undertakings (PSUs) by way of guaranteeing the loans taken by such undertakings or PSUs from the banking companies and financial institutions."

3. Accordingly, as recommended by the Council, it is re-iterated that guaranteeing of loans by Central or State Government for their undertaking or PSU is specifically exempt under said entry No. 34A.
4. Difficulty, if any, in the implementation of this circular may be brought to the notice of the Board.

Yours faithfully,
Shashikant Mehta
Technical Officer (TRU)
Email: shashikant.mehta@gov.in



Circular No. 155/11/2021-GST North Block, New Delhi, Dated the 17th June, 2021
CBIC-190354/36/2021-TRU Section-CBEC

To,
Principal Chief Commissioners/ Principal Directors General, Chief Commissioners/ Directors General,
Principal Commissioners/ Commissioners of GST and Central Tax (All),
Madam/Sir,

Subject: Clarification regarding GST rate on laterals/parts of Sprinklers or Drip Irrigation System-regarding.

Representations have been received seeking clarification regarding GST rate on parts of Sprinklers or Drip Irrigation System, when they are supplied separately (i.e. not along with entire sprinklers or drip irrigation system). This issue was examined in the 43rd meeting of GST Council held on the 28th May, 2021.

2. The GST rate on Sprinklers or Drip Irrigation System along with their laterals/parts are governed by S.No. '195B' under Schedule II of notification No. 1/2017- Central Tax (Rate), dated 28th June, 2017 which has been inserted vide notification No. 6/2018- Central Tax (Rate), dated 25th January, 2018 and reads as below:

S. No.	Chapter Heading/ Sub-heading/ Tariff Item	Description of Goods	CGST rate
195B	8424	Sprinklers; drip irrigation systems including laterals; mechanical sprayer	6%

3. The matter is examined. The intention of this entry has been to cover laterals (pipes to be used solely with with sprinklers/drip irrigation system) and such parts that are suitable for use solely or principally with 'sprinklers or drip irrigation system', as classifiable under heading 8424 as per Note 2 (b) to Section XVI to the HSN. Hence, laterals/parts to be used solely or principally with sprinklers or drip irrigation system, which are classifiable under heading 8424, would attract a GST of 12%, even if supplied separately. However, any part of general use, which gets classified in a heading other than 8424, in terms of Section Note and Chapter Notes to HSN, shall attract GST as applicable to the respective heading.

4. Difficulty, if any, may be brought to the notice of the Board immediately. Hindi version shall follow.

Yours faithfully
(Patil Sameer Shivajirao)
OSD, TRU
Email: sameer.sp@gov.in Tel: 011 2309 5543



SGST NOTIFICATION AND CIRCULARS

FINANCE DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032, dated the 24th May 2021.

NOTIFICATION

Notification No. 15/2021 - State Tax

MAHARASHTRA GOODS AND SERVICES TAX ACT, 2017.

No. GST-1021 / C.R. 52 / Taxation-1.- In exercise of the powers conferred by section 164 of the Maharashtra Goods and Services Tax Act, 2017 (Mah. XLIII of 2017), the Maharashtra Government hereby makes the following rules further to amend the Maharashtra Goods and Services Tax Rules, 2017, namely : -

1. Short title and commencement.

(1) These rules may be called the Maharashtra Goods and Services Tax (Fourth Amendment) Rules, 2021.

(2) Save as otherwise provided in these rules, they shall be deemed to have come into force with effect from 18th May, 2021.

2. In the Maharashtra Goods and Services Tax Rules, 2017, -

(i) in rule 23, in sub-rule (1), after the words "date of the service of the order of cancellation of registration", the words and figures "or within such time period as extended by the Additional Commissioner or the Joint Commissioner or the Commissioner, as the case may be, in exercise of the powers provided under the proviso to sub-section (1) of section 30," shall be inserted;

(ii) in rule 90, -

(a) in sub-rule (3), the following proviso shall be inserted;

"Provided that the time period, from the date of filing of the refund claim in **FORM GST RFD- 01** till the date of communication of the deficiencies in **FORM GST RFD-03** by the proper officer, shall be excluded from the period of two years as specified under sub-section (1) of Section 54, in respect of any such fresh refund claim filed by the applicant after rectification of the deficiencies. ";

(b) after sub-rule (4), the following sub-rules shall be inserted, namely: -

"(5) The applicant may, at any time before issuance of provisional refund sanction order in **FORM GST RFD-04** or final refund sanction order in **FORM GST RFD-06** or payment order in **FORM GST RFD-05** or refund withhold order in **FORM GST RFD-07** or notice in **FORM GST RFD-08**, in respect of any refund application filed in **FORM GST RFD-01**, withdraw the said application for refund by filing an application in **FORM GST RFD-01W**.

(6) On submission of application for withdrawal of refund in **FORM GST RFD-01W**, any amount debited by the applicant from electronic credit ledger or electronic cash ledger, as the case may be, while filing application for refund in **FORM GST RFD-01**, shall be credited back to the ledger from which such debit was made.";

(iii) in rule 92, -

(a) in sub-rule (1), the proviso shall be omitted;

(b) in sub-rule (2), -

(i) for the word and letter "Part B", the word and letter "Part A" shall be substituted;

(ii) the following proviso shall be inserted, namely: -

“Provided that where the proper officer or the Commissioner is satisfied that the refund is no longer liable to be withheld, he may pass an order for release of withheld refund in Part B of **FORM GST RFD- 07.**”;

(iv) in rule 96, -

(a) in sub-rule (6), for the word and letter “Part B”, the word and letter “Part A” shall be substituted;

(b) in sub-rule (7), for the words, letters and figures, “after passing an order in **FORM GST RFD-06**”, the words, letters and figures, “by passing an order in **FORM GST RFD-06** after passing an order for release of withheld refund in Part B of **FORM GST RFD-07**” shall be substituted;

(v) in **FORM GST REG-21**, under the sub-heading “Instructions for submission of application for revocation of cancellation of registration”, in the first bullet point “after the words “date of service of the order of cancellation of registration”, the words and figures “or within such time period as extended by the Additional Commissioner or the Joint Commissioner or Commissioner, as the case may be, in exercise of the powers provided under proviso to sub-section (1) of section 30,” shall be inserted;

(vi) in rule 138E, for the words “in respect of a registered person, whether as a supplier or a recipient, who, —” the words “in respect of any outward movement of goods of a registered person, who, —” shall be substituted.

(vii) for **FORM GST RFD-07**, the following FORM shall be substituted, namely: -

“FORM GST RFD-07

[See rules 92(2) & 96(6)]

Reference No.

Date: <DD/MM/YYYY>

To

_____ (GSTIN/UIN/Temp. ID)
 _____ (Name)
 _____ (Address)
 _____ (ARN)

Part-A

Order for withholding the refund

Refund payable to the taxpayer with respect to ARN specified above are hereby withheld in accordance with the provisions of sub-section (10)/ (11) of section 54 of the CGST Act, 2017. The reasons for withholding are given as under:

S. No.	Particulars	
1	ARN	
2	Amount Claimed in RFD-01	<Auto-populated>
3	Amount Inadmissible in RFD-06	<Auto-populated>
4	Amount Adjusted in RFD-06	<Auto-populated>
5	Amount Withheld	
6	Reasons for withholding (More than one reason can be selected)	<ul style="list-style-type: none"> o Recoverable dues not paid o In view of sub-section 11 of Section 54 o On account of fraud (s) of serious nature o Others (specify)

Recent Amendments

7	Description of the reasons	(Up to 500 characters, separate file can be attached for detailed reasons)
8	Record of Personal Hearing	(Up to 500 characters, separate file can be attached for detailed records)

Part-B

Order for release of withheld refund

This has reference to your refund application <ARN> dated <date> against which the payment of refund amount sanctioned vide order <RFD-06 order no> dated <date> was withheld by this office order <Order Reference No> dated <date>. It has been now found to my satisfaction that the conditions for withholding of refund no longer exist and therefore, the refund amount withheld is hereby allowed to be released as given under:

S. No.	Particulars	
1	ARN	
2	Amount Claimed in RFD-01	<Auto-populated>
3	Amount Inadmissible in RFD- 06	<Auto-populated>
4	Amount Adjusted in RFD-06	<Auto-populated>
5	Amount Withheld in RFD-07 A	<Auto-populated>
6	Amount Released	
7	Amount to be Paid	

Date:

Signature (DSC):

Place:

Name:

Designation: Office Address: ”;

(viii) after **FORM GST RFD-01 B**, the following FORM shall be inserted, namely : -

“FORM GST RFD-01 W [Refer Rule 90(5)]

Application for Withdrawal of Refund Application

1. ARN:
2. GSTIN:
3. Name of Business (Legal):
4. Trade Name, if any:
5. Tax Period:
6. Amount of Refund Claimed:
7. Grounds for Withdrawing Refund Claim:
 - i. Filed the refund application by mistake
 - ii. Filed Refund Application under wrong category
 - iii. Wrong details mentioned in the refund application
 - iv. Others (Please Specify)

8. Declaration: I/We <Taxpayer Name> hereby solemnly affirm and declare that the information given herein is true and correct to the best of my/ our knowledge and belief and nothing has been concealed therefrom.

Place:

Signature of Authorised Signatory

Date:

Name

Designation/ Status".

By order and in the name of the Governor of Maharashtra,

MANDAR KELKAR,
Deputy Secretary to Government.

Note: - The principal rules were published in the Maharashtra Government Gazette, Extraordinary No. 170, Part IV-B, dated 22nd June, 2017, vide notification No. MGSST- 1017/C.R.90/Taxation-1, dated 22nd June, 2017 and were last amended vide Finance Department Notification No. GST-1021/C.R.48(A) /Taxation-1 dated 7th May, 2021 [Notification No. 13/ 2021 - State Tax] which was published in the Maharashtra Government Gazette, Extraordinary No. 129 Part-IV-B, dated 7th May, 2021.



FINANCE DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032, dated the 9th June 2021.

NOTIFICATION

Notification No. 18/2021 - State Tax

MAHARASHTRA GOODS AND SERVICES TAX ACT, 2017.

No. GST.1021/C.R. 56/Taxation-1.— In exercise of the powers conferred by sub-section (1) of section 50 of the Maharashtra Goods and Services Tax Act, 2017 (Mah. XLIII of 2017) (hereinafter in this notification referred to as the "said Act"), read with section 148 of the said Act, the Government of Maharashtra, on the recommendations of the Council, hereby makes the following further amendments in the Government Notification of the Finance Department No. GST-1017/C.R. 103(20) /Taxation-1. [Notification No. 13/2017-State Tax], dated the 29th June, 2017, published in the Maharashtra Government Gazette, Part-IV-B, Extraordinary No. 182, dated the 29th June, 2017, namely: —

In the said notification, in the first paragraph, in the first proviso,—

(i) for the words, letters and figure "required to furnish the returns in **FORM GSTR-3B**, but fail to furnish the said return along with payment of tax", the words "liable to pay tax but fail to do so" shall be substituted ;

(ii) in the Table, in column 4, in the heading, for the words "Tax period", the words "Month/Quarter" shall be substituted ;

(iii) in the Table, for serial number 4, 5, 6 and 7, the following shall be substituted, namely: —

(1)	(2)	(3)	(4)
"4.	Taxpayers having an aggregate turnover of more than rupees 5 crores in the preceding financial year	9 per cent for the first 15 days from the due date and 18 per cent thereafter	March, 2021, April, 2021 and May, 2021

Recent Amendments

(1)	(2)	(3)	(4)
5.	Taxpayers having an aggregate turnover of upto rupees 5 crores in the preceding financial year who are liable to furnish the return as specified under sub-section (1) of section 39	Nil for the first 15 days from the due date, 9 per cent for the next 45 days, and 18 per cent thereafter	March, 2021
		Nil for the first 15 days from the due date, 9 per cent for the next 30 days, and 18 per cent thereafter	April, 2021
		Nil for the first 15 days from the due date, 9 per cent for the next 15 days, and 18 per cent thereafter	May, 2021
6.	Taxpayers having an aggregate turnover of upto rupees 5 crores in the preceding financial year who are liable to furnish the return as specified under proviso to sub-section (1) of section 39	Nil for the first 15 days from the due date, 9 per cent for the next 45 days, and 18 per cent thereafter	March, 2021
		Nil for the first 15 days from the due date, 9 per cent for the next 30 days, and 18 per cent thereafter	April, 2021
		Nil for the first 15 days from the due date, 9 per cent for the next 15 days, and 18 per cent thereafter	May, 2021
7.	Taxpayers who are liable to furnish the return as specified under sub-section (2) of section 39	Nil for the first 15 days from the due date, 9 per cent for the next 45 days, and 18 per cent thereafter	Quarter ending March, 2021".

2. This notification shall be deemed to have come into force with effect from the 18th day of May, 2021. By order and in the name of the Governor of Maharashtra,

MANDAR KELKAR,
Deputy Secretary to Government.

Note.— The principal Notification No.MGST-1017/C.R.103 (20)/Taxation-1 [Notification No. 13/2017-State Tax], dated the 29th June, 2017, was published in the Maharashtra Government Gazette, Part IV-B, Extraordinary No. 182, dated the 29th June, 2017 and was last amended by Notification No. GST. 1021/C.R.-47/Taxation-1 [Notification No. 08/2021-State Tax], dated the 6th May, 2021, published in the Maharashtra Government Gazette, Part IV-B, Extraordinary No. 123, dated the 6th May, 2021.



FINANCE DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032, dated the 9th June 2021.

NOTIFICATION

Notification No. 19/2021 - State Tax

MAHARASHTRA GOODS AND SERVICES TAX ACT, 2017.

No. GST / 1021 / C.R. 56 (A) / Taxation-1.—In exercise of the powers conferred by section 128 of the Maharashtra Goods and Services Tax Act, 2017 (Mah. XLIII of 2017) (hereinafter in this notification referred to as the “said Act”), the Government of Maharashtra, on the recommendations of the Council, hereby makes the following further amendments in the Government Notification of the Finance Department No. GST-

1018/C.R.150/Taxation-1. [Notification No. 76/2018-State Tax], dated the 31st December, 2018, published in the Maharashtra Government Gazette, Part-IV-B, Extra-ordinary No. 472, dated the 31st December, 2018, namely: –

In the said notification, –

(i) in the eighth proviso, with effect from the 20th day of May, 2021, for the Table, the following Table shall be substituted, namely: –

“Table

S. No. (1)	Class of registered persons (2)	Tax period (3)	Period for which late fee waived (4)
1.	Taxpayers having an aggregate turnover of more than rupees 5 crores in the preceding financial year	March, 2021, April, 2021 and May, 2021	Fifteen days from the due date of furnishing return.
2.	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year who are liable to furnish the return as specified under sub-section (1) of section 39	March, 2021	Sixty days from the due date of furnishing return.
		April, 2021	Forty-five days from the due date of furnishing return.
		May, 2021	Thirty days from the due date of furnishing return.
3	Taxpayers having an aggregate turnover of up to rupees 5 crores in the preceding financial year who are liable to furnish the return as specified under proviso to sub-section (1) of section 39.	January-March, 2021	Sixty days from the due date of furnishing return.”;

(ii) after the eighth proviso, the following provisos shall be inserted, namely: –

“Provided also that for the registered persons who failed to furnish the return in **FORM GSTR-3B** for the months /quarter of July, 2017 to April, 2021, by the due date but furnish the said return between the period from the 1st day of June, 2021 to the 31st day of August, 2021, the total amount of late fee under section 47 of the said Act, shall stand waived which is in excess of five hundred rupees:

Provided also that where the total amount of state tax payable in the said return is nil, the total amount of late fee under section 47 of the said Act shall stand waived which is in excess of two hundred and fifty rupees for the registered persons who failed to furnish the return in **FORM GSTR-3B** for the months / quarter of July, 2017 to April, 2021, by the due date but furnish the said return between the period from the 1st day of June, 2021 to the 31st day of August, 2021:

Provided also that the total amount of late fee payable under section 47 of the said Act for the tax period June, 2021 onwards or quarter ending June, 2021 onwards, as the case may be, shall stand waived which is in excess of an amount as specified in column (3) of the Table given below, for the class of registered persons mentioned in the corresponding entry in column (2) of the said Table, who fail to furnish the returns in **FORM GSTR-3B** by the due date, namely: –

Table

S. No. (1)	Class of registered persons (2)	Amount (3)
1.	Registered persons whose total amount of state tax payable in the said return is nil	Two hundred and fifty rupees

Recent Amendments

2.	Registered persons having an aggregate turnover of upto rupees 1.5 crores in the preceding financial year, other than those covered under S. No. 1	One thousand rupees
3.	Taxpayers having an aggregate turnover of more than rupees 1.5 crores and up to rupees 5 crores in the preceding financial year, other than those covered under S. No. 1	Two thousand and five hundred rupees".

By order and in the name of the Governor of Maharashtra,

MANDAR KELKAR,
Deputy Secretary to Government.

Note:-The principal Notification No. GST-1018/C.R. 150 / Taxation-1 [Notification No. 76/2018- State Tax], dated the 31st December, 2018, was published in the Maharashtra Government Gazette, Part IV-B, Extra-ordinary No. 472, dated the 31st December, 2018 and was last amended by Notification No. GST. 1021/C.R.-47(A)/Taxation-1 [Notification No. 09/2021- State Tax], dated the 6th May, 2021, published in the Maharashtra Government Gazette, Part IV-B, Extra-ordinary No. 124, dated the 6th May, 2021.



FINANCE DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032, dated the 9th June 2021.

NOTIFICATION

Notification No. 20/2021 - State Tax

MAHARASHTRA GOODS AND SERVICES TAX ACT, 2017.

No. GST/ 1021 / C.R. 56 (B) / Taxation-1.—In exercise of the powers conferred by section 128 of the Maharashtra Goods and Services Tax Act, 2017 (Mah. XLIII of 2017) (hereinafter in this notification referred to as the "said Act"), the Government of Maharashtra, on the recommendations of the Council, hereby makes the following further amendments in the Government Notification of the Finance Department No. GST-1018/C.R. 12 (1) /Taxation-1. [Notification No. 4/2018-State Tax], dated the 24th January, 2018, published in the Maharashtra Government Gazette, Part-IV-B, Extra-ordinary No. 34, dated the 24th January, 2018, namely: —

In the said notification, after the fourth proviso, the following proviso shall be inserted, namely: —

"Provided also that the total amount of late fee payable under section 47 of the said Act for the tax period June, 2021 onwards or quarter ending June, 2021 onward, as the case may be, shall stand waived which is in excess of an amount as specified in column (3) of the Table given below, for the class of registered persons mentioned in the corresponding entry in column (2) of the said Table, who fail to furnish the details of outward supplies in **FORM GSTR-1** by the due date, namely: —

Table

S. No. (1)	Class of registered persons (2)	Amount(3)
1.	Registered persons who have nil outward supplies in the tax period	Two hundred and fifty rupees
2.	Registered persons having an aggregate turnover of up to rupees 1.5 crores in the preceding financial year, other than those covered under S. No. 1	One thousand rupees

3.	Registered persons having an aggregate turnover of more than rupees 1.5 crores and up to rupees 5 crores in the preceding financial year, other than those covered under S. No. 1	Two thousand and five hundred rupees
----	---	--------------------------------------

By order and in the name of the Governor of Maharashtra,

MANDAR KELKAR,
Deputy Secretary to Government.

Note: -The principal Notification No.MGST-1018/C.R.12 (1)/Taxation-1 [Notification No. 4/2018-State Tax], dated the 24th January, 2018, was published in the Maharashtra Government Gazette, Part IV-B, Extra-ordinary No. 34, dated the 24th January, 2018 and was last amended by Notification No. GST. 1020/C.R.-66B/Taxation-1 [Notification No. 53/2020- State Tax], dated the 1st July, 2020, published in the Maharashtra Government Gazette, Part IV-B, Extra-ordinary No. 138, dated the 1st July, 2020



FINANCE DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032, dated the 9th June 2021.

NOTIFICATION

Notification No. 21/2021 - State Tax

MAHARASHTRA GOODS AND SERVICES TAX ACT, 2017.

No. GST/1021/C.R. 56(C)/Taxation-1.—In exercise of the powers conferred by section 128 of the Maharashtra Goods and Services Tax Act, 2017 (Mah. XLIII of 2017) (hereinafter in this notification referred to as the “said Act”), the Government of Maharashtra, on the recommendations of the Council, hereby makes the following further amendments in the Government Notification of the Finance Department No. GST-1017/C.R.03 / Taxation-1. [Notification No. 73/2017-State Tax], dated the 29th December 2017, published in the Maharashtra Government Gazette, Part-IV-B, Extra-ordinary No. 10, dated the 4th January, 2018, namely: —

In the said notification, after the third proviso, the following proviso shall be inserted, namely: —

“Provided also that the total amount of late fee payable under section 47 of the said Act for financial year 2021-22 onwards, by the registered persons who fail to furnish the return in **FORM GSTR-4** by the due date, shall stand waived —

- (i) which is in excess of two hundred and fifty rupees where the total amount of State tax payable in the said return is nil;
- (ii) which is in excess of one thousand rupees for the registered persons other than those covered under clause (i).”.

By order and in the name of the Governor of Maharashtra,

MANDAR KELKAR,
Deputy Secretary to Government.

Note.—The principal Notification No. GST-1017/C.R.03 /Taxation-1. [Notification No. 73/2017-State Tax], dated the 29th December 2017, published in the Maharashtra Government Gazette, Part-IV-B, Extra-ordinary No. 10, dated the 4th January, 2018, and was last amended by Notification No. GST. 1020/C.R.-88A/Taxation-1 [Notification No. 67/2020-State Tax], dated the 13th October, 2020, published in the Maharashtra Government Gazette, Part IV-B, Extraordinary No. 239, dated the 13th October, 2020.



FINANCE DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032, dated the 9th June 2021.

NOTIFICATION

Notification No. 22/2021 - State Tax

MAHARASHTRA GOODS AND SERVICES TAX ACT, 2017.

No. GST/1021/C.R.56(D)/Taxation-1.—In exercise of the powers conferred by section 128 of the Maharashtra Goods and Services Tax Act, 2017 (Mah. XLIII of 2017) (hereinafter in this notification referred to as the “said Act”), the Government of Maharashtra, on the recommendations of the Council, hereby waives the amount of late fee payable under section 47 of the said Act by any registered person, required to deduct tax at source under the provisions of section 51 of the said Act, for failure to furnish the return in **FORM GSTR-7** for the month of June, 2021 onwards, by the due date, which is in excess of an amount of twenty-five rupees for every day during which such failure continues :

Provided that the total amount of late fee payable under section 47 of the said Act by such registered person for failure to furnish the return in **FORM GSTR-7** for the month of June, 2021 onwards, by the due date, shall stand waived which is in excess of an amount of one thousand rupees.

By order and in the name of the Governor of Maharashtra,

MANDAR KELKAR,
Deputy Secretary to Government.

5

FINANCE DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032, dated the 9th June 2021.

NOTIFICATION

Notification No. 23/2021 - State Tax

MAHARASHTRA GOODS AND SERVICES TAX ACT, 2017.

No. GST / 1021 / C.R.56 (E) / Taxation-1.—In exercise of the powers conferred by sub-rule (4) of rule 48 of the Maharashtra Goods and Services Tax Rules, 2017, the Government of Maharashtra, on the recommendations of the Council, hereby makes the following further amendment in the Government Notification of the Finance Department No. GST-1020/C.R. 37 (B) /Taxation-1. [Notification No. 13/2020-State Tax], dated the 30th March, 2020, published in the Maharashtra Government Gazette, Part-IV-B, Extra-ordinary No. 100, dated the 30th March, 2020, namely: —

In the said notification, in the first paragraph, after the words “notifies registered person, other than”, the words “a government department, a local authority,” shall be inserted.

By order and in the name of the Governor of Maharashtra,

MANDAR KELKAR,
Deputy Secretary to Government.

Note.—The principal Notification No. GST-1020/C.R. 37 (B) /Taxation-1. [Notification No. 13/2020-State Tax], dated the 30th March, 2020, published in the Maharashtra Government Gazette, Part-IV-B, Extra-ordinary No.

100, dated the 30th March, 2020 and was last amended by Notification No. GST. 1021/C.R.-35/Taxation-1 [Notification No. 5/2021-State Tax], dated the 15th March, 2021, published in the Maharashtra Government Gazette, Part IV-B, Extra-ordinary No. 70, dated the 15th March, 2021.



FINANCE DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032, dated the 9th June 2021.

NOTIFICATION

Notification No. 24/2021 - State Tax

MAHARASHTRA GOODS AND SERVICES TAX ACT, 2017.

No. GST/ 1021 / C.R.56 (F) / Taxation-1.—In exercise of the powers conferred by section 168A of the Maharashtra Goods and Services Tax Act, 2017 (Mah. XLIII of 2017), the Government of Maharashtra, on the recommendations of the Council, hereby makes the following amendments in the Government Notification of the Finance Department No. GST-1021/C.R. 47 (C) /Taxation-1. [Notification No. 14/2021-State Tax], dated the 6th May, 2021, published in the Maharashtra Government Gazette, Part-IV-B, Extra-ordinary No. 126, dated the 6th May, 2021, namely: —

In the said notification, in the first paragraph,-

(i) in clause (i), —

a. for the figures, letters and words “30th day of May, 2021”, the figures, letters and words “29th day of June, 2021” shall be substituted;

b. for the figures, letters and words “31st day of May, 2021”, the figures, letters and words “30th day of June, 2021” shall be substituted;

(ii) in proviso to clause (i), —

a. for the figures, letters and words “31st day of May, 2021”, the figures, letters and words “30th day of June, 2021” shall be substituted;

b. for the figures, letters and words “15th day of June, 2021”, the figures, letters and words “15th day of July, 2021” shall be substituted;

(iii) in clause (ii), —

a. for the figures, letters and words “30th day of May, 2021”, the figures, letters and words “29th day of June, 2021” shall be substituted;

b. for the figures, letters and words “31st day of May, 2021”, the figures, letters and words “30th day of June, 2021” shall be substituted.

2. This notification shall come into force with effect from the 30th day of May, 2021.

By order and in the name of the Governor of Maharashtra,

MANDAR KELKAR,
Deputy Secretary to Government.

Note.—The principal Notification No. GST-1021/C.R. 47 (C) /Taxation-1. [Notification No. 14/2021-State Tax], dated the 6th May, 2021, published in the Maharashtra Government Gazette, Part-IV-B, Extra-ordinary No. 126, dated the 6th May, 2021.



FINANCE DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032, dated the 9th June 2021.

NOTIFICATION

Notification No. 25/2021-State Tax

MAHARASHTRA GOODS AND SERVICES TAX ACT, 2017.

No. GST/1021/C.R. 56(G)/Taxation-1.-In exercise of the powers conferred by section 148 of the Maharashtra Goods and Services Tax Act, 2017 (Mah. XLIII of 2017), the Government of Maharashtra, on the recommendations of the Council, hereby makes the following further amendments in the Government Notification of the Finance Department No. GST-1019/ C.R. 58/Taxation-1. [Notification No. 21/2019-State Tax], dated the 23rd April 2019, published in the Maharashtra Government Gazette, Part-IV-B, Extra-ordinary No. 130, dated the 23rd April 2019, namely:-

In the said notification, in the third paragraph, in the second proviso, for the figures, letters and words "31st day of May, 2021", the figures, letters and words "31st day of July, 2021" shall be substituted.

2. This notification shall be deemed to have come into force with effect from the 31st day of May, 2021.

By order and in the name of the Governor of Maharashtra,

MANDAR KELKAR,
Deputy Secretary to Government.

Note.- The principal Notification No.MGST-1019/ C.R. 58 /Taxation-1. [Notification No. 21/ 2019-State Tax], dated the 23rd April 2019, published in the Maharashtra Government Gazette, Part-IV-B, Extra-ordinary No. 130, dated the 23rd April 2019 and was last amended by Notification No. GST. 1021/C.R.-47(B)/Taxation-1 [Notification No. 10/2021-State Tax], dated the 6th May 2021, published in the Maharashtra Government Gazette, Part IV-B, Extra-ordinary No. 125, dated the 6th May 2021.



FINANCE DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032, dated the 9th June 2021.

NOTIFICATION

Notification No. 01/2021 - State Tax (Rate)

MAHARASHTRA GOODS AND SERVICES TAX ACT, 2017.

No. GST.1021/C.R. 57/Taxation-1.— In exercise of the powers conferred by sub-section (1) of section 9 and sub-section (5) of section 15 of the Maharashtra Goods and Services Tax Act, 2017 (Mah. XLIII of 2017), the Government of Maharashtra, on the recommendations of the Council, hereby makes the following further amendments in the Government notification of Finance Department No. MGST.1017/C.R.104/Taxation-1 [Notification No. 01/2017-State Tax(Rate)], dated the 29th June, 2017, published in the Maharashtra Government Gazette , Part IV-B, Extra-ordinary No. 183, dated the 29th June, 2017, namely :-

In the said notification, -

(a) in Schedule I - 2.5%,against S. No. 259A, for the entry in column (2), the entry "9503" shall be substituted;

(b) after Schedule I, in List 1, after serial number 230 and the entries relating thereto, the following shall be inserted, namely:—

“(231). Diethylcarbomazine ”.

2. This notification shall come into force on the 2nd day of June, 2021.

By order and in the name of the Governor of Maharashtra,

MANDAR KELKAR,
Deputy Secretary to Government.

Note.— The principal Notification No.MGST-1017/C.R.104/Taxation-1 [Notification No. 01/2017- State Tax (Rate)], dated the 29th June, 2017, was published in the Maharashtra Government Gazette, Part IV-B, Extra-ordinary No. 183, dated the 29th June 2017 and was last amended by Notification No. GST/1020/C.R.-40A/Taxation-1 [Notification No. 03/2020- State Tax (Rate)], dated the 7th April 2020, published in the Maharashtra Government Gazette, Part IV-B, Extra-ordinary No. 104, dated the 7th April 2020.



FINANCE DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032, dated the 9th June 2021.

NOTIFICATION

Notification No. 02/2021 - State Tax (Rate)

MAHARASHTRA GOODS AND SERVICES TAX ACT, 2017.

No. GST/1021 / C.R. 57(A) / Taxation-1.— In exercise of the powers conferred by sub-section (1), sub-section (3) and sub-section (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15, sub-section (1) of section 16 and section 148 of the Maharashtra Goods and Services Tax Act, 2017 (Mah. XLIII of 2017), the Government of Maharashtra, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following further amendments in the Government notification of Finance Department No. MGST.1017/C.R.103(10)/Taxation-1 [Notification No. 11/2017-State Tax(Rate)], dated the 29th June, 2017, published in the Maharashtra Government Gazette, Part IV-B, Extra-ordinary No. 182, dated the 29th June, 2017, namely:—

In the said notification, in the Table,—

(a) in serial number 3, against items (i), (ia), (ib), (ic) and (id) in column (3) , in the conditions in column (5), in the fourth proviso, in the Explanation, after clause (ii), the following clause shall be inserted, namely—

“(iii) the landowner-promoter shall be eligible to utilise the credit of tax charged to him by the developer-promoter for payment of tax on apartments supplied by the landowner-promoter in such project.” ;

(b) in serial number 25,—

(i) after item (ia) in column (3) and the entries relating thereto, in columns (3), (4) and (5), the following items and entries shall be inserted, namely—

(3)	(4)	(5)
“(ib) Maintenance, repair or overhaul services in respect of ships and other vessels, their engines and other components or parts.	2.5	—

Recent Amendments

(ii) in item (ii) in column (3), for the word, brackets, figures and letter “ and (ia)”, the brackets, figures, letter and word “,(ia) and (ib)” shall be substituted.

2. This notification shall come into force with effect from the 2nd day of June, 2021.

By order and in the name of the Governor of Maharashtra,

MANDAR KELKAR,
Deputy Secretary to Government.

Note.— The principal Notification No.MGST-1017/C.R.103(10)/Taxation-1 [Notification No. 11/2017- State Tax (Rate)], dated the 29th June, 2017, was published in the Maharashtra Government Gazette, Part IV-B, Extra-ordinary No. 182, dated the 29th June 2017 and was last amended by Notification No. GST. 1020/C.R.-40/Taxation-1 [Notification No. 02/2020- State Tax (Rate)], dated the 7th April 2020, published in the Maharashtra Government Gazette, Part IV-B, Extra-ordinary No. 104, dated the 7th April 2020.



FINANCE DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk,
Mantralaya, Mumbai 400 032, dated the 9th June 2021.

NOTIFICATION

Notification No. 03/2021 - State Tax (Rate)

MAHARASHTRA GOODS AND SERVICES TAX ACT, 2017.

No. GST.1021/C.R.57(B)/Taxation-1.—In exercise of the powers conferred by section 148 of the Maharashtra Goods and Services Tax Act, 2017 (Mah. XLIII of 2017), the Government of Maharashtra, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby makes the following amendments in the Government notification of Finance Department No. MGST. 1019/ C.R.50/Taxation-1 [Notification No. 06/2019-State Tax(Rate)], dated the 30th March, 2019, published in the Maharashtra Government Gazette, Part IV-B, Extraordinary No. 110, dated the 30th March, 2019, namely:—

In the said notification, in the first paragraph,—

(a) for the words “in whose case the liability to”, the words “, who shall” shall be substituted ;

(b) for the words “shall arise on the date of issuance of completion certificate for the project, where required, by the competent authority or on its first occupation, whichever is earlier”, the words “in a tax period not later than the tax period in which the date of issuance of the completion certificate for the project, where required, by the competent authority, or the date of its first occupation, whichever is earlier, falls” shall be substituted.

2. This notification shall come into force with effect from the 2nd day of June, 2021.

By order and in the name of the Governor of Maharashtra,

MANDAR KELKAR,
Deputy Secretary to Government.

Note.— The principal Notification No. MGST-1019/C.R.50 Taxation-1 [Notification No. 06/2019- State Tax (Rate)], dated the 30th March, 2019.



No. JC (HO)-I/GST/2021/ADM-8

date: 15th June 2021

Trade Circular No. 11T of 2021.

Subject: Standard Operating Procedure (SOP) for implementation of the provision of extension of time limit to apply for revocation of cancellation of registration under section 30 of the MGST Act, 2017 and rule 23 of the MGST Rules, 2017 - reg.

Ref: Circular No. 148/04/2021-GST dated the 18th May, 2021 issued by the CBIC

As you are aware vide Maharashtra Goods and Services Tax (Second Amendment) Act, 2020, section 30 of the Maharashtra Goods and Services Tax Act, 2017 (hereinafter referred to as "the Act") was amended and the same has been notified with effect from 01.01.2021 vide notification No. 92/2020- State Tax, dated 4.1.2021. The amended provision provides for extension of time limit for applying for revocation of cancellation of registration on sufficient cause being shown and for reasons to be recorded in writing, by:

- (a) the Additional or Joint Commissioner, as the case may be, for a period not exceeding thirty days;
- (b) the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a) above

Consequently, changes have also been made in rule 23 and **FORM GST REG-21** of the Maharashtra Goods and Services Tax Rules, 2017 (hereinafter referred to as the "MGST Rules") vide notification No.15/2021- State Tax, dated 24.05.2021.

2. In order to ensure uniformity - in the implementation of the provisions of above rule across the field formations, till the time an independent functionality for extension of time limit for applying in **FORM GST REG-21** is developed on the GSTN portal, as the Commissioner of State Tax in exercise of the powers conferred by section 168 (1) of the Act, hereby provides the following guidelines for implementation of the provision for extension of time limit for applying for revocation of cancellation of registration under the said section and rule.

3. As has been provided in section 30 of the Act, any registered person whose registration is cancelled by the proper officer on his own motion, may apply to such officer in **FORM GST REG-21**, for revocation of cancellation of registration within 30 days from the date of service of the cancellation order. In case the registered person applies for revocation of cancellation beyond 30 days, but within 90 days from the date of service of the cancellation order, the following procedure is specified for handling such cases:

4. Jurisdictional divisional Joint Commissioner of State Tax shall exercise the powers of extension as provided in clause (a) of the proviso to sub-section (1) of section 30 of the Act. Commissioner of State Tax has already delegated his powers as envisaged under clause (b) of the proviso to sub-section (1) of section 30 of the Act to all the Additional Commissioner of State Tax and hence, all the zonal Additional Commissioner of State Tax shall exercise these powers of extension.

5. Extension by Joint Commissioner of State tax

5.1 Where a person applies for revocation of cancellation of registration beyond a period of 30 days from the date of service of the order of cancellation of registration but within 60 days of such date, the said person may request, through letter or mail, for extension of time limit to apply for revocation of cancellation of registration to the proper officer by providing the grounds on which such extension is sought. The proper officer shall forward the request to the jurisdictional Joint Commissioner for decision on the request for extension of time limit.

5.2 The Joint Commissioner, on examination of the request filed for extension of time limit for revocation of cancellation of registration and on sufficient cause being shown and for reasons to be recorded in writing, may extend the time limit to apply for revocation of cancellation of registration. In case the request

Recent Amendments

is accepted, the extension of the time limit shall be communicated to the proper officer. However, in case the concerned Joint Commissioner, is not satisfied with the grounds on which such extension is sought, an opportunity of personal hearing may be granted to the person before taking decision in the matter. In case of rejection of the request for the extension of time limit, the grounds for such rejection may be communicated to the person concerned, through the proper officer. The application received from the tax payer shall be disposed by JCST within a reasonable time.

5.3. On receipt of the decision of the Joint Commissioner on request for extension of time limit for applying for revocation of cancellation of registration, the proper officer shall process the application for revocation of cancellation of registration according to the law and procedure laid down in this regard.

6. Extension by Additional Commissioner of State tax-

Procedure similar to that explained in paragraph 5.1 to 5.3 above, shall be followed *mutatis-mutandis* in case a person applies for revocation of cancellation of registration beyond a period of 60 days from the date of service of the order of cancellation of registration but within 90 days of such date.

7. The circular shall cease to have effect once the independent functionality for extension of time limit for applying in **FORM GST REG-21** is developed on the GSTN portal.

8. Central Board of Indirect Taxes and Customs (CBIC) has already issued circular 148/04/2021-GST dated the 18th May, 2021 in this regard.

9. This Trade Circular is clarificatory in nature. Difficulty if any, in the implementation of this circular may be brought to the notice of the office of the Commissioner of the State Tax, Maharashtra

Yours Faithfully

(Rajeev Kumar Mittal)
Commissioner of State Tax
Maharashtra State, Mumbai.



MVAT NOTIFICATION AND CIRCULARS

FINANCE DEPARTMENT

Hutatma Rajguru Chowk, Madam Cama Marg,
Mantralaya, Mumbai 400 032, dated the 3rd June 2021.

NOTIFICATION

MAHARASHTRA VALUE ADDED TAX ACT, 2002.

No. VAT-1521/C.R. 55/Taxation-I.- In exercise of the powers conferred by the proviso to sub-section (6) of section 20 of the Maharashtra Value Added Tax Act, 2002 (Mah. IX of 2005), the Government of Maharashtra, hereby amends the Government Notification, Finance Department No. VAT. 1513/C. R. 124/Taxation- I , dated the 1st January 2014, as follows, namely:-

In the Schedule, appended to the said notification, after entry 9, the following entry shall be added, namely:-

"10	Dealers, who are liable to file return under clause (c) of sub-rule (4B) of rule 17 and sub-rule (1 A) of rule 18 and who have not filed return for the period of March, 2021 April, 2021 and May, 2021.	Return for the periods, specified in column (b)	Whole of the late fee payable in respect of the returns specified in column (c).	(a) Return, specified in column (c) shall be filed on or before the 30th June 2021 . (b) Tax payable, as per the return, referred to in column (c) alongwith the applicable interest, shall be paid on or before the 30th June 2021 ".
-----	--	---	--	---

By order and in name of the Governor of Maharashtra,

MANDAR KELKAR,
Deputy Secretary to Government.



No. VAT/AMD-2021/IB/Adm-8

Mumbai, dated 31/05/2021

Trade Circular No. 09 T of 2021.

Sub: Amendments in Maharashtra Value Added Tax Rules, 2005 (Rule 17 and Rule 41)

Ref: 1) Notification No. VAT-1519/CR-89/Taxation-1, dated the 8th August 2019.

2) Trade circular 49T Of 2019

3) Notification No. VAT- 1520/CR- 57/Taxation- I dated the 8th July 2020.

4) Notification No. VAT-1521/C.R. 39/Taxation- I dated the 20th April 2021.

Background

As per Notification cited above at serial (1) dated 8th August 2019, Rule 17 of Maharashtra Value Added Tax Rules, 2005 was amended and new sub-rule (4B) was introduced. This amendment was explained by Trade Circular 49T of 2019 cited at (2) above.

1. The annual return is prescribed for those dealers whose tax liability in the previous year does not exceed Rs. 25,000/-, Financial Year 2019-20 was the first financial year for which this new annual periodicity of return filing is applicable. Accordingly, those dealers who were having tax liability below Rs. 25,000/- in the previous financial year 2018-19 were required to file annual return for the year 2019-20.

2. The Trade associations and tax consultants had represented that due to technical difficulties and the pandemic situation in the State, they could not file annual return for the year 2019-20.

3. Owing to the pandemic situation of Covid-19, and lockdown declared by the State Government in Maharashtra from March 2020, due date for filing of annual return and making payment was extended till 21st July 2020 vide notification dated 8th July 2020 cited at (3) above. As the technical issues persisted, annual returns for the year 2019-20 could not be uploaded. The annual return for 2020-21 also could not be filed within due date, as the system does not allow filing of subsequent return if previous return is not filed (in case of a tax payer who is liable to file annual return for both years). Hence it became necessary to extend the due date for filing annual returns for both the years i.e. 2019-20 and 2020-21. Representations from trade associations were also received in this regard to extend the due dates considering the second wave of the Covid-19 pandemic and the technical issues faced by them. Accordingly. Notification referred at (4) above was issued on 20th April 2021 extending the due date of filing annual returns and making payment for the year 2019-20 and 2020-21 till 30th June 2021.

Technical Issues and clarification:

4. Periodicity of return is set at the beginning of every financial year. "The notification to file annual return was issued in August 2019 and many dealers whose periodicity was set as quarterly were required to be shifted to annual frequency, However, some of such dealers have filed return at quarterly periodicity for part of financial year before the issuance of the notification. In view of this the applicable periodicity of filing for those dealers is as follows:

- a) The dealers who have already filed quarterly return for the part of financial year, periodicity in SAP system cannot be changed during the year for balance part of the year. Therefore, they have to continue to file quarterly returns for such balance part of the financial year 2019-20. Whereas, the periodicity for subsequent financial year would be in accordance with eligibility as per amended provisions thereto.
- b) The similar principle will be applicable to cases, where any return pertaining to financial year 2020-21 has also been filed at quarterly frequency. I however, the dealer who have not tiled any returns for part of the year 2020-21 arc eligible to file returns as per amended periodicity.

5. It is needless to say that the late fee will not be applicable in case of late filing of quarterly returns for both years 2019-20 and 2020-21, if such dealers file their returns for balance remaining quarters on or before 30th June, 2021.

6. There may be a certain class of dealers, who though eligible to file annual return, must have filed quarterly returns by making payment of late fees. In such cases the late fee can be refunded as per provisions of law.

7. In case of the dealers who have not filed any return during the period 2019-20 and 2020-21, and who are eligible to file annual return, can upload their returns without late fee as the due date for filing return is extended as per notification cited at (4) above. Needless to say, late fee will not be applicable if the annual returns are filed before the due date given as per notification cited at (4) above.

8. This Circular cannot be made use of for legal interpretation of the provisions of law, as it is clarificatory in nature. If any member of the Trade has any doubt, he may refer the matter to this office for further clarification.

9. You are requested to bring the contents of this circular to the notice of all the members of your association.

(Rajeev Kumar Mital)
Commissioner of state Tax,
Maharashtra State, Mumbai.



No. VAT/MMB-1009/31/Adm-8

Mumbai, dated 31/05/2021

Trade Circular No. 10T of 2021.

Sub: Grant of Administrative relief to un-registered dealers.

- Ref:**
- 1. Trade Circular No. 33T of 2007 dated 18th April 2007.**
 - 2. Trade Circular No. 68T of 2007 dated 26th November 2007.**
 - 3. Trade Circular No. 37T of 2008 dated 21st October 2008.**
 - 4. Trade Circular No. 36T of 2009 dated 24th December 2009.**

The eligibility criteria, conditions and procedure for application of administrative relief on account of the delay in obtaining the certificate of registration have been laid down in the above referred Trade Circulars. In Para 2(c) of the Trade Circular 36T of 2009 dated 24th December 2009, one of the eligibility conditions prescribed for dealers to be eligible for administrative relief is that he / she shall make the payment of

self assessed tax and file return for the unregistered period. The said condition in clause (iii) of this para is reproduced –

“iii) the dealer should also calculate the tax for the unregistered period (as if he is registered) and make payment of lax along with interest and file the return electronically for the said unregistered period before filing application for Administrative Relief”

However, due to current system in place it is not possible to file the returns pertaining to such unregistered period till the registration is made effective for such period on system.

2. In view of this, it is now decided to dispense with the pre-condition of filing of return for such unregistered period and the dealer should only make the payment of self-assessed tax and interest before filing application for administrative relief. The dealer is only required to calculate the tax and make payment of tax with interest. The amended condition (iii) of para 2(c) of Circular No. 36T of 2009 should now be read as follows-

“iii) the dealer should also calculate the lax for the unregistered period (as if he is registered) and make payment of lax alongwith interest before filing application for Administrative Relief The dealer should electronically file all the returns for all the URD periods, under MVAT Act or CST Act, as the case may be, immediately after passing of the order granting Administrative Relief”

3. This condition would be applicable to all the pending applications for Administrative Relief as well as the fresh applications that will be made. Further, the benefits accorded as above shall be withdrawn if subsequently it is found that the dealer has not computed the tax liability correctly.

4. This Circular cannot be made use of for legal interpretation of provisions of law, as it is clarificatory in nature. If any member of the trade has any doubt, he may refer the matter to this office for further clarification.

5. You are requested to bring the contents of this circular to the notice of all the members of your association.

(Rajeev Kumar Mital)
Commissioner of State Tax,
Maharashtra State, Mumbai.



FINANCE DEPARTMENT

Hutatma Rajguru Chowk, Madam Cama Marg,
Mantralaya, Mumbai 400 032, Dated the 17th June 2021.

NOTIFICATION

THE MAHARASHTRA STATE TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS ACT, 1975.

No. PFT 1221/C.R. 16/Taxation-3.- In exercise of the powers conferred by proviso to sub-section (3) of section 6 of the Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 (Mah. XVI of 1975), the Government of Maharashtra , hereby amends the Government Notification, Finance Department No. PFT-2014/CR 38/Taxation- 3, dated the 21st August 2014, as follows , namely:-

In the SCHEDULE, appended to the said Notification, in entry (8),-

(i) in column (c), the existing portion shall be renumbered as clause (i) thereof, and after clause (i) as so renumbered, the following clause shall be added, namely

“(ii) Returns for the months of March 2021, April 2021 and May 2021.”

Recent Amendments

(ii) in column (e),-

(a) in condition (a), after the words, bracket and letter “in column (c)” the words, bracket and letter “, in clause (i)” shall be inserted ;

(b) after condition (a), the following condition shall be inserted, namely:-

“(a -1) Return specified in column (c), in clause (ii) shall be filed on or before 30th June 2021 on the website of the Maharashtra Goods and Services Tax Department.”.

By order and in the name of the Governor of Maharashtra,

MANDAR KELKAR,
Deputy Secretary to Government.



43rd Meeting of the GST Council New Delhi, 28th May, 2021

PRESS RELEASE (GST rates on Goods and Services)

The GST Council in its 43rd meeting held on 28th May, 2021 at New Delhi took the following decisions relating to changes in GST rates on supply of goods and services and changes related to GST law and procedure.

Covid relief items

1. As a COVID-19 relief measure, a number of specified COVID-19 related goods such as medical oxygen, oxygen concentrators and other oxygen storage and transportation equipment, certain diagnostic markers test kits and COVID-19 vaccines, etc., have been recommended for full exemption from IGST, even if imported on payment basis, for donating to the government or on recommendation of state authority to any relief agency. This exemption shall be valid upto 31.08.2021. Hitherto, IGST exemption was applicable only when these goods were imported “free of cost” for free distribution. The same will also be extended till 31.8.2021. It may be mentioned that these goods are already exempted from Basic Customs duty. Further in view of rising Black Fungus cases, the above exemption from IGST has been extended to Amphotericin B.

2. As regards individual items, it was decided to constitute a Group of Ministers (GoM) to go into the need for further relief to COVID-19 related individual items immediately. The GOM shall give its report by 08.06.2021.

Other goods

3. To support the *Lympahtic Filarisis* (an endemic) elimination programme being conducted in collaboration with WHO, the GST rate on Diethylcarbamazine (DEC) tablets has been recommended for reduction to 5% (from 12%).

4. Certain clarifications/clarificatory amendments have been recommended in relation to GST rates. Major ones are, -

a. Leviability of IGST on repair value of goods re-imported after repairs

b. GST rate of 12% to apply on parts of sprinklers/ drip irrigation systems falling under tariff heading 8424 (nozzle/laterals) to apply even if these goods are sold separately.

5. Services

i. To clarify those services supplied to an educational institution including anganwadi (which provide pre-school education also), by way of serving of food including mid- day meals under any midday meals

scheme, sponsored by Government is exempt from levy of GST irrespective of funding of such supplies from government grants or corporate donations.

ii To clarify these services provided by way of examination including entrance examination, where fee is charged for such examinations, by National Board of Examination (NBE), or similar Central or State Educational Boards, and input services relating thereto are exempt from GST.

iii To make appropriate changes in the relevant notification for an explicit provision to make it clear that land owner promoters could utilize credit of GST charged to them by developer promoters in respect of such apartments that are subsequently sold by the land promotor and on which GST is paid. The developer promotor shall be allowed to pay GST relating to such apartments any time before or at the time of issuance of completion certificate.

iv To extend the same dispensation as provided to MRO units of aviation sector to MRO units of ships/vessels so as to provide level playing field to domestic shipping MROs vis a vis foreign MROs and accordingly, -

(a) GST on MRO services in respect of ships/vessels shall be reduced to 5% (from 18%).

(b) PoS of B2B supply of MRO Services in respect of ships/ vessels would be location of recipient of service

v. To clarify that supply of service by way of milling of wheat/paddy into flour (fortified with minerals etc. by millers or otherwise)/rice to *Government/ local authority etc.* for distribution of such flour or rice under PDS is exempt from GST if the value of goods in such composite supply does not exceed 25%. Otherwise, such services would attract GST at the rate of 5% if supplied to any person registered in GST, including a person registered for payment of TDS.

vi. To clarify that GST is payable on annuity payments received as deferred payment for construction of road. Benefit of the exemption is for such annuities which are paid for the service by way of access to a road or a bridge.

vii To clarify those services supplied to a Government Entity by way of construction of a rope-way attract GST at the rate of 18%.

viii To clarify that services supplied by Govt. to its undertaking/PSU by way of guaranteeing loans taken by such entity from banks and financial institutions is exempt from GST.

6. Measures for Trade facilitation:

1. Amnesty Scheme to provide relief to taxpayers regarding late fee for pending returns:

To provide relief to the taxpayers, late fee for non-furnishing **FORM GSTR- 3B** for the tax periods from **July, 2017 to April, 2021** has been reduced / waived as under: -

- i. late fee capped to a maximum of **Rs 500/- (Rs. 250/- each for CGST & SGST) per return** for taxpayers, who did not have any tax liability for the said tax periods;
- ii. late fee capped to a maximum of **Rs 1000/- (Rs. 500/- each for CGST & SGST) per return** for other taxpayers;

The reduced rate of late fee would apply if GSTR-3B returns for these tax periods are furnished between *01.06.2021 to 31.08.2021*.

2. Rationalization of late fee imposed under section 47 of the CGST Act:

To reduce burden of late fee on smaller taxpayers, the upper cap of late fee is being rationalized to align late fee with tax liability/ turnover of the taxpayers, as follows:

- A. The late fee for delay in furnishing of **FORM GSTR-3B and FORM GSTR-1** to be capped, **per return**, as below:

- (i) **For taxpayers having nil tax liability in GSTR-3B** or nil outward supplies in **GSTR-1**, the late fee to be capped at Rs 500 (Rs 250 CGST + Rs 250 SGST)
- (ii) **For other taxpayers:**
 - a. For taxpayers having Annual Aggregate Turnover (AATO) in preceding year upto Rs 1.5 crore, late fee to be capped to a maximum of Rs 2000 (1000 CGST+1000 SGST);
 - b. For taxpayers having AATO in preceding year between Rs 1.5 crore to Rs 5 crore, late fee to be capped to a maximum of Rs 5000 (2500 CGST+2500 SGST);
 - c. For taxpayers having AATO in preceding year above Rs 5 crores, late fee to be capped to a maximum of Rs 10000 (5000 CGST+5000 SGST).
- B. The late fee for delay in furnishing of **FORM GSTR-4** by composition taxpayers to be capped to Rs 500 (Rs 250 CGST + Rs 250 SGST) per return, if tax liability is nil in the return, and Rs 2000 (Rs 1000 CGST + Rs 1000 SGST) per return for others.
- C. Late fee payable for delayed furnishing of **FORM GSTR-7** to be reduced to Rs.50/- per day (Rs. 25 CGST + Rs 25 SGST) and to be capped to a maximum of Rs 2000/- (Rs. 1,000 CGST + Rs 1,000 SGST) per return.

All the above proposals to be made applicable for prospective tax periods.

3. **COVID-19 related relief measures for taxpayers:**

In addition to the relief measures already provided to the taxpayers vide the notifications issued on 01.05.2021, the following further relaxations are being provided to the taxpayers:

- A. **For small taxpayers (aggregate turnover upto Rs. 5 crore)**
 - a. **March & April 2021 tax periods:**
 - i. NIL rate of interest for first 15 days from the due date of furnishing the return in **FORM GSTR-3B** or filing of **PMT-06** Challan, reduced rate of 9% thereafter for further 45 days and 30 days for March, 2021 and April, 2021 respectively.
 - ii. Waiver of late fee for delay in furnishing return in **FORM GSTR-3B** for the tax periods **March / QE March, 2021 and April 2021** for 60 days and 45 days respectively, from the due date of furnishing **FORM GSTR-3B**.
 - iii. NIL rate of interest for first 15 days from the due date of furnishing the statement in **CMP-08** by **composition dealers** for **QE March 2021**, and reduced rate of 9% thereafter for further 45 days.
 - b. **For May 2021 tax period:**
 - i. NIL rate of interest for first 15 days from the due date of furnishing the return in **FORM GSTR-3B** or filing of **PMT-06** Challan, and reduced rate of 9% thereafter for further 15 days.
 - ii. Waiver of late fee for delay in furnishing returns in **FORM GSTR-3B** for taxpayers filing monthly returns for 30 days from the due date of furnishing **FORM GSTR-3B**.

B. For large taxpayers (aggregate turnover more than Rs. 5 crore)

- i. A lower rate of interest @ 9% for first 15 days after the due date of filing return in **FORM GSTR-3B** for the tax period **May, 2021**.
- ii. Waiver of late fee for delay in furnishing returns in **FORM GSTR-3B** for the tax period **May, 2021** for 15 days from the due date of furnishing **FORM GSTR-3B**.

C. Certain other COVID-19 related relaxations to be provided, such as

1. Extension of due date of filing **GSTR-1/ IFF for the month of May 2021 by 15 days**.
2. **Extension of due date of filing GSTR-4 for FY 2020-21 to 31.07.2021.**
3. Extension of due date of filing **ITC-04 for QE March 2021 to 30.06.2021.**
4. **Cumulative application of rule 36(4)** for availing ITC for tax periods April, May and June, 2021 **in the return for the period June, 2021.**
5. Allowing filing of returns by companies using Electronic Verification Code (EVC), instead of Digital Signature Certificate (DSC) till **31.08.2021**.

D. Relaxations under section 168A of the CGST Act: Time limit for completion of various actions, by any authority or by any person, under the GST Act, which falls during the period from **15th April, 2021 to 29th June, 2021**, to be extended upto **30th June, 2021**, subject to some exceptions.

[Wherever the timelines for actions have been extended by the Hon'ble Supreme Court, the same would apply]

4. Simplification of Annual Return for Financial Year 2020-21:

- i. Amendments in section 35 and 44 of CGST Act made through Finance Act, 2021 to be notified. **This would ease the compliance requirement** in furnishing reconciliation statement in **FORM GSTR-9C**, as taxpayers would be able to **self-certify** the reconciliation statement, instead of getting it certified by chartered accountants. This change will apply for Annual Return for FY 2020-21.
- ii. The filing of annual return in **FORM GSTR-9 / 9A** for FY 2020-21 to be optional for taxpayers having aggregate annual turnover upto Rs 2 Crore;
- iii. The reconciliation statement in **FORM GSTR-9C** for the FY 2020-21 will be required to be filed by taxpayers with annual aggregate turnover above Rs 5 Crore.
5. Retrospective amendment in section 50 of the CGST Act with effect from 01.07.2017, providing for payment of interest on net cash basis, to be notified at the earliest.

7. Other Measures

- i. GST Council recommended amendments in certain provisions of the Act so as to make the present system of **GSTR-1/3B** return filing as the default return filing system in GST.

Note: The recommendations of the GST Council have been presented in this release in simple language for information of all stakeholders. The same would be given effect through relevant Circulars/ Notifications which alone shall have the force of law.



Certificate Course on GST Jointly with MMK College

Day 3, 19/05/2021



Adv. Monarch Bhatt,
Speaker, addressing
members on the topic of
"Time of Supply under
GST"



CA Pratik Satyuga, Speaker,
addressing members on the
topic of "Value of Supply
under GST"

Day 4, 21/05/2021



CA Deepali Mehta,
Speaker, addressing
members on the topic of
"Place of Supply of Goods
under GST"



CA Avinash Lalwani,
Speaker, addressing
members on the topic
of "Place of Supply of
Services under GST"

Day 5, 24/05/2021



CA Prasad Kshirsagar,
Speaker, addressing members
on the topic of "Composite
and Mixed Supply"



CA Bharat Gosar, Speaker,
addressing members on
the topic of "TDS / TCS,
E-Commerce & Composition
Levy"

Day 6, 26/05/2021



CA Ankit Chande, Speaker,
addressing members on the
topic of "Reverse Charge
Mechanism under GST"



Tanmay Mody, Speaker,
addressing members on the
topic of "ITC and Refund
under GST"

Day 7, 28/05/2021



CA Foram Bhanushali,
Speaker, addressing
members on the topic of
"Imports under GST"



CA Anvesh Vakharia, Speaker,
addressing members on the
topic of "Exports & Supply to
SEZ under GST"

Day 8, 31/05/2021



CA Vandana Dodhia,
Speaker, addressing members
on the topic of "Type of
Invoices, Credit, Debit
Notes and Maintenance of
Accounts under GST"



Adv. Sonali Bapat, Speaker,
addressing members on the
topic of "E-Way Bill"

Certificate Course on GST Jointly with MMK College

Day 9, 02/06/2021



CA Shantanu Bagwe, Speaker, addressing members on the topic of "Returns and Payment of Taxes under GST (New and old Return)"

And

"Recent Amendments under GST"

Day 10, 04/06/2021



CA Rupa Gami, Speaker, addressing members on the topic of "Annual Return"



CA Aditya Seema Pradeep, Speaker, addressing members on the topic of "Audit under GST"

Day 11, 7/06/2021



Adv. Sejal Shah, Speaker, addressing members on the topic of "Assessments, Penalties, Demands & Recovery under GST"



Adv. Amol Mane, Speaker, addressing members on the topic of "APPEALS & AAR"

Day 12, 9/06/2021



CA Sujoy Mehta, Speaker, addressing members on the topic of "Overview of Profession Tax & OTPT Scheme"



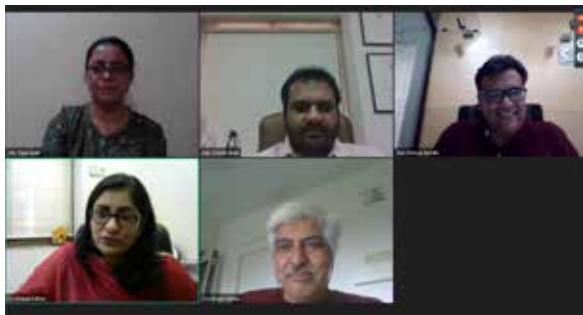
Shri. Sachin Gandhi, Speaker & Past President, addressing members on the topic of "Overview of GST Website"

Day 13, 12/06/2021



CA Ritesh Mehta, Speaker, addressing members on the topic of "Finalisation of Accounts under GST"

9th Webinar on Intensive Study Circle Meeting held on 22nd May, 2021
Topic : Issue in Place of Supply under GST



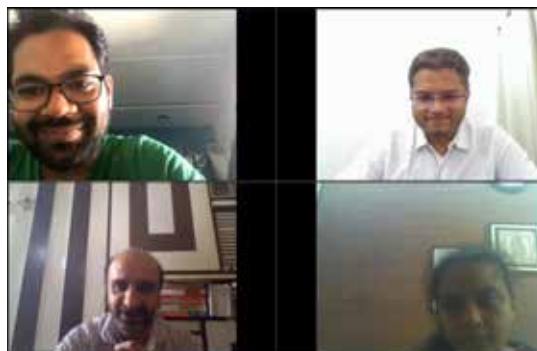
Seen from L to R on E Platform in the First Row: Adv. Sejal Shah, Managing Committee Member; Kinchit Shah, Member; CA Premal Gandhi, Jt. Convenor.

Seen from L to R on E Platform in the Second Row: CA Deepali Mehta, Group Leader; CA Vikram Mehta, Monitor.

10th Webinar on Intensive Study Circle Meeting held on 29th May, 2021
Topic : Issues in Logistics Industry

Seen from L to R on E Platform in the First Row: Adv. Rahul Thakar, Jt. Convenor; CA Sahil Parghi, Group Leader.

Seen from L to R on E Platform in the First Row: CA Samir Kapadia, Monitor; Miss. Devanshi Shah, Member.



Webex Webinar Jointly with Maharashtra National Law University
held on 25th May, 2021

Topic : Inspection, Seizure and Arrest along with penal provisions under GST



Seen from L to R on E Platform in the First Row: CA Aalok Mehta, Vice President; Prof. Dr. Dilip Ukey, Vice Chancellor MNLU Mumbai; Dr Karuna Malviya, Director, CATIL.

Seen from L to R on E Platform in the Second Row: Shri. Anil Variath, Registrar (I/C) MNLU Mumbai; Adv. Dinesh Tambde, Speaker & Past President; Shri. Pravin Shinde, Hon. Jt. Secretary

Seen from L to R on E Platform in the Third Row: Shri. Raj Shah, President; Shri. Rajkumar Bhambare, Managing Committee Member; Adv. Sunil Khushalani, Hon. Treasurer

Seen from L to R on E Platform in the Forth Row: CA Mahesh Madkholkar, Hon. Jt. Secretary

5 Days Virtual Workshop on GST in Gujarati Joint Seminar with GSTPAM, AIFTP (WZ), SGCTBA, CGCTC & MCTC

Day 1, 14/06/2021



Adv. Nikita Badheka,
Chief Guest & Keynote
Addresser.



Adv. Kuntal Parikh, Speaker,
addressing members on the
topic of "Important Judgments
useful in day to day practice"



CA Deepak Thakkar,
Keynote Addresser



CA Abhay Desai, Speaker,
addressing members on the
topic of "Input Tax Credit"

Day 3, 16/06/2021



Adv. Nayan Sheth,
Keynote Addresser



CA Punit Prajapati, Speaker,
addressing members on the
topic of "Audit (Sec.65),
Assessment, Appeal & Penalty"

Day 4, 17/06/2021

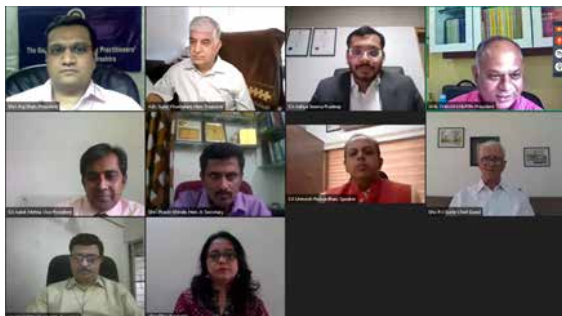


CA Rajat Talati,
Keynote Addresser



Adv. Samir Siddhpuriya, Speaker,
addressing members on the topic of
"How to reply SCN & E-WAY BILL
(Sec.129&130), E-INVOICING"

Organised Jointly With AIFTP(WZ), Marathwada Regional Associations, NMTPA, VTPA, & WMPA 5 Days Virtual Workshop on GST in MARATHI held on 26th May, 2021



Seen from L to R on E Platform in the First Row: Shri. Raj Shah, President, GSTPAM; Adv. Sunil Khushalani, Hon. Treasurer, GSTPAM; CA Aditya Seema Pradeep, Managing Committee Member, GSTPAM; Shri. Anil Chavan, President, NMTPA.

Seen from L to R on E Platform in the Second Row: CA Aalok Mehta, Vice President, GSTPAM; Shri. Pravin Shinde, Hon. Jt. Secretary, GSTPAM; CA Unmesh Patwardhan, Speaker; Adv. P. V. Surte, Past President, GSTPAM & Chief Guest.

Seen from L to R on E Platform in the Third Row: Shri. Vilas Aherkar, President, WMPA; Adv. Sejal Shah, Managing Committee Member, GSTPAM.

Day 1, 26/05/2021



CA Unmesh
Patwardhan, Speaker,
addressing members
on the topic of "Levy
and Scope of Supply,
Exemptions and
Registration"

Day 2, 27/05/2021



CA Aditya Seema
Pradeep, Speaker,
addressing members on
the topic of "TDS / TCS,
E-Commerce, Composition
Scheme, Reverse Charge
Mechanism"

Day 3, 28/05/2021



CA Aditya Surte,
Speaker, addressing
members on the
topic of "Input Tax
Credit"

Day 4, 29/05/2021



CA Chetan Bumb,
Speaker, addressing
members on the topic of
"Type of Invoices, Credit/
Debit Notes, E-Way Bill
and Maintenance of
Accounts"

Day 5, 31/05/2021



Adv. Amol Mane,
Speaker, addressing
members on
the topic of
"Assessments,
Penalties, Demands
& Recovery"

12th Study Circle Meeting held on 5th June, 2021

Topic : Intricate issues arising out of mismatch of matching provisions in ITC under GST Laws



Seen from L to R on E Platform in the First Row: Adv. Sejal Shah, Committee Member; CA Janak Vaghani, Chairman; Shri. Raj Shah, President; Adv. Bharat Raichandani, Speaker.

Seen from L to R on E Platform in the Second Row: CA Aalok Mehta, Vice President; Adv. Parth Badheka, Jt. Convenor.

To

Printed and Published by Advocate, Dinesh M. Tambde, on behalf of The Goods & Services Tax Practitioners' Association of Maharashtra, and printed at Finesse Graphics & Prints Pvt. Ltd., 309, Parvati Industrial Premises, Sun Mill Compound, Lower Parel, Mumbai - 400 013 and Published at 8 & 9, Mazgaon Tower, 21, Mhatar Pakhadi Road, Mazgaon, Mumbai - 400 010

Editor : Vikram D. Mehta