

# **GST UPDATE**

## **(June, 2021)**

**Directorate of Training, Excise and Taxation Department, Punjab**

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## **(I) GIST OF GST NOTIFICATIONS**

### **1. Revised Section 50 GST interest Provisions notified w.e.f. 01.06.2021**

Section 112 of the Finance Act providing for retrospective amendment in Section 50 of the **CGST Act** related to levy of interest has been notified w.e.f. 01.06.2021 vide **Notification No. 16/2021 – Central Tax- Dated 1st June, 2021.**

### **2. CBIC extends due date of Form GSTR-1 for May 2021 by 15 days**

The due date for furnishing details of outward supplies in Form GSTR-1 for the month of May-2021 has been extended from 11th June, 2021 to 26th June, 2021 vide **Notification No. 17/2021 – Central Tax- Dated 1st June, 2021** to give effect to **Recommendations of 43rd GST Council Meeting.**

### **3. Late GST return : Interest rate lowered for March to May 2021**

CBIC provides relief by lowering of interest rate for a specified time for tax periods March, 2021 to May, 2021 for late filing of monthly/quarterly returns in Form GSTR-3B or PMT-06 challans as well as for late filing of statement in Form CMP-08 by the composition tax payers vide **Notification No. 18/2021 – Central Tax- Dated 1st June, 2021** to give effect to **Recommendations of 43rd GST Council Meeting.**

### **4. Late fee for delay in filing FORM GSTR-3B waived/rationalized**

CBIC rationalizes late fee for delay in filing of return in FORM GSTR-3B and provided conditional waiver of late fee for delay in filing FORM GSTR-3B from July, 2017 to April, 2021 for specified taxpayers and specified tax periods vide **Notification No. 19/2021 – Central Tax- Dated 1st June, 2021** to give effect to **Recommendations of 43rd GST Council Meeting.**

### **5. CBIC rationalize late fee for delay in furnishing of FORM GSTR-1**

CBIC rationalize late fee for delay in furnishing of the statement of outward supplies in FORM GSTR-1 from the tax period June 2021 onwards vide **Notification No. 20/2021 – Central Tax- Dated 1st June, 2021** to give effect to **Recommendations of 43rd GST Council Meeting.**



## **6. CBIC rationalize late fee for delay in furnishing of FORM GSTR-4**

CBIC Rationalises late fees leviable under Section 47 for delay in furnishing of return in FORM GSTR-4 for the tax period 2021-22 onwards vide **Notification No. 21/2021 – Central Tax- Dated 1st June, 2021** to give effect to **Recommendations of 43rd GST Council Meeting.**

## **7. CBIC rationalize late fee for delay in filing FORM GSTR-7**

CBIC rationalize late fee for delay in filing of return in FORM GSTR-7 vide **Notification No. 22/2021 – Central Tax- Dated 1st June, 2021** to give effect to **Recommendations of 43rd GST Council Meeting.**

## **8. Govt depts & local authorities excluded from e-invoice requirement**

CBIC amends Notification no. 13/2020-Central Tax to exclude government departments and local authorities from the requirement of issuance of e-invoice vide **Notification No. 23/2021 – Central Tax- Dated 1st June, 2021** to give effect to **Recommendations of 43rd GST Council Meeting.**

## **9. Extension of date of GST compliances falling between 15.04.21 to 29.06.21**

CBIC amends 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 vide **Notification No. 24/2021 – Central Tax- Dated 1st June, 2021** to give effect to **Recommendations of 43rd GST Council Meeting.**

## **10. Due date of filing GSTR-4 for financial year 2020-21 extended**

The due date for furnishing return in Form GSTR-4 for the financial year 2020-2021 has been extended from 30<sup>th</sup> April, 2021 to 31<sup>st</sup> July, 2021. (Earlier it was extended till 31<sup>st</sup> May, 2021) vide **Notification No. 25/2021–Central Tax-Dated 1st June, 2021** to give effect to **Recommendations of 43rd GST Council Meeting.**

## **11. CBIC extends due date of filing FORM ITC-04 for QE March, 2021**

CBIC extend the due date for furnishing of FORM ITC-04 for Quarter Ended (QE) March, 2021 to 30.06.2021 vide **Notification No. 26/2021 – Central Tax- Dated 1st June, 2021** to give effect to **Recommendations of 43rd GST Council Meeting.**

## **12. Central Goods and Services Tax (Fifth Amendment) Rules, 2021**

CBIC Seeks to make amendments (Fifth Amendment, 2021) to the CGST Rules, 2017 vide **Notification No. 27/2021 – Central Tax- Dated 1st June, 2021** to give effect to **Recommendations of 43rd GST Council Meeting.**

## **13. Applicability of B2C dynamic QR code provisions extended to 30.09.2021**

CBIC vide **Notification No 28/2021 dated 30.06.2021** extends applicability of B2C dynamic QR code provisions to 30.09.2021 instead of from July 1,2021.

## **(II) CENTRAL TAX NOTIFICATIONS**

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii)]

**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 1<sup>st</sup> 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 1<sup>st</sup> 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

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India**  
**Ministry of Finance**  
**(Department of Revenue)**  
**Central Board of Indirect Taxes and Customs**

**Notification No. 17/2021 – Central Tax**

**New Delhi, the 1<sup>st</sup> 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 10<sup>th</sup> 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 10<sup>th</sup> 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 10<sup>th</sup> 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 10<sup>th</sup> November, 2020 and was last amended by notification No. 12/2021-Central Tax, dated the 1<sup>st</sup> 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 1<sup>st</sup> May, 2021.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India**  
**Ministry of Finance**  
**(Department of Revenue)**  
**Central Board of Indirect Taxes and Customs**

**Notification No. 18/2021 – Central Tax**

**New Delhi, the 1<sup>st</sup> 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 28<sup>th</sup> 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 28<sup>th</sup> 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”.
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2. This notification shall be deemed to have come into force with effect from the 18<sup>th</sup> 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 28<sup>th</sup> 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 28<sup>th</sup> June, 2017 and was last amended *vide* notification number 08/2021 – Central Tax, dated the 1<sup>st</sup> 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 1<sup>st</sup> May, 2021.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India  
Ministry of Finance  
(Department of Revenue)  
Central Board of Indirect Taxes and Customs**

**Notification No. 19/2021 – Central Tax**

**New Delhi, the 1<sup>st</sup> 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 31<sup>st</sup> 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 31<sup>st</sup> December, 2018, namely: —

In the said notification,-

(i) in the eighth proviso, with effect from the 20<sup>th</sup> 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	March, 2021	Sixty days from the due date of furnishing return



	are liable to furnish the return as specified under sub-section (1) of section 39	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 1<sup>st</sup> day of June, 2021 to the 31<sup>st</sup> 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 1<sup>st</sup> day of June, 2021 to the 31<sup>st</sup> 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 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 31<sup>st</sup> 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 31<sup>st</sup> December, 2018 and was last amended *vide* notification number 09/2021 – Central Tax, dated the 1<sup>st</sup> 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 1<sup>st</sup> May, 2021.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India**  
**Ministry of Finance**  
**(Department of Revenue)**  
**Central Board of Indirect Taxes and Customs**

**Notification No. 20/2021 – Central Tax**

**New Delhi, the 1<sup>st</sup> 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 23<sup>rd</sup> 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 23<sup>rd</sup> 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
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[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 23<sup>rd</sup> 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 23<sup>rd</sup> January, 2018 and was last amended *vide* notification number 53/2020 – Central Tax, dated the 24<sup>th</sup> 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 24<sup>th</sup> June, 2020.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India**  
**Ministry of Finance**  
**(Department of Revenue)**  
**Central Board of Indirect Taxes and Customs**

**Notification No. 21/2021 – Central Tax**

**New Delhi, the 1<sup>st</sup> 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 29<sup>th</sup> 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 29<sup>th</sup> 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 29<sup>th</sup> 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 29<sup>th</sup> December, 2017 and was last amended *vide* notification number 93/2020 – Central Tax, dated the 22<sup>nd</sup> 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 22<sup>nd</sup> December, 2020.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India**  
**Ministry of Finance**  
**(Department of Revenue)**  
**Central Board of Indirect Taxes and Customs**

**Notification No. 22/2021 – Central Tax**

**New Delhi, the 1<sup>st</sup> 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:

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

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India**  
**Ministry of Finance**  
**(Department of Revenue)**  
**Central Board of Indirect Taxes and Customs**

**Notification No. 23/2021 – Central Tax**

**New Delhi, the 1<sup>st</sup> 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 21<sup>st</sup> 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 21<sup>st</sup> 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 21<sup>st</sup> 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 21<sup>st</sup> March, 2020 and was last amended vide notification number 05/2021 – Central Tax, dated the 8<sup>th</sup> 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 8<sup>th</sup> March, 2021.



[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India**  
**Ministry of Finance**  
**(Department of Revenue)**  
**Central Board of Indirect Taxes and Customs**

**Notification No. 24/2021 – Central Tax**

**New Delhi, the 1<sup>st</sup> 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 1<sup>st</sup> 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 1<sup>st</sup> May, 2021, namely: —

In the said notification, in the first paragraph,-

(i) in clause (i), —

- a. for the figures, letters and words “30<sup>th</sup> day of May, 2021”, the figures, letters and words “29<sup>th</sup> day of June, 2021” shall be substituted;
- b. for the figures, letters and words “31<sup>st</sup> day of May, 2021”, the figures, letters and words “30<sup>th</sup> day of June, 2021” shall be substituted;

(ii) in proviso to clause (i), —

- a. for the figures, letters and words “31<sup>st</sup> day of May, 2021”, the figures, letters and words “30<sup>th</sup> day of June, 2021” shall be substituted;
- b. for the figures, letters and words “15<sup>th</sup> day of June, 2021”, the figures, letters and words “15<sup>th</sup> day of July, 2021” shall be substituted;

(iii) in clause (ii), —

- a. for the figures, letters and words “30<sup>th</sup> day of May, 2021”, the figures, letters and words “29<sup>th</sup> day of June, 2021” shall be substituted;
  - b. for the figures, letters and words “31<sup>st</sup> day of May, 2021”, the figures, letters and words “30<sup>th</sup> day of June, 2021” shall be substituted.
2. This notification shall come into force with effect from the 30<sup>th</sup> 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 1<sup>st</sup> 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 1<sup>st</sup> May, 2021.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India**  
**Ministry of Finance**  
**(Department of Revenue)**  
**Central Board of Indirect Taxes and Customs**

**Notification No. 25/2021 – Central Tax**

**New Delhi, the 1<sup>st</sup> 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 23<sup>rd</sup> 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 23<sup>rd</sup> April, 2019, namely: —

In the said notification, in the third paragraph, in the second proviso, for the figures, letters and words “31<sup>st</sup> day of May, 2021”, the figures, letters and words “31<sup>st</sup> day of July, 2021” shall be substituted.

2. This notification shall be deemed to have come into force with effect from the 31<sup>st</sup> 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 23<sup>rd</sup> 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 23<sup>rd</sup> April, 2019 and was last amended by notification No. 10/2021-Central Tax, dated the 1<sup>st</sup> 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 1<sup>st</sup> May, 2021.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India  
Ministry of Finance  
(Department of Revenue)  
Central Board of Indirect Taxes and Customs**

**Notification No. 26/2021 – Central Tax**

**New Delhi, the 1<sup>st</sup> 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 1<sup>st</sup> 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 1<sup>st</sup> May, 2021, namely:

—

In the said notification, in the first paragraph, for the figures, letters and words “31<sup>st</sup> day of May, 2021”, the figures, letters and words “30<sup>th</sup> day of June, 2021” shall be substituted.

2. This notification shall be deemed to have come into force with effect from the 31<sup>st</sup> 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 1<sup>st</sup> 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 1<sup>st</sup> May, 2021.

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India**  
**Ministry of Finance**  
**(Department of Revenue)**  
**Central Board of Indirect Taxes and Customs**

**Notification No. 27/2021 – Central Tax**

**New Delhi, the 1<sup>st</sup> 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 31<sup>st</sup> day of May, 2021, for the figures, letters and words “31<sup>st</sup> day of May, 2021”, the figures, letters and words “31<sup>st</sup> 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 1<sup>st</sup> day of June, 2021 till the 28<sup>th</sup> 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 19<sup>th</sup> June, 2017, published *vide* number G.S.R. 610(E), dated the 19<sup>th</sup> June, 2017 and last amended *vide* notification No. 15/2021 - Central Tax, dated the 18<sup>th</sup> 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 18<sup>th</sup> May, 2021.

**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,  
SECTION 3, SUB-SECTION (i)]**

**GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(DEPARTMENT OF REVENUE)  
CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS**

**Notification No. 28/2021 – Central Tax**

**New Delhi, the 30<sup>th</sup> 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, and in supersession of notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 89/2020 – Central Tax, dated the 29<sup>th</sup> November, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 745(E), dated the 29<sup>th</sup> November, 2020, except as respects things done or omitted to be done before such supersession, hereby waives the amount of penalty payable by any registered person under section 125 of the said Act for non-compliance of the provisions of notification No.14/2020 – 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. 197(E), dated the 21st March, 2020, between the period from the 1<sup>st</sup> day of December, 2020 to the 30<sup>th</sup> day of September, 2021.

**[F. No. CBEC 20/16/38/2020-GST Part I]**

(Rajeev Ranjan)

Under Secretary to the Government of India



### **(III) CENTRAL TAX (RATE) NOTIFICATIONS**

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India**

**Ministry of Finance**

**(Department of Revenue)**

**Notification No. 01/2021 – Central Tax (Rate)**

**New Delhi, the 2<sup>nd</sup> 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 28<sup>th</sup> 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 28<sup>th</sup> 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 I, after serial number 230 and the entries relating thereto, the following shall be inserted, namely-

“(231). Diethylcarbamazine ”.

2. This notification shall come into force on the 2<sup>nd</sup> 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 28<sup>th</sup> 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 28<sup>th</sup> June, 2017 and was last amended by notification No.03/2020- Central Tax(Rate), dated the 25<sup>th</sup> March, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number GSR 216(E), dated the 25<sup>th</sup> March, 2020.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India  
Ministry of Finance  
(Department of Revenue)

**Notification No. 02/2021- Central Tax (Rate)**

New Delhi, the 2<sup>nd</sup> 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.

2. This notification shall come into force with effect from the 2<sup>nd</sup> 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.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India  
Ministry of Finance  
(Department of Revenue)

**Notification No. 03/2021-Central Tax (Rate)**

New Delhi, the 2<sup>nd</sup> 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 29<sup>th</sup> 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 29<sup>th</sup> 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 2<sup>nd</sup> 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 29<sup>th</sup> March, 2019 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 253(E), dated the 29<sup>th</sup> March, 2019.

[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India  
Ministry of Finance  
(Department of Revenue)

**Notification No. 04/2021- Central Tax (Rate)**

New Delhi, the 14<sup>th</sup> 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 14<sup>th</sup> June, 2021 and ending with the 30<sup>th</sup> 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 2<sup>nd</sup> June, 2021 *vide* number G.S.R.377 (E), dated the 2<sup>nd</sup> June, 2021.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)

Notification No. 05/2021-Central Tax (Rate)

New Delhi, the 14<sup>th</sup> 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**

<b>Sl. No.</b>	<b>Chapter, Heading, Sub-heading or Tariff item</b>	<b>Description of Goods</b>	<b>Rate</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
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%

16	9019	(i) Non-invasive ventilation nasal or oronasal masks for ICU ventilators (ii) Canula for use with ventilators	2.5%
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 30<sup>th</sup> September, 2021.

[F.No. CBIC-190354/63/2021-TO(TRU-I)-CBEC]

(Rajeev Ranjan)  
Under Secretary to the Government of India

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)

CORRIGENDUM

New Delhi, the 15<sup>th</sup> June, 2021

G.S.R. ... (E).- In the notification of the Government of India, Ministry of Finance (Department of Revenue) No. 05/2021-Central Tax (Rate), dated the 14<sup>th</sup> June, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 405(E), dated the 14<sup>th</sup> June, 2021, on page 7, in the Table, against Sl. No. 8, in column (2), for “3804 94”, read “3808 94”.

[F.No. CBIC-190354/63/2021-TO(TRU-I)-CBEC]

(Rajeev Ranjan)  
Under Secretary to the Government of India

## **(IV) IGST TAX NOTIFICATIONS**

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India  
Ministry of Finance  
(Department of Revenue)  
Central Board of Indirect Taxes and Customs**

**Notification No. 02/2021 – Integrated Tax**

**New Delhi, the 1<sup>st</sup> June, 2021**

G.S.R.....(E).- In exercise of the powers conferred by section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), read with sub-section (1) of section 50 and 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 amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 6/2017 – Integrated Tax, dated the 28<sup>th</sup> June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 698(E), dated the 28<sup>th</sup> 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	Nil for the first 15 days from the due	March, 2021



	in the preceding financial year who are liable to furnish the return as specified under sub-section (1) of section 39	date, 9 per cent for the next 45 days, and 18 per cent thereafter	
		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 18<sup>th</sup> day of May, 2021.

[F. No. CBIC-20001/5/2021]

(Rajeev Ranjan)

Under Secretary to the Government of India

Note: The principal notification number 06/2017 – Integrated Tax, dated the 28<sup>th</sup> June, 2017, was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 698(E), dated the 28<sup>th</sup> June, 2017 and was last amended *vide* notification number 01/2021 – Integrated Tax, dated the 1<sup>st</sup> May, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 311(E), dated the 1<sup>st</sup> May, 2021.

[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India  
Ministry of Finance  
(Department of Revenue)

**Notification No. 03/2021- Integrated Tax**

New Delhi, the 2<sup>nd</sup> June, 2021

G.S.R.....(E).- In exercise of the powers conferred by sub-section (13) of section 13 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on being satisfied that it is necessary in order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, 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.4/2019- Integrated Tax, dated the 30th September, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 748 (E), dated the 30th September, 2019, namely:-

In the said notification, in Table A, after serial number (2) and the entries relating thereto, the following serial number and entry shall be inserted, namely: -

(1)	(2)	(3)
"3	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	The place of supply of services shall be the location of the recipient of service."

2. This notification shall come into force with effect from the 2<sup>nd</sup> day of June, 2021.

[F. No. 354/53/2021]

Rajeev Ranjan)  
Under Secretary to the Government of India

Note: - The principal notification No. 04/2019 - Integrated Tax, dated the 30<sup>th</sup> September, 2019 was published in the Gazette of India, Extraordinary, vide number G.S.R. 748 (E), dated the 30<sup>th</sup> September, 2019 and was last amended by notification No. 02/2020 – Integrated Tax, dated the 26th March, 2020 vide number G.S.R. 224 (E), dated the 26th March, 2020.

## **(V) IGST TAX (RATE) NOTIFICATIONS**

[To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

**Government of India**

**Ministry of Finance**

**(Department of Revenue)**

**Notification No. 01/2021 – Integrated Tax (Rate)**

**New Delhi, the 2<sup>nd</sup> June, 2021**

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) read with 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- Integrated Tax (Rate), dated the 28<sup>th</sup> June, 2017,published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 666 (E), dated the 28<sup>th</sup> June, 2017, namely:-

In the said notification, -

- (a) in Schedule I - 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). Diethylcarbamazine ”.

2. This notification shall come into force on the 2<sup>nd</sup> 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-Integrated Tax (Rate), dated the 28<sup>th</sup> June, 2017was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 666(E), dated the 28<sup>th</sup> June, 2017 and was last amended by notification No. 03/2020-Integrated Tax(Rate), dated the 25<sup>th</sup> March, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 217(E),dated the 25<sup>th</sup> March, 2020.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India  
Ministry of Finance  
(Department of Revenue)

**Notification No. 02/2021- Integrated Tax (Rate)**

New Delhi, the 2<sup>nd</sup> June, 2021

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1), (3) and subsection (4) of section 5, sub-section (1) of section 6 and clauses (iii), (iv) and (xxv) of section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), read with sub-section (5) of section 15, subsection (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.08/2017- Integrated Tax (Rate), dated the 28<sup>th</sup>June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 683(E), dated the 28<sup>th</sup>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.	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.

2. This notification shall come into force with effect from the 2<sup>nd</sup> day of June, 2021.

[F. No.354/53/2021 -TRU]

(Rajeev Ranjan)  
Under Secretary to the Government of India

Note: -The principal notification No. 8/2017 - Integrated Tax (Rate), dated the 28<sup>th</sup>June, 2017 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 683(E), dated the 28<sup>th</sup> June, 2017 and was last amended by Notification No. 02/2020- Integrated Tax (Rate), the 26<sup>th</sup> March, 2020 *vide* number G.S.R. 222(E), dated the 26<sup>th</sup> March, 2020.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India  
Ministry of Finance  
(Department of Revenue)

**Notification No. 03/2021-Integrated Tax (Rate)**

New Delhi, the 2<sup>nd</sup> June, 2021

G.S.R.....(E).- In exercise of the powers conferred by section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) read with 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- Integrated Tax (Rate), dated the 29<sup>th</sup> March, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 259(E), dated the 29<sup>th</sup> 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 2<sup>nd</sup> 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 - Integrated Tax (Rate), dated the 29<sup>th</sup> March, 2019 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 259(E), dated the 29<sup>th</sup> March, 2019.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India  
Ministry of Finance  
(Department of Revenue)

**Notification No. 04/2021- Integrated Tax (Rate)**

New Delhi, the 14 June, 2021

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1), (3) and subsection (4) of section 5, sub-section (1) of section 6 and clauses (iii), (iv) and (xxv) of section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), read with sub-section (5) of section 15, subsection (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.08/2017- Integrated Tax (Rate), dated the 28<sup>th</sup>June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 683(E), dated the 28<sup>th</sup>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 14<sup>th</sup> June, 2021 and ending with the 30<sup>th</sup> September, 2021, the integrated tax on service of description as specified in clause (f), shall, irrespective of rate specified in column (4), be levied at the rate of 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. 8/2017 - Integrated Tax (Rate), dated the 28<sup>th</sup>June, 2017 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 683(E), dated the 28<sup>th</sup> June, 2017 and was last amended by Notification No. 02/2021- Integrated Tax (Rate), the 2<sup>nd</sup> June, 2021 *vide* number G.S.R. 378(E), dated the 2<sup>nd</sup> June, 2021.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)

Notification No. 05/2021-Integrated Tax (Rate)

New Delhi, the 14<sup>th</sup> June, 2021

G.S.R....(E).- In exercise of the powers conferred by sub-section (1) of section 6 of the Integrated Goods and Services Tax Act, 2017 (13 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 integrated tax leviable thereon under section 5 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	5%
2	30	Tocilizumab	Nil
3	30	Amphotericin B	Nil
4	30	Remdesvir	5%
5	30	Heparin (anti-coagulant)	5%
6	3002 or 3822	Covid-19 testing kits	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.	5%
8	3804 94	Hand Sanitizer	5%
9	6506 99 00	Helmets for use with non-invasive ventilation	5%
10	8417 or 8514	Gas/Electric/other furnaces for crematorium	5%
11	9018 19 or 9804	Pulse Oximeter	5%
12	9018	High flow nasal canula device	5%
13	9019 20 or 9804	Oxygen Concentrator/ generator	5%
14	9018 or 9019	Ventilators	5%
15	9019	BiPAP Machine	5%



16	9019	(i) Non-invasive ventilation nasal or oronasal masks for ICU ventilators (ii) Canula for use with ventilators	5%
17	9025	Temperature check equipment	5%
18	8702 or 8703	Ambulances	12%

2. This notification shall remain in force upto and inclusive of the 30<sup>th</sup>September, 2021.

[F.No. CBIC-190354/63/2021-TO(TRU-I)-CBEC]

(Rajeev Ranjan)  
Under Secretary to the Government of India

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)

CORRIGENDUM

New Delhi, the 15<sup>th</sup> June, 2021

G.S.R. ... (E).- In the notification of the Government of India, Ministry of Finance (Department of Revenue) No. 05/2021-Integrated Tax (Rate), dated the 14<sup>th</sup> June, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 406(E), dated the 14<sup>th</sup> June, 2021, on page 9, in the Table, against Sl. No. 8, in column (2), for “3804 94”, read “3808 94”.

[F.No. CBIC-190354/63/2021-TO(TRU-I)-CBEC]

(Rajeev Ranjan)  
Under Secretary to the Government of India

## **(VI) CGST CIRCULARS**

Circular No. 149/05/2021-GST

CBIC-190354/36/2021-TRU Section-CBEC

Government of India  
Ministry of Finance  
Department of Revenue

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North Block, New Delhi,  
Dated the 17<sup>th</sup> June, 2021

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 43<sup>rd</sup> meeting held on 28<sup>th</sup> May, 2021.

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 anganwadi. 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

**CBIC-190354/36/2021-TRU Section-CBEC**

**Government of India  
Ministry of Finance  
Department of Revenue**

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**North Block, New Delhi,  
Dated the 17<sup>th</sup> June, 2021**

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 43<sup>rd</sup> meeting held on 28<sup>th</sup> 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

**CBIC-190354/36/2021-TRU Section-CBEC**

**Government of India  
Ministry of Finance  
Department of Revenue**

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**North Block, New Delhi,  
Dated the 17<sup>th</sup> June, 2021**

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 43<sup>rd</sup> meeting held on 28<sup>th</sup> 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)].

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



CBIC-190354/36/2021-TRU Section-CBEC

Government of India  
Ministry of Finance  
Department of Revenue

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North Block, New Delhi,

Dated the 17<sup>th</sup> June, 2021

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

**CBIC-190354/36/2021-TRU Section-CBEC**

**Government of India  
Ministry of Finance  
Department of Revenue**

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**North Block, New Delhi,  
Dated the 17<sup>th</sup> June, 2021**

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 such milling, if it does not fall in said entry No. 3A. The issue has been examined by GST Council in its 43<sup>rd</sup> meeting held on 28<sup>th</sup> 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](mailto:shashikant.mehta@gov.in)

**CBIC-190354/36/2021-TRU Section-CBEC**

**Government of India  
Ministry of Finance  
Department of Revenue**

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**North Block, New Delhi,  
Dated the 17<sup>th</sup> June, 2021**

**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 43<sup>rd</sup> meeting held on 28<sup>th</sup> 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](mailto:shashikant.mehta@gov.in)

**CBIC-190354/36/2021-TRU Section-CBEC**

**Government of India  
Ministry of Finance  
(Department of Revenue)**

**North Block, New Delhi,**

**Dated the 17<sup>th</sup> June, 2021**

**To,**

**Principal Chief Commissioners/ Principal Directors General,  
Chief Commissioners/ Directors General,  
Principal Commissioners/ Commissioners of GST and Central Tax (AII),**

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 43<sup>rd</sup> meeting of GST Council held on the 28<sup>th</sup> 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 28<sup>th</sup> June, 2017 which has been inserted *vide* notification No. 6/2018- Central Tax (Rate), dated 25<sup>th</sup> January, 2018 and reads as below:

<b>S. No.</b>	<b>Chapter Heading/ Sub-heading/Tariff Item</b>	<b>Description of Goods</b>	<b>CGST rate</b>
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

**Circular No. 155/11/2021-GST**

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

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Tel: 011 2309 5543



**CBEC-20/16/38/2020 -GST**  
**Government of India**  
**Ministry of Finance**  
**Department of Revenue**  
**Central Board of Indirect Taxes and Customs**  
**GST Policy Wing**

New Delhi, dated the 21<sup>st</sup> June, 2021

To

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners /  
Commissioners of Central Tax (All)

The Principal Director Generals / Director Generals (All)

Madam/Sir,

**Subject: Clarification in respect of applicability of Dynamic Quick Response (QR)  
Code on B2C invoices and compliance of notification 14/2020- Central Tax dated 21<sup>st</sup>  
March, 2020 - Reg.**

Notification No. 14/2020-Central Tax, dated 21<sup>st</sup> March 2020 had been issued which requires Dynamic QR Code on B2C invoice issued by taxpayers having aggregate turnover more than 500 crore rupees, **w.e.f. 01.12.2020**. Further, vide notification No. 06/2021-Central Tax, dated 30<sup>th</sup> March 2021, penalty has been waived for non-compliance of the provisions of notification No.14/2020 – Central Tax for the period from 01<sup>st</sup> December, 2020 to 30<sup>th</sup> June, 2021, subject to the condition that the said person complies with the provisions of the said notification from 1<sup>st</sup> July, 2021. Further, various issues on Dynamic QR Code have been clarified vide Circular No. 146/2/2021-GST, dated 23.02.2021.

2. Various references have been received from trade and industry seeking clarification on applicability of Dynamic Quick Response (QR) Code on B2C (Registered person to Customer) invoices and compliance of notification 14/2020-Central Tax, dated 21<sup>st</sup> March, 2020 as amended. The issues have been examined and in order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act, 2017, hereby clarifies the issues



in the table below:

1.	Whether Dynamic QR Code is to be provided on an invoice, issued to a person, who has obtained a Unique Identity Number as per the provisions of Sub-Section 9 of Section 25 of CGST Act 2017?	Any person, who has obtained a Unique Identity Number (UIN) as per the provisions of Sub-Section 9 of Section 25 of CGST Act 2017, is not a “registered person” as per the definition of registered person provided in section 2(94) of the CGST Act 2017. Therefore, any invoice, issued to such person having a UIN, shall be considered as invoice issued for a B2C supply and shall be required to comply with the requirement of Dynamic QR Code.
2.	UPI ID is linked to the bank account of the payee/ person collecting money. Whether bank account and IFSC details also need to be provided separately in the Dynamic QR Code along with UPI ID?	Given that UPI ID is linked to a specific bank account of the payee/ person collecting money, separate details of bank account and IFSC may not be provided in the Dynamic QR Code.
3.	In cases where the payment is collected by some person other than the supplier (ECO or any other person authorized by the supplier on his/ her behalf), whether in such cases, in place of UPI ID of the supplier, the UPI ID of such person, who is authorized to collect the payment on behalf of the supplier, may be provided?	Yes. In such cases where the payment is collected by some person, authorized by the supplier on his/ her behalf, the UPI ID of such person may be provided in the Dynamic QR Code, instead of UPI ID of the supplier.
4.	In cases, where receiver of services is located outside India, and payment is being received by the supplier of services in foreign exchange, through RBI approved modes of payment, but	No. Wherever an invoice is issued to a recipient located outside India, for supply of services, for which the place of supply is in India, as per the provisions of IGST Act 2017, and the payment is received by

**Circular no. 156/12/2021-GST**

	as per provisions of the IGST Act 2017, the place of supply of such services is in India, then such supply of services is not considered as export of services as per the IGST Act 2017; whether in such cases, the Dynamic QR Code is required on the invoice issued, for such supply of services, to such recipient located outside India?	the supplier in foreign currency, through RBI approved mediums, such invoice may be issued without having a Dynamic QR Code, as such dynamic QR code cannot be used by the recipient located outside India for making payment to the supplier.
5.	In some instances of retail sales over the counter, the payment from the customer is received on the payment counter by displaying dynamic QR code on digital display, whereas the invoice, along with invoice number, is generated on the processing system being used by supplier/ merchant after receiving the payment. In such cases, it may not be possible for the merchant/ supplier to provide details of invoice number in the dynamic QR code displayed to the customer on payment counter. However, each transaction i.e. receipt of payment from a customer is having a unique Order ID/ sales reference number, which is linked with the invoice for the said transaction. Whether in such cases, the order ID/ reference number of such transaction can be provided in the dynamic QR code displayed digitally, instead of invoice number.	In such cases, where the invoice number is not available at the time of digital display of dynamic QR code in case of over the counter sales and the invoice number and invoices are generated after receipt of payment, the unique order ID/ unique sales reference number, which is uniquely linked to the invoice issued for the said transaction, may be provided in the Dynamic QR Code for digital display, as long as the details of such unique order ID/ sales reference number linkage with the invoice are available on the processing system of the merchant/ supplier and the cross reference of such payment along with unique order ID/ sales reference number are also provided on the invoice.
6.	When part-payment has already been received by the merchant/ supplier,	The purpose of dynamic QR Code is to enable the recipient/ customer to scan and

**Circular no. 156/12/2021-GST**

<p>either in advance or by adjustment (e.g. using a voucher, discount coupon etc), before the dynamic QR Code is generated, what amount should be provided in the Dynamic QR Code for “invoice value”?</p>	<p>pay the amount to be paid to the merchant/ supplier in respect of the said supply. When the part-payment for any supply has already been received from the customer/ recipient, in form of either advance or adjustment through voucher/ discount coupon etc., then the dynamic QR code may provide only the remaining amount payable by the customer/ recipient against “invoice value”. The details of total invoice value, along with details/ cross reference of the part-payment/ advance/ adjustment done, and the remaining amount to be paid, should be provided on the invoice.</p>
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3. Circular No. 146/2/2021-GST, dated 23.02.2021 stands modified to this extent.
4. It is requested that suitable trade notices may be issued to publicize the contents of this circular.
5. Difficulty, if any, in the implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Sanjay Mangal)  
Commissioner

## **(VII) ADVANCE RULINGS**

### **1. GST on Machinery used for processing & packing of raisins & sold to framers & farmer clusters**

Case Name : **In re M/s Wave Colour Techniks (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 29/2021

Date of Judgement/Order : 07/06/2021

**What is the applicable rate of GST on following machines? Automatic Feeder with Breaker, Pre-washer Machine, Drying Machine, Cleaning and Grading Machine, Pre-stem remover, Riffle Washer, Stem Remover, Spin Dryer, Automatic Weighing Machine?**

*1. The machineries manufactured and sold by the applicant like Automatic Feeder with Breaker, Drying machine, Cleaning and Grading Machine, and Pre-stem remover are taxable at 6% under the CGST Act, 2017 and 6% under the KGST Act, 2016.*

*2. The Automatic Weighing Machine manufactured and sold by the applicant is liable to tax at 9% under the CGST Act, 2017 and 9% under the KGST Act, 2017.*

### **2. No GST on Supply by Govt/Govt Entity to Govt/Govt Entity against consideration in the form of Grant**

Case Name : **In Re Bellary Nirmithi Kendra (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 28/2021

Date of Judgement/Order : 07/06/2021

**Whether supply of service by a Government controlled Association to State Government, Local Authority or any person specified by State Government, Local Authority against consideration received from State Government, Local Authority, in the form of grants is liable to GST?**

The supply of service by a Government controlled Association to State Government, Local Authority or any person specified by State Government, Local Authority against consideration received from State Government, Local Authority, in the form of grants is not liable to GST only if the Government controlled Association is covered under the definition of "Government Entity" and if not, then the same is liable to tax.

### **3. AAR explains Requirement of TDS under Section 51 of CGST Act 2017**

Case Name : **In re Udupi Nirmithi Kendra (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 30/2021

Date of Judgement/Order : 08/06/2021

In the first scenario, since the value of the single invoice is more than Rs.2.5 lakh, there is no doubt that the tax deduction at source is applicable under section 51 subject

to other conditions. In the second scenario, the applicant has clearly stated that the value of supply under a single invoice does not exceed Rs.2.5 Lakhs and assuming that it is a single transaction as per the purchase order, then tax deduction at source is not applicable on that single transaction or invoice. But if it is a part supply and a part of the continuous supply as per the purchase order, then if the total value of supply as mentioned in the purchase order is more than Rs.2.5 Lakh, then the provisions of tax deduction at source would become applicable even on this invoice.

#### **4. GST on scientific & technical instruments/equipment supplied to NCPOR**

Case Name : **In re Thermo Fisher Scientific India Pvt. Ltd (GST AAR Maharashtra)**

Appeal Number : Advance Ruling No. GST-ARA-45/2019-20/B-15

Date of Judgement/Order : 14/06/2021

**Question :** Whether Applicant is correct in charging 2.5% CGST and SGST or 5% IGST, as applicable, by applying **Notification No. 45/2017-Central Tax (Rate)**, Notification No. 45/2017 -S.T.(Rate) and **Notification No. 47/2017-Integrated Tax (Rate)** all dated 14.11.2017 on the scientific and technical instruments/ equipment supplied to public funded research institutions, research institutions, universities, Indian Institute Of Technology, departments and laboratories of the Central and State Government, basis the certificates appended herewith?

**Answer:** Applicant would be correct in charging 5% GST only in 4 cases of National Centre for Polar and Ocean Research (NCPOR), University of Delhi, Council of Scientific and Industrial Research CSIR-North East and Institute of Science & Technology where all the conditions mentioned in the impugned Notifications are found to be satisfied and the necessary and proper certificates, complete in all respects as mandated by the relevant Notifications have been produced.

#### **5. GST payable on operating mini AC buses for BEST**

Case Name : **In re M P Enterprises & Associates Limited (GST AAR Maharashtra)**

Appeal Number : Advance Ruling No. GST-ARA-37/2020-21/B-16

Date of Judgement/Order : 14/06/2021

**Question 1:-** Whether the service of operating mini AC buses by the applicant for Brihan Mumbai Electricity Supply Transport Undertaking (BEST) 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?

**Answer:-** Answered in the negative.

**Question 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**)

**Answer:-** Answered in the affirmative. However GST @ 12% is chargeable only with effect from 13.10.2017.

**Question 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?**

**Answer:-** Answered in the affirmative. However GST @ 18% is chargeable only till 13.10.2017.

## **6. No GST on Training to Students Sponsored by State Govt: AAR Haryana**

Case Name : **In re Sachdeva Colleges Limited (GST AAR Haryana)**

Appeal Number : Advance Ruling No. HR/HAAR/2020-21/16

Date of Judgement/Order : 23/06/2021

1. Advance Ruling by Haryana Authority holding that Company imparting Training to students sponsored by SC and BC Department Haryana is not liable to GST or Registration under the Act.
2. The training imparted by IWs Sachdeva colleges Ltd. to the students selected through Directorate of Haryana for JEE (Non-Med.) and NEET (Medical) are exempt under entry 72 of Notification No. 47 of the HGST Act subject to that the whole expenditure is borne by the Center/State Government.
3. Section 23 of the Act provides that any person engaged exclusively in the business of supplying goods and services or both that are not liable to tax or fully exempt from tax under this Act or under the **Integrated Goods and service Tax Act**, so the applicant is not liable for registration till he supplies goods and services or both that are not liable to tax or fully exempt from tax under the GST Acts.

## **7. GST on arranging sales of goods to recipient located outside India**

Case Name : **In re Teretex Trading Private Limited (GST AAR West Bengal)**

Appeal Number : Order No. 03/WBAAR/2021-22

Date of Judgement/Order : 28/06/2021

**Whether supply of services by the applicant by way of arranging sales of goods to the recipient located outside the country shall be considered as 'export of services' or not?**

In the instant case, the applicant has admitted that he procures purchase order for supply of goods from the buyers located in India. He then connects such prospective buyers with the supplier of goods who are located outside the country. The supplier of goods thereafter despatches the goods directly to the buyers. Question may arise that whether mere identification of customers and to connect them with the supplier would result in a supplier of service being classified as an intermediary?

It has been admitted by the applicant that the value of supply of services in the form of commission is determined at the rate normally prevalent in the market which is generally 1% or 2% depending on the volume of trade. It clearly establishes the fact that the supply of services as provided by the applicant is inextricably linked with the supply of goods made by the overseas supplier. We also find in the present case that the applicant can neither change the nature and value of supply of goods nor he holds the title of the goods at any point of time during the entire transaction. Further, the value of supply of services as provided by him is claimed to be based on an agreed percentage which is separately identifiable. Furthermore, the applicant has admitted that he is going to undertake the aforesaid business activities without assuming any obligation either on behalf of the supplier or on behalf of the recipient of the goods meaning thereby he doesn't supply such goods on his own account.

It therefore appears that the applicant being supplier of services by way of arranging or facilitating sales of goods for various overseas suppliers and admittedly the same is not being done on his own account, satisfies all the conditions to be an intermediary as defined in clause (13) of section 2 of the **IGST Act, 2017**.

The place of supply is determined under section 13 of the IGST Act, 2017 where location of supplier or location of recipient is outside India. In the present case, the applicant being the supplier of services is located in India and the recipient of services being located outside the country attracts the provisions of the aforesaid section of the Act *ibid*. We have already discussed that the applicant is found to be an 'intermediary' as defined in clause (13) of section 2 of the IGST Act, 2017. So, the place of supply shall be determined under subsection (8) of section 13 of IGST Act, 2017 which shall be the location of the supplier of services i.e., in West Bengal for the present case. As a result, the supply shall be treated as an intra-State supply in terms of sub-section (2) of section 8 of the IGST Act, 2017 and tax will be levied accordingly. This transaction will, therefore, not be covered within the definition of export of services as provided in Section 2(6) of IGST Act, 2017 as it is not satisfying one of the conditions of place of supply being outside India, as enumerated in Section 2(6)(iii) of the IGST Act, 2017 and consequently shall not be treated as zero-rated supply as provided in section 16 of the IGST Act, 2017.

## **8. Alcohol-based hand sanitizer falls under Chapter Heading 3808**

Case Name : **In re Wipro Enterprises Pvt Ltd (GST AAAR Karnataka)**

Appeal Number : Advance Ruling No. KAR/AAAR/ 07/2021

Date of Judgement/Order : 30/06/2021

As regards the rate of tax on alcohol-based hand sanitizer, the goods falling under Chapter Heading 3808 attract a tax rate of 9% CGST and 9% SGST in terms of entry Sl.No 87 of Schedule III of **Notification No. 11/2017 CT (R) dated 28-06-2017**. With effect from 14<sup>th</sup> June 2021 up to 30<sup>th</sup> September 2021, the GST rate on hand sanitizer falling under Chapter Heading 3808.94 has been reduced to 5% GST (i.e 2.5% CGST and 2.5% SGST) vide **Notification No 05/2021 CT (R) dated 14<sup>th</sup> June 2021**.

### **9. DGFT Notification is not authority for determining classification of goods under GST**

Case Name : **In re Ce-Chem Pharmaceuticals Private Limited (GST AAAR Karnataka)**

Appeal Number : Order No. KAR/AAAR/06/2021

Date of Judgement/Order : 30/06/2021

Hand sanitizers do not serve as a replacement for through handwashing with soap and water

The Appellant has expressed his objection to the lower Authority's finding that hand sanitizer is an alternative to soap. We clarify that **hand sanitizers do not serve as a replacement for through handwashing with soap and water**. Instead, the alcohol-based hand sanitizers are thought to bring the consumers some of the benefits of handwashing when washing hands with soap and water is not practical in certain settings. In fact, alcohol-based hand sanitizers are usually preferred to handwashing with soap in occupational health care setting and in community settings. They are faster, more efficient and easier on the skin than repeated handwashing with soap and water. However, hand sanitizers are not suitable for all settings. They are not recommended for use on hands that are soiled with visible amounts of dirt or grease and are also found to be ineffective at removing some kinds of pathogens. In such instances, handwashing with soap and water is the recommended method to clean hands. Therefore, we disagree with the lower Authority's observation that hand sanitizer is an alternative to soap. Both 'hand sanitizer' and 'soap and water' are recommended methods in hand hygiene practices and each method is effective in certain situations.

### **DGFT Notification is not authority for determining classification of goods under GST**

The Appellant has also attempted to advance his case by claiming support from the DGFT Notification dated 6-5-2020 which prohibits the export of Alcohol-based hand sanitizers falling under ITC HS Codes 3004, 3401, 3402 and 3808.94. It is their claim that Chapter Headings 34.01 and 34.02 pertains to soaps and other organic surface-active products used for washing the skin and Chapter Heading 3808.94 covers insecticides and disinfectants generally used on inanimate surfaces; that the product manufactured by them does not fit into the description of any of the above three Headings and hence Chapter Heading 30.04 is the most appropriate heading which covers alcohol-based hand sanitizers. At the outset, we state that a **DGFT Notification is not an authority for determining the classification of goods under**



**GST law.** Classification of goods is to be determined based solely on the description of goods given in the First Schedule to the Customs Tariff Act read together with the relevant Section Notes and Chapter Notes. Moreover, the conditions and restrictions contemplated by one statute having a different object and purpose should not be mechanically imported and applied to a fiscal statute. The reference to the ITC HS Code for Alcohol-based hand sanitizers which has been made in the DGFT Notification dated 6-5-2020 is not a standard for interpreting the classification of goods as per the Customs Tariff Act. We therefore, reject this submission of the Appellant.

GST Rate on Isopropyl Rubbing Alcohol and Chlorhexidine Gluconate and Isopropyl Alcohol solution

As regards the rate of tax on Isopropyl Rubbing Alcohol and Chlorhexidine Gluconate and Isopropyl Alcohol solution, the goods falling under Chapter Heading 3808 attract a tax rate of 9% CGST and 9% SGST in terms of entry SI.No 87 of Schedule III of **Notification No 11/2017 CT (R) dated 28-06-2017**. With effect from 14<sup>th</sup> June 2021 upto 30<sup>th</sup> September 2021, the GST rate on hand sanitizer falling under Chapter Heading 3808.94 has been reduced to 5% GST (i.e 2.5% CGST and 2.5% SGST) vide **Notification No 05/2021 CT (R) dated 14<sup>th</sup> June 2021**.

## **(VIII) COURT ORDERS/ JUDGEMENTS**

### **1. SC STAYS Delhi HC Order declaring IGST on Oxygen Concentrators as Unconstitutional**

Case Name : **Ministry of Finance (Department of Revenue) Vs Gurcharan Singh (Supreme Court of India)**

Appeal Number : Special Leave to Appeal (C) No.7226/2021

Date of Judgement/Order : 01/06/2021

1. Supreme Court Bench of Justices DY Chandrachud and MR Shah issued notice in the appeal against the High Court verdict and granted a stay on order declaring imposition of IGST on the import of oxygen concentrators by individuals for personal use as unconstitutional.

2. The order said “We issue notice and till next date of hearing there shall be stay on the May 21 order of the Delhi High Court. Matter returnable in four weeks,”

### **2. Order dismissing appeal without assigning necessary reasons not sustainable and is cryptic in nature**

Case Name : **Pankaj Sharma Vs Union of India (Patna High Court)**

Appeal Number : Civil Writ Jurisdiction Case No. 7431 of 2021

Date of Judgement/Order : 01/06/2021

The Hon’ble Patna High Court in ***Pankaj Sharma vs. UOI & Ors. [Civil Writ Jurisdiction Case No. 7431 dated June 01, 2021]*** set aside the order dismissing the appeal of the assessee passed by the Revenue Department, on the ground that the same is cryptic in nature as it does not contain the reasons necessarily required for making the order self-explainable and/or comprehensible. Held that, the Appellate Authority, summarily dismissed the appeal without assigning any cogent reason, which is seriously prejudicing the assessee’s cause and case.

#### **Facts:**

This petition has been filed by Pankaj Sharma (“**the Petitioner**”), against the Order-in-Appeal (“**OIA**”) dated January 28, 2021, (“**Impugned order**”) passed by the Additional Commissioner of State Taxes (Appeal) (“**the Respondent**”) dismissing the Petitioner’s appeal, only on the ground that the Petitioner has not submitted the certified copy of the Order-in-Original (“**OIO**”) dated March 06, 2020 on time, which was passed against the demand notice in Form GST DRC-07 dated March 06, 2020 levying tax, interest and penalty of INR 19,81,531/- for the period April 2018 to March 2019.

#### **Issue:**

Whether the Respondent was correct in dismissing the appeal filed by the Petitioner for non-submission of the certified copy of the OIO on time, by the Petitioner?

### **Held:**

The Hon'ble Patna High Court in ***Civil Writ Jurisdiction Case No. 7431 decided on June 01, 2021*** held as under:

- Noted that, the Petitioner's appeal was dismissed only on the ground that the Petitioner did not submit the certified copy of the OIO on time.
- Observed that, the Respondent summarily dismissed the appeal without assigning any cogent reason, which seriously prejudicing the Petitioner cause and case.
- Further noted that, the Petitioner has already deposited 100% of amount making the appeal mature to be heard on merits.
- Held that, the Impugned order passed by the Respondent is cryptic in nature, and needs to be set aside only on the ground that it does not even contain the reasons necessarily required for making the order self-explainable and/or comprehensible.
- Set aside the Impugned order and remanded back the matter to the Respondent and directed the Petitioner to appear before the Respondent through digital mode due to current Pandemic, if possible.
- Further directed the Respondent to grant opportunity to the Petitioner to place on record all essential documents and materials, decide the appeal on merits expeditiously, within a period of 2 months, in compliance of the principles of natural justice and to deal with, in accordance with law and with reasonable dispatch.

### **Relevant Provisions:**

#### **Section 107 of CGST Act:**

##### ***"Appeals to Appellate Authority-***

**107. (1)** Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the **Union Territory Goods and Services Tax Act** by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.

(2) The Commissioner may, on his own motion, or upon request from the Commissioner of State tax or the Commissioner of Union territory tax, call for and examine the record of any proceedings in which an adjudicating authority has passed any decision or order under this Act or the State Goods and Services Tax Act or the **Union Territory Goods and Services Tax Act**, for the purpose of satisfying himself as to the legality or propriety of the said decision or order and may, by order, direct any officer subordinate to him to apply to the Appellate Authority within six months from the date of communication of the said decision or order for the determination of such points arising out of the said decision or order as may be specified by the Commissioner in his order.

(3) Where, in pursuance of an order under sub-section (2), the authorised officer makes an application to the Appellate Authority, such application shall be dealt with by the Appellate Authority as if it were an appeal made against the decision or order of the adjudicating authority and such authorised officer were an appellant and the provisions of this Act relating to appeals shall apply to such application.

*(4) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month.*

*(5) Every appeal under this section shall be in such form and shall be verified in such manner as may be prescribed.*

*(6) No appeal shall be filed under sub-section (1), unless the appellant has paid-*

*(a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him; and*

*(b) a sum equal to ten per cent. of the remaining amount of tax in dispute arising from the said order subject to a maximum of twenty-five crore rupees, in relation to which the appeal has been filed.*

*Provided that no appeal shall be filed against an order under sub-section (3) of section 129, unless a sum equal to twenty-five per cent. of the penalty has been paid by the appellant.*

*(7) Where the appellant has paid the amount under sub-section (6), the recovery proceedings for the balance amount shall be deemed to be stayed.*

*(8) The Appellate Authority shall give an opportunity to the appellant of being heard.*

*(9) The Appellate Authority may, if sufficient cause is shown at any stage of hearing of an appeal, grant time to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing:*

*Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.*

*(10) The Appellate Authority may, at the time of hearing of an appeal, allow an appellant to add any ground of appeal not specified in the grounds of appeal, if it is satisfied that the omission of that ground from the grounds of appeal was not wilful or unreasonable.*

*(11) The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order:*

*Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:*

*Provided further that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the*

*proposed order and the order is passed within the time limit specified under section 73 or section 74.*

*(12) The order of the Appellate Authority disposing of the appeal shall be in writing and shall state the points for determination, the decision thereon and the reasons for such decision.*

*(13) The Appellate Authority shall, where it is possible to do so, hear and decide every appeal within a period of one year from the date on which it is filed:*

*Provided that where the issuance of order is stayed by an order of a court or Tribunal, the period of such stay shall be excluded in computing the period of one year.*

*(14) On disposal of the appeal, the Appellate Authority shall communicate the order passed by it to the appellant, respondent and to the adjudicating authority.*

*(15) A copy of the order passed by the Appellate Authority shall also be sent to the jurisdictional Commissioner or the authority designated by him in this behalf and the jurisdictional Commissioner of State tax or Commissioner of Union Territory Tax or an authority designated by him in this behalf.*

*(16) Every order passed under this section shall, subject to the provisions of section 108 or section 113 or section 117 or section 118 be final and binding on the parties."*

### **3. No Tax Evasion on Mere Non-Extension of Validity of E-Way Bill**

Case Name : **Satyam Shivam Papers Pvt. Ltd. Vs Asst. Commissioner ST and 4 Others (Telangana High Court)**

Appeal Number : WP No. 9688 of 2020

Date of Judgement/Order : 02/06/2021

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. .

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.

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.

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.

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.

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.

#### **4. Horse race clubs liable to pay GST only on commission & not entire bet amount**

Case Name : **Bangalore Turf Club Limited and ors. Vs. State of Karnataka (Karnataka High Court)**

Appeal Number : WP No. 11168/2018

Date of Judgement/Order : 02/06/2021

#### **Horse race clubs liable to pay GST only on commission and not entire bet amount; Rule 31A(3) of CGST Rules ultra vires**

The Hon'ble Karnataka High Court (HC) in ***Bangalore Turf Club Limited and ors. v. Union of India [WP No. 11168/2018 and WP No. 11167/2018 decided on June 02, 2021]*** held that Goods and Service Tax (GST) cannot be levied on the entire bet amount received in the totalisator as it would take away the principle that tax can only be levied on consideration received under the **Central Goods and Service Tax Act, 2017 (“CGST Act”)**. The Court also declared Rule 31A(3) of the **Central Goods and Service Tax Rules, 2017 (“CGST Rules”)** and Karnataka Goods and Services Tax Rules, 2017 (“KGST rules”) as *ultra virus* of the CGST Act.

#### **Facts:**

Bangalore turf club ltd. (“**the Petitioner**”) is carrying the business of a race club. The Petitioner particularly conduct horse racing and facilities betting by the punters. The

punter places the bet either through totalisator run by the Petitioner or a bookmaker licensed by the Petitioner. If the horse backed by the punter wins, the winning punter is required to surrender the receipt and receive the winning amount from the losing punter. Commission is being taken by the Petitioner for holding the entire amount.

In pre-GST regime the Petitioner was treated as service providers under Chapter-V of the Finance Act, 1994 and Service Tax was levied on the Petitioner's commission alone. After the GST regime, an amendment was brought into Rule 31A of the CGST Act by the insertion of sub-rule (3) to Rule 31A of the CGST Rules. The amendment made GST leviable on the whole amount of bet that gets into the totalisator.

### **Issues:**

- Whether Rule 31A(3) of the CGST Rules is ultra virus the CGST Act?
- Whether the Petitioner is liable to pay GST on the commission or on the total amount collected in the totalisator?

### **Held:**

The Hon'ble Karnataka HC in **WP No. 11168/2018 and WP No. 11167/2018 decided on June 02, 2021** held as under:

- Opined that betting is neither in the course of business nor in furtherance of business of the Petitioner for the purposes of the CGST Act as the Petitioner hold the amount received in the totalisator for a brief period in its fiduciary capacity for which it receives consideration in form of commission and once the race is over the money is distributed to the winners of the stake. Thus, the entire money held by totalisator cannot be construed as consideration in terms of Section 2(31) of the CGST Act.
- Observed that Rule 31A(3) of the CGST Rules/ KGST Rules completely wipes out the distinction between the bookmakers and a totalisator by making the Petitioner liable to pay tax on 100% of the bet value. It is the bookmakers who indulge in betting and receive consideration irrespective of the result. In contrast, the Petitioner provides totalisator service and receives commission for providing such service. Therefore, there is no supply of goods/bets by the Petitioner under the CGST Act.
- Noted that, Rule 31A(3) of the CGST Rules/ KGST Rules make the Petitioner a 'supplier' of bets but the Petitioner is not the supplier of bets and therefore, cannot be held liable to pay tax under the CGST Act. The service or supply that the Petitioner do is only of totalisator component. The Petitioner dose not supply bets to the punters.
- Held that GST cannot be levied on the entire bet amount received in the as it would take away the principle that tax can only be levied on consideration received under the CGST Act. The Court compared it to stock broker or a travel agent; both of whom are liable to pay GST only on the income i.e., the commission that they earn and not on all the monies that pass through them.
- Stated that, Rule 31A(3) of the CGST Rules/ KGST Rules does not conform to the provisions of the CGST Act and thus are *ultra virusthe* enabling CGST Act and liable to be stuck down.
- Held that, the Petitioner is liable for payment of GST on the commission received for the services rendered through the totalisator and not on the total amount collected in the totalisator.

## **Relevant Provisions:**

### **Rule 31A(3) of CGST Rules/ KGST Rules**

#### ***“31A Value of supply in case of lottery, betting, gambling and horse racing***

*(3) The value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be 100% of the face value of the bet or the amount paid into the totalisator.”*

## **5. HC denies Transition of ITC from shut down factory in Tamil Nadu to new GSTIN in Andhra Pradesh**

Case Name : **MMD Heavy Machinery (India) Pvt. Ltd. Vs The Assistant Commissioner (Madras High Court)**

Appeal Number : W.P. No. 27159 of 2018

Date of Judgement/Order : 02/06/2021

The case of the petitioner in the present writ petition is that the petitioner had shut down its factory in Ambattur, Chennai in Tamil Nadu and shifted to Sri City, Andhra Pradesh during June 2016 much prior to implementation of GST. At that point of time, the petitioner had accumulated input tax credit under Cenvat Credit Rules, 2004 which had remained unutilized owing to the fact that the petitioner was pre-dominantly engaged in export of final products. Therefore, the petitioner orally requested the jurisdictional Assistant Commissioner of Central Excise (the 1st respondent) and the 2nd respondent to permit the transfer of accumulated input tax credit lying unutilized in its CENVAT Account to its new factory in Sri City, Andhra Pradesh in terms of Rule 10 of the CENVAT Credit Rules, 2004.

The sub-clause (ii) to proviso to Section 140(1) of the **Central Goods and Services Tax Act, 2017** makes it very clear that credit shall not be allowed where such registered person has not produced all returns required under the existing law for the period of six months immediately preceding the appointed date.

Order-in-Original No.3/2017(AC) dated 10.11.2017 passed by the 1st respondent indicates that the petitioner had not mentioned/declared export clearances in its ER-1 Returns for the period commencing from January, 2015 ending with June, 2016. It is further noticed that the petitioner had exported goods for a assessable value of Rs.33,90,82,523/- without paying duty or executing proper bond under Rule 19 of the Central Excise Rules, 2002. The duty payable on the exported goods was determined as Rs.4,23,51,107/-. Thus, the credit of Rs.2,77,10,052/- which was transitioned would have been sufficient to cover a part of the duty liability on the exported goods and the petitioner could have availed rebate under Rule 18 of the Central Excise Rules, 2002 or to claim refund of input tax credit on the input used in the manufacture of export goods under Rule 5 of the CENVAT Credit Rules, 2004.

Strangely, the petitioner had not opted for any of the above while making export. The fate of such input tax credit lying unutilized is to be examined in the light of the provisions of the Central Excise Act, 1944, Central Excise Rules, 2002, CENVAT



Credit Rules, 2004 and the relevant notifications. It is assumed that the petitioner had opted neither to pay excise duty to claim rebate under Rule 18 of the Central Excise Rules, 2002 as it stood then nor in the alternative claimed refund under Rule 5 of the CENVAT Credit Rules, 2004. There is also no explanation forthcoming from the petitioner as to why the petitioner failed to opt for Rule 10(3) of the CENVAT Credit Rules, 2004.

It is quite possible that the petitioner while removing the capital goods, work in progress and inputs had not discharged its liability under Rule 3(5) of the CENVAT Credit Rules, 2004. It would require for detailed examination by the concerned jurisdictional officer. Therefore, refund of input tax credit lying unutilized which has been transitioned by filing with Trans-1 after the implementation of Central Goods and Services Tax Act, 2017 under Section 54 of the Central Goods and Services Tax Act, 2017 as in the Section 54 of the the Tamil Nadu Goods and Services Tax Act, 2017 cannot be considered.

The scheme of the Act for refund is confined by the situation contemplated under the Act. Section 54 of the said Act is to be read inconsonance of Chapter X of the Central Goods and Services Tax Rules, 2007. The above provision is also in parimateria with the provisions of the Tamil Nadu Goods and Services Tax Act, 2017.

Therefore, I do not find any merits in this Writ Petition for either transfer of refund of input tax Credit (CENVAT Credit) which was transitioned by the petitioner by filing Trans-1. Such credit has to be decided in the light of the provisions of the Central Excise Act, 1944 and Central Excise Rules, 2002 only. Thus, it was held that the petition for transfer of input tax Credit (CENVAT Credit) which was transitioned by the petitioner by filing Trans-1 would not be allowed.

## **6. HC grants Bail to Former GST Official in Disproportionate assets case**

Case Name : **B. Sreenivasa Gandhi Vs Inspector of Police (Telangana High Court)**

Appeal Number : Criminal Petition No: 4032 of 2021

Date of Judgement/Order : 03/06/2021

This Criminal Petition, under Sections 437 and 439 of the Code of Criminal Procedure, 1973, is filed by the petitioner/A-1 seeking to grant bail to him in connection with F.I.R.No.RC 10 (A)/2019, dated 08.09.2019 of C.B.I., A.C.B., Hyderabad, which was registered against him for the offences punishable under Sections 13 (2) read with Section 13 (1) (b) of the Prevention of Corruption Act, 1988 and under Section 109 of I.P.C

The allegations against the petitioner is that while he was working as Public Servant in different capacities such as Assistant Director of Directorate of Enforcement, Hyderabad and as Superintendent in Central GST, Hyderabad, during the period from 01.01.2010 to 27.06.2019, has amassed assets in his name and in the name of his family members, which prima facie appears to be disproportionate to his known sources of income and cannot be satisfactorily accounted for. The petitioner has

acquired disproportionate assets to the tune of Rs.3,74,73,046/- during the check period and thus committed the aforesaid offences.

Heard learned Counsel for the petitioner; learned Special Public Prosecutor for C.B.I. Cases, appearing for the respondent and Perused the record.

Learned Counsel for the petitioner would submit that the F.I.R. is part of a conspiracy hatched against the petitioner to destroy his career and his family. He also submits that the father and mother of the petitioner constitute a separate family and living in a different State and the respondent has purposefully roped the father of the petitioner into the case without any justification or evidence only to wreck vengeance against the petitioner. He further submits that the father of the petitioner was an employee of Indian Railways and apart from his pension, he also gets returns from investments made by him, which are purposefully not taken into consideration while calculating the assets. The wife of the petitioner is an independent business woman, having her own modest business, whose transactions are available in the form of Income Tax returns and bank statements and she has been falsely roped into the case by the respondent. The value of the assets at the end of the check period are all cooked up without any logic or basis and the income during the check period is drastically minimized so as to inflate the values of the alleged undisclosed incomes during the check period. He further submits that the expenditure during check period has been over inflated purposefully to arrive at huge figures of alleged disproportionate assets and a glance at the figures cooked up by the respondent for the purpose of prosecuting the petitioner and his wife, given their high incomes and in the light of Indian post liberalization economic situation, would fall on their face. It is absolutely false to state that the petitioner, his family members and relatives did not comply with the notices and did not provide information. Admittedly, the respondent raided the house of the petitioner, his parents and his sister and seized the entire documentary and other supposed evidence. Admittedly, the respondent has frozen all the accounts of the petitioner and his family members and also obtained all the bank statements and there is absolutely nothing else that can be provided by the petitioner. The respondent has collected all information, which is necessary for the case from the employer of the petitioner and also the Income Tax Department and there is not even a single piece of information against the petitioner that he has in possession of disproportionate assets. The allegation that the petitioner is not providing information in Form I to VI is dubious and invented for the purpose of arresting the petitioner and retaining him in jail. The respondent has also sought for custodial interrogation of the petitioner from 01.05.2021 to 04.05.2021 and the same was granted by the learned trial Court. He also submits that the petitioner is ready to abide by any condition that may be imposed in the event of his enlargement on bail.

Learned Special Public Prosecutor for C.B.I. Cases while opposing to grant bail to the petitioner, would submit that the grounds raised by the petitioner in the bail petition cannot be decided while considering the present bail application since they are subject matter of a detailed investigation. He further submits that the petitioner has grossly abused his official positions to illegally enrich himself and had acquired assets in the benami names of his wife, children and parents beyond his known sources of income. He also submits that several notices under Sections 91 and 160 of Cr.P.C. have been issued to the in-laws, father, nephew and other close relatives of the

petitioner to explain their property related and financial transactions with the accused and their family members, but none of them joined investigation and explained their transactions till date, which apparently shows that they are under the influence of the petitioner. He further submits that on 25.02.2021, the petitioner met four of the witnesses in the case at Avasa Hotel, near Hitech City, Hyderabad and told them not to disclose the facts to C.B.I. and the said witnesses deposed to that effect before the Investigating Officer. Further, CCTV footage of the visit of the petitioner to the hotel also collected during investigation. The Chartered Accountant has also deposed during the course of investigation that the petitioner contacted him over phone and pleaded for giving false information to C.B.I. about payments made to his wife. He also submits that the petitioner did not comply with the notices under Section 41.-A of Cr.P.C. and he did not cooperate with the investigation. He further submits that if the petitioner is released on bail, he is likely to misuse his freedom and would try to cause hurdles to the investigation process and will also continue to influence the witnesses, threaten them and cause destruction or tamper with the evidence and also try to delay and procrastinate the investigation and prayed to dismiss the petition.

The only grievance of the prosecution is that during the course of investigation, the present petitioner has met with some of the witnesses in the case in a high-end hotel near Hitech City, Hyderabad and influenced and induced them preventing disclosure of the facts to C.B.I., but nowhere the prosecution has mentioned to which of the witnesses the petitioner has met in the high end hotel at Hyderabad. It is further apprehension of the prosecution that the petitioner has also tried to influence another witness in the case and requested him to furnish false information to C.B.I. However, during the entire investigation period i.e. from 2019 to till the date of arrest of the petitioner i.e., on 20.04.2021, nowhere it has been mentioned by the prosecution about the particulars of the witness, who was influenced by the petitioner. Since major part of the investigation has already been completed and most of the documents have already been seized by the respondent in the house of the petitioner and his family members and the respondent has already frozen all the bank accounts of the petitioner and his family members and that the respondent has already interrogated the petitioner from 01.05.2021 to 04.05.2021, the further custodial interrogation of the petitioner may not be required.

Thus, for the aforesaid reasons and having regard to the facts and circumstances of the case and the fact that the petitioner is in judicial custody since 21.04.2021 and also in view of the peculiar conditions of pandemic COVID-19 prevailing in the Country, I am inclined to grant bail to the petitioner herein.

Accordingly, the Criminal Petition is allowed and the petitioner/ A-1 herein is granted bail on the following terms and conditions:

- (i) The petitioner shall be released on bail on his executing a personal bond to the tune of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties for a like sum each to the satisfaction of the Principal Special Judge for C.B.I. Cases, Nampally, Hyderabad.
- (ii) The petitioner shall personally appear before the Inspector of Police, C.B.I., A.C.B., Hyderabad, on every Saturday between 12.00 Noon and 5.00 P.M., till completion of the investigation.

(iii) The petitioner shall surrender his passport, before the concerned Court at the time of execution of bonds and he shall not leave the territory of India without prior permission of the Court. If the petitioner has no passport or he has already submitted the same in any case, he shall file an affidavit to that effect.

(iv) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Investigating Authority.

(v) The petitioner shall not act in any manner which will be prejudicial to fair and expeditious investigation.

(vi) The petitioner shall not misuse the liberty granted to him, failing which the Court concerned shall take appropriate action in accordance with law in the light of the judgment of the Apex Court in ***Sushila Aggarwal and others v. State (NCT of Delhi and others'***.

## **7. Anticipatory bail granted to director in case of GST scam worth Rs. 22.42 Crores**

Case Name : **Pawan Goel and Anr Vs Directorate General of GST Intelligence Gurugram (Delhi High Court)**

Appeal Number : Bail Appln. 458/2021 & Crl.M.A. 2101/2021

Date of Judgement/Order : 04/06/2021

**Conclusion:** Anticipatory bail was granted to the Director of the Company of wrongfully availing Input Tax Credit worth Rs. 22.42 Crores on the condition that applicants should make themselves available for interrogation by the proper officer as and when required; the applicants should not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade from disclosing such facts to the Court or to any officer; the applicants should not leave India without the previous permission of the Court and if they had passport, the same should be deposited by them before the proper officer concerned; in case assessee failed to appear on any date fixed by the Proper Officer under the CGST Act, for any reason whatsoever, this anticipatory bail application should stand automatically rejected and the protection given to the applicants would cease to have any effect.

**Held:** Assessee contended that the investigation against the company M/s KMG Pvt. Ltd. in which the applicants were directors by GST department started in June 2018 and since then the investigation was still continuing. The investigation pertained to availment of wrongful ITC to the tune of Rs. 22.42 Crores on the strength of certain invoices received from companies namely G International, M/s S Overseas, M/s D Agrotech Pvt. Ltd. which were controlled by brothers Sanjay Dhingra and Gulshan Dhingra. It was alleged against M/s KMG Ltd. that the company did not receive goods and only received invoices against which ITC was wrongly availed and the said invoices were not genuine. Assessee's case was that they were not the creators of the said alleged documents but were bonafide recipients/purchaser of the said goods as

all the payments against the said purchases were made through bank transfers which were duly reflected in the books of accounts. It was further submitted that there was sufficient evidence like Dharamkata slips, stocks in hand of over 7 crores on the business premises of assessee which prima facie established that during the search of GST department on 28.06.2018 no discrepancy in the stock was found by the officers of GST. It was held that the investigation related to the period of 2018 and prior to it, assessee had joined the investigation and their statements had already been recorded; the premises of assessee had also been searched; the employees had also joined the investigation; the main accused was arrested and granted bail; assessee had further joined the investigation at least 4 times after the filing of this bail application; the bank accounts of assessee had already been frozen; assessee had already deposited Rs. 2.5 crores with the department; there were no allegations of any threat to any of the witnesses or tampering with the evidence and the documents were in the custody of the department. Therefore, in these circumstances, the present anticipatory bail application was allowed and it was ordered that in the event of arrest, assessee be released on bail on their furnishing a personal bond in the sum of Rs. 5,00,000/- each with one surety each of the like amount subject to the satisfaction of the court concerned, subject to the following conditions: the applicants should make themselves available for interrogation by the proper officer as and when required; the applicants/petitioners should not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade from disclosing such facts to the Court or to any officer; the applicants should not leave India without the previous permission of the Court and if they had passport, the same should be deposited by them before the proper officer concerned; in case assessee fails to appear on any date fixed by the Proper Officer under the C.G.S.T. Act, for any reason whatsoever, this anticipatory bail application should stand automatically rejected and the protection given to the applicants would cease to have any effect.

#### **8. JVAT: Period of limitation to appeal against assessment order commences from date of service of demand notice, not from date of assessment order**

Case Name : **Anand Lubricating & Pneumatic Systems Vs State of Jharkhand (Jharkhand High Court)**

Appeal Number : W.P. (T) No. 4175 of 2018

Date of Judgement/Order : 04/06/2021

**Conclusion:** Orders of assessments were a quasi-judicial order passed after hearing of assessee, followed by issuance of demand notices as per the provision of JVAT Act itself and assessee had statutory remedies against the orders of assessments whose limitation commence from the date of receipt of the demand notices and not from the date of the assessment orders

**Held:** Assessee was a dealer registered under the provisions of Jharkhand Value Added Tax Act, 2005 (JVAT Act, 2005) and Central Sales Tax, Act, 2006 (CST Act, 1956). It filed application for surrender of the registration certificates before the Commercial Tax department w.e.f. March, 2015. It was regularly filing its returns to the

respondent-Commercial Tax department and its regular assessment proceedings were completed. However, for the assessment years, 2009-10 and 2010-11, assessee was neither communicated the copy of the assessment orders, nor copy of the demand notices till July 2018 for both under Central Sales Tax (CST) as well as Jharkhand Value Added Tax Act, 2006 (JVAT). Assessee was served with four demand notices for the assessment years, 2009-10 and 2010-11, both CST and JVAT through e-mail on 03.08.2018 wherein the date of payment had been notified as 13.08.2018, i.e., after expiry of more than four years from the alleged date of demand notices. It was argued that the aforesaid action of respondents demonstrated that the assessment proceedings including impugned the assessment orders and demand notices were antedated which had been done by manipulating the records and consequently, the assessments having been done beyond the statutory period, though antedated, were *void ab initio*. Admittedly, assessee was served with four demand notices for the years 2009-10( JVAT and CST) and 2010-11 ( JVAT and CST) for the first time on 03.08.2018. The demand notices as well as the assessment orders under CST as well as JVAT for both the years were under challenge in these writ petitions alleging ante-dating to save period of limitation. It was held that the orders of assessments were a quasi-judicial order passed after hearing of assessee, followed by issuance of demand notices as per the provision of JVAT Act itself and assessee had statutory remedies against the orders of assessments whose limitation commence from the date of receipt of the demand notices and not from the date of the assessment orders. In the present cases the order sheets revealed that the date on which the impugned orders of assessments were passed, assessee not only appeared through an advocate but even its liability was quantified and mentioned in the order sheets after passing the orders of assessment in separate sheets thus, the writ petition filed by assessee was dismissed.

## **9. Bail Once Granted cannot be Cancelled in Mechanical Manner**

Case Name : **Central Goods and Service Tax Delhi East Vs Sh. Naval Kumar & Ors. (Delhi High Court)**

Appeal Number : CrI. M.C. 231/2021

Date of Judgement/Order : 04/06/2021

### **Allegation**

1. M/s Milkfood Limited is at the center of this network and has availed huge ITC from firms that have been proved to be fictitious and non-existent during the investigation carried out by the petitioner.

2. It is alleged that the preliminary investigations have revealed that M/s Milkfood Ltd. has availed fake **ITC** of ₹ 54.86 crores from M/s Maya Impex, M/s Aditya Sales, M/s Shiv Muskaan Traders and M/s Shri Nidhivan Foods which were being operated by one Sh. Ashish Aggarwal.

### **Respondent Pleadings**

1. Respondents have joined the investigation pursuant to the summons issued by the department

2. Ashish Aggarwal who has been stated to be the master mind and beneficiary was granted regular bail vide order dated 14.11.2020

3. Petitioner had also moved a petition seeking cancellation of bail granted to Ashish Aggarwal but vide order dated 16.03.2021 the same was dismissed.

4. Apprehending coercive action, the respondents moved anticipatory bail application which was granted vide order dated 24.11.2020 Petitioner Pleading for Cancellation of Bail already Granted

1. Ignoring the statements of the respondents about the vital aspects of the matter, the impugned order dated 24.11.2020 was passed, whereby the respondents were granted benefit of anticipatory bail upon condition of deposit of 10% of the alleged duty evasion amount.

2. Petitioner Relied on

**P.V. Ramana Reddy Vs. Union of India**, reported as 2019-TIOL-873-HC Telangana-GST

**UOI Vs. Sapna Jain, SLP (Cri.) 4322-4324/2019.**

Sanjay Verma Vs. State 1991 (2) Crimes 325

#### **Observation of Hon'ble Court**

1. It is settled that once bail granted should not be cancelled in a mechanical manner without there being any supervening circumstances which are not conducive to fair trial.

2. Respondents have joined the investigation and there are no allegations that they have not co-operated in the said investigation

3. The statements of the respondents have already been recorded in the month of December 2020 which shows that the respondents have been joining the investigation and there are no allegations of non-cooperation.

4. There are no allegations of any tampering or influencing of the witnesses.

5. There are also no allegations that the respondents are flight risk or there is any likelihood of their absconding

6. Three Judges Bench of Hon'ble the **Supreme Court in State (Delhi Administration) vs. Sanjay Gandhi 1978 (2) SCC 411** has made the following elemental distinction in defining the nature of exercise while cancelling bail:

“Rejection of bail when bail is applied for is one thing; cancellation of bail already granted is quite another. It is easier to reject a bail application in a non-bailable case than to cancel a bail already granted in such a case. Cancellation of bail necessarily involves the review of a decision already made and can by and large be permitted only if, by reason of supervening circumstances, it would be no longer conducive to a fair trial to allow the accused to retain his freedom during the trial.”

7. **Hon'ble Supreme Court in Dolat Ram v. State of Haryana (1995) 1 SCC 349** has also laid down guidelines to Courts while deciding the question of cancellation of bail already granted.

“4. Rejection of bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. Generally speaking, the grounds for cancellation of bail, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner... However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial. These principles, it appears, were lost sight of by the High Court when it decided to cancel the bail, already granted. The High Court it appears to us overlooked the distinction of the factors relevant for rejecting bail in a non bailable case in the first instance and the cancellation of bail already granted.”

#### **Hon'ble Court Verdict**

8. Relying upon the judgments **State (Delhi Administration) vs. Sanjay Gandhi (supra) & Dolat Ram v. State of Haryana (supra)** and also that all the facts and circumstances, required for an order of cancellation of bail to be passed are missing in the present case, the petition is dismissed.

#### **10. HC quashes Plea to challenge Office Memorandum prescribing guidelines for implementation of GST in works contract**

Case Name : **M/s. Harish Chandra Majhi Vs State of Odisha & Others (Orissa High Court)**

Appeal Number : Writ Petition (Civil) No. 14924 of 2020

Date of Judgement/Order : 07/06/2021

**Conclusion:** Since Office Memorandum (OM) only prescribed the manner/procedure of calculation to determine the amount of tax in a particular eventuality in the transitional period of migration to GST Act with effect from 1<sup>st</sup> July, 2017 consequently, the Court found no merit in assessee's challenge to quashed the said OM in law.

**Held:** Assessee was a registered work contractor and was stated to have executed many works contracts during the pre-GST period as well as post-GST period. He claimed to have executed twenty-one contracts for different departments in the Government of Odisha where tenders were invited and estimates made prior to 1<sup>st</sup> July, 2017 but were completed after 1<sup>st</sup> July, 2017. But on verification it was seen that four numbers of works were completed prior to 1<sup>st</sup> July, 2017 and the rest of the works were commenced and completed after 1<sup>st</sup> July, 2017. According to assessee, the Tender Call Notice for all those works were issued in pre-GST period and the estimated value of contracts were arrived basing on pre-revised SoR-2014 when



Odisha Value Added Tax Act (OVAT Act) was in operation. Such rates mentioned in SoR-2014 (pre-revised) were inclusive of value added tax. After implementation of GST, revised SoR-2014 was issued with effect from 1<sup>st</sup> July, 2017 wherein the rates prescribed were exclusive of tax components. As a result the estimated value of contract was reduced. The GST component with applicable rate was required to be added over the contract value. Accordingly, assessee contended that a heavy financial burden in the form of differential tax amount falls on it as the rate quoted was according to pre-revised SoR-2014 prevailing at the time of inviting tender. According to the State-Opposite Parties, including the Finance Department, under the GST law, "works Contract" was subject to tax liability with effect from 1<sup>st</sup> July, 2017 at the rate of 5% or 12% or 18% of the contract value depending on the nature of contract. For effective implementation of the tax liability, the contract value as determined in the pre-GST regime using SoR-2014, was required to be revised. Accordingly, the rates mentioned in SoR-2014 were also revised with effect from 1<sup>st</sup> July, 2017 since the earlier rates were inclusive of the tax components prevailing in the pre-GST era. Correspondingly, instructions/guidelines were issued prescribing the mode and manner of calculation of GST in respect of works contract executed after 1<sup>st</sup> July, 2017, either partly or fully. Assessee complained that the procedure adopted in the preparation of the revised SoR-2014 dated 16th September, 2017 was illegal, arbitrary and contrary to the provisions of Odisha Public Works Department Code (OPWD Code) and that the rates had not been determined on the basis of actual rates prevailing in different areas of the State. It was noted that in ***Mathuram Agrawal v. State of M.P. (1999) 8 SCC 667***, it had been held that the statute should clearly and unambiguously convey three components of the tax law i.e., the subject of the tax, the person who is liable to pay the tax and the rate at which the tax is to be paid. In the instant case, three components of the tax, i.e., subject of tax, person liable to pay the tax and rate of tax had been clearly defined in the statute. The OM dated 10<sup>th</sup> December, 2018 only prescribed the manner/procedure of calculation to determine the amount of tax in a particular eventuality in the transitional period of migration to GST Act with effect from 1<sup>st</sup> July, 2017. Consequently, the Court found no merit in assessee's challenge to the said OM in law. It was necessary to take note of the fact that assessee had filed the present writ petition after receipt of a notice of demand of recovery of excess payment. The notice had been issued under Section 61 of the OGST Act and the order passed pursuant thereto was appealable under the OGST Act. Therefore, the Court refrained from expressing any opinion at this stage on the merits of the said notice and left open all the contentions of the parties in relation thereto to be urged at the appropriate stage in those proceedings.

### **11. Appeal – Limitation – Liberal approach to be followed during Covid**

Case Name : **Shree Jagannath Traders Vs Commissioner of State Tax Odisha (Orissa High Court)**

Appeal Number : W.P.(C) No. 15058 of 2021

Date of Judgement/Order : 07/06/2021

Mr. Narasingh, learned counsel for the Petitioner, points out that while the appeal was accompanied by the downloaded printed copy of the order appealed against at the

time of filing of the appeal, it was not accompanied by the certified copy thereof at that stage since the Lawyer who had filed the appeal was in self quarantine as he had come into contact with a client who had tested positive for Covid-19.

The difficulties generally faced by lawyers and litigants in applying for and obtaining certified copies of orders is generally known. Acknowledging this reality, the explanation offered for the delay in furnishing such certified copy ought to have been accepted by the Appellate Authority and the delay in that regard ought to have been condoned. Also the wording of Section 107 (4) is such that the authority is not precluded from condoning a delay of a longer period.

Considering that the explanation offered by the petitioner is a plausible and not an unreasonable one, especially in these Covid times, and further considering that a downloaded copy thereof was in fact submitted along with the appeal which was otherwise filed within time, this Court is of the view that the mere delay in enclosing a certified copy of order appealed against along with the appeal should not come in the way of the Petitioner's appeal for being considered on merits by the Appellate Authority. This is a case of substantial compliance and the interests of justice ought not to be constrained by a hyper technical view of the requirement that a certified copy of the order appealed against should be submitted within one week of the filing of the appeal. To repeat, in these Covid times when there is a restricted functioning of Courts and Tribunals in general, a more liberal approach is warranted in matters of condonation of delay, which cannot be said to be extraordinary.

## **12. GST: Validity of Section 13(8)(B) 'Intermediary Service' – HC Judges Differs**

Case Name : **Dharmendra M. Jani Vs Union of India and others (Bombay High Court)**

Appeal Number : Writ Petition No. 2031 of 2018

Date of Judgement/Order : 09/06/2021

Vide this petition challenge made in this writ petition is to the constitutionality of section 13(8)(b) and section 8(2) of the **Integrated Goods and Services Tax Act, 2017**.

Justice Ujjal Bhuyan while coming to the judgment of the Gujarat High Court in **Material Recycling Association of India** (*supra*), we find that Gujarat High Court while holding that section 13(8)(b) of the IGST Act cannot be said to be *ultra vires* or unconstitutional in any manner, however kept it open for the respondents to consider the representation made by the petitioner so as to redress its grievance in a suitable manner and in consonance with the CGST Act and the IGST Act.

He further opines that with utmost respect we are unable to accept the views of the Gujarat High Court as extracted above. Having regard to the discussions made in the preceding paragraphs it is evident that section 13(8)(b) of the IGST Act not only falls foul of the overall scheme of the CGST Act and the IGST Act but also offends Articles 245, 246A, 269A and 286(1) (b) of the Constitution. The extra-territorial effect given by way of section 13(8)(b) of the IGST Act has no real connection or nexus with the taxing regime in India introduced by the GST system; rather it runs completely counter

to the very fundamental principle on which GST is based i.e., it is a destination based consumption tax as against the principle of origin based taxation.

Justice Ujjal Bhuyan further held that The other submissions made by Mr. Singh that levy of IGST on supply of services by intermediaries to foreign customers would strengthen the *Make in India* program by encouraging foreign investment can be no answer to challenge to constitutionality of a parliamentary statute. Besides such a statement has been made *de-hors* any supporting statistics and analysis. Therefore, the same cannot be of any assistance to the respondents.

Justice Ujjal Bhuyan held that section 13(8)(b) of the Integrated Goods and Services Tax Act, 2017 is *ultra vires* the said Act besides being unconstitutional.

However, Justice Abhay Ahuja held that with greatest respect being unable to persuade myself to share the opinion of Justice Ujjal Bhuyan, I would like to record my separate opinion in the matter. List the matter on 16<sup>th</sup> June, 2021 for pronouncement of my opinion.

### **13. GST Appellate Authority should adopt more liberal approach in matters of condonation of delay**

Case Name : **M/s. Shree Udyog Vs Commissioner of State Tax Odisha (Orissa High Court)**

Appeal Number : W.P.(C) No.14887 of 2021

Date of Judgement/Order : 10/06/2021

The difficulties generally faced by lawyers and litigants in applying for and obtaining certified copies of orders is generally known. Acknowledging this reality, the explanation offered for the delay in furnishing such certified copy ought to have been accepted by the Appellate Authority and the delay in that regard ought to have been condoned. Also the wording of Section 107 (4) is such that the authority is not precluded from condoning a delay of a longer period.

Considering that the explanation offered by the petitioner is a plausible and not an unreasonable one, especially in these Covid times, and further considering that a downloaded copy thereof was in fact submitted along with the appeal which was otherwise filed within time, this Court is of the view that the mere delay in enclosing a certified copy of order appealed against along with the appeal should not come in the way of the Petitioner's appeal for being considered on merits by the Appellate Authority. This is a case of substantial compliance and the interests of justice ought not to be constrained by a hyper technical view of the requirement that a certified copy of the order appealed against should be submitted within one week of the filing of the appeal. To repeat, in these Covid times when there is a restricted functioning of Courts and Tribunals in general, a more liberal approach is warranted in matters of condonation of delay, which cannot be said to be extraordinary.

Before parting with the case, this Court must note that it was brought to its attention that in other similar matters, the Appellate Authority has declined to condone the delay in the appellants filing a certified copy of the order appealed against. It is clarified that

the Appellate Authority may adopt a liberal approach considering that these are times of restricted functioning of Courts and tribunals due to the Covid pandemic. As long as the appeal is accompanied by an ordinary downloaded copy of the order appealed against, verified as a true copy by the Advocate for the Appellant, the delay in filing such certified copy, subject to it not being extraordinary, the Appellate Authority may, as long as the restricted functioning of the Court and Tribunals due to the Covid pandemic continues, be condoned.

#### **14. Fake GST invoices case: HC ask petitioner to approach Court of Special Judge for Economic Offences**

**Case Name : Vennapusa Venkata Subba Reddy Vs Union of India (Andhra Pradesh High Court)**

Appeal Number : Writ Petition No. 8755 of 2019

Date of Judgement/Order : 16/06/2021

It is alleged that petitioner has issued fake GST invoices with a total turnover of Rs. 397,28,11,944/- without supply of goods to different business firms/companies by passing on a total fraudulent input tax credit of Rs. 61,30,33,274/- in respect of 21 firms, out of more than 70 firms created by him and thus caused huge loss to the Government exchequer. The investigation is stated to be pending.

(a) In furtherance of investigation, the Senior Intelligence Officer has attached the bank accounts and lockers of some of the companies on the apprehension that they are operating as shell companies for Vennapusa Venkata Subba Reddy. Therefore, the locker No. 39 of the petitioner was frozen under Section 83 of CGST Act, 2017 and decided to open through the authorized Officer.

(b) Having regard to the above facts and circumstance and also in view of the fact that the matter has been seized by the learned Special Judge for Economic Offences-cum-IV Additional Metropolitan Sessions Judge, Visakhapatnam and also considering that the investigation is in crucial stage, we deem it not apposite to consider the prayer of the writ. On the other hand, without expressing any opinion on merits of petitioner's case, we consider it apt to direct the petitioner to approach Special Judge for Economic Offences-cum-IV Additional Metropolitan Sessions Judge, Visakhapatnam for appropriate relief.

Accordingly, the writ petitions are disposed of giving liberty to the petitioner to approach the Court of Special Judge for Economic Offences-cum-IV Additional Metropolitan Sessions Judge, Visakhapatnam and file an application seeking appropriate relief in which case the said Court shall consider the same and after hearing both parties, pass an appropriate order in accordance with governing law and rules expeditiously.

#### **15. Department should provide reason for blocking input tax credit**

**Case Name : M/s Mili Enterprise Vs Union of India (Gujrat High Court)**

Appeal Number : R/Special Civil Application No. 6575 of 2021

Date of Judgement/Order : 16/06/2021

High Court issued notices to the Government observing that the department should at least provide the reason for blocking the input tax credit and it should be specified in a notice under rule 86(A).

### **16. Constitutionality of section 13(8)(b) of IGST Act, 2017 | Bombay HC**

Case Name : **Dharmendra M. Jani Vs Union of India And Others (Bombay High Court)**

Appeal Number : Writ Petition No. 2031 of 2018

Date of Judgement/Order : 16/06/2021

GST – Constitutionality of section 13(8)(b) of the Integrated Goods and Services Tax Act, 2017 –

While as per the opinion of Justice Ujjal Bhuyan the provision of section 13(8)(b) of the Integrated Goods and Services Tax Act, 2017 related to Intermediary Services are unconstitutional, whereas Justice Abhay Ahuja has expressed his disagreement and upheld the validity of Section 13(8)(b) of the IGST Act. Read Judgment containing differing view of both the Judges.

### **17. ITC cannot be denied merely for non-reflection of transaction in GSTR 2A**

Case Name : **St. Joseph Tea Company Ltd. Vs State Tax Officer (Kerala High Court)**

Appeal Number : WP(C) No. 17235 of 2020

Date of Judgement/Order : 17/06/2021

The recipients of the petitioner under its provisional registration (ID) for the period from 01.07.20217 to 09.07.2018 shall not be denied ITC only on the ground that the transaction is not reflected in GSTR 2A. It will be open for the GST functionaries to verify the genuineness of the tax remitted and credit taken. Ordered accordingly.

### **18. HC Ask Hospital to approach Govt for retrospective exemption under TNVAT on diagnostic services for impatient treatments**

Case Name : **Sree Balaji Medical College & Hospital Vs State of Tamil Nadu (Madras High Court)**

Appeal Number : W.P. No. 22677 to 22683 of 2012

Date of Judgement/Order : 18/06/2021

W.P.No.22677 of 2012 is filed for Declaration to declare that the professional services rendered by the Doctors of petitioner's Medical College Hospital under the nature of diagnostic services on X-Ray Films, CT Scan Films, MRI Films and supply of medical gases and implants are during the course of treatment to patients would not amounts

to transfer of property in goods or an incident of contract of service under the scope of "works contract" as per Article 366 (29A) (b) of the Constitution of India and under Section 2(33) of the TN VAT Act, 2006.

2. W.P.Nos.22678 to 22683 of 2012 are filed to call for the impugned proceedings of the 3rd respondent dated 27.04.2012 and quash the same and consequently restraining the 3rd Respondent herein from levying and collecting taxes on rendering diagnostic services on X-Ray films, CT films, MRI films and medical gases for impatient treatments and other allied medical services to the patients at the petitioner Medical College Hospital.

3. Learned counsel appearing on behalf of the Writ Petitioners fairly made a submission that the issues raised in all these Writ Petitions were already adjudicated by this Court in a batch of Writ Petitions and a judgment was pronounced on 28.05.2020 in W.P.Nos.2982 to 2987 of 2012, etc., and batch. This Court considered the previous all these statutes as well as the issues raised on merits and passed the following orders:

"200. In my view, the observation of the Hon'ble Supreme Court in BSNL versus Union of India (2006) 3 SCC 1 and the four decisions cannot be applied for the following reasons:

i. In BSNL versus Union of India (2006) 3 SCC 1, the Hon'ble Supreme Court was not concerned with "works contract?";

ii. The Court was concerned with "transfer of right to use of goods which is different with" works contract";

iii. The obiter dicta or the observation in para 44 of and the illustration in BSNL versus Union of India (2006) 3 SCC 1 cannot be construed as a binding ratio for the reason given in this order;

iv. The four decisions of the different High Court which were cited on behalf of the petitioners though have a persuasive value are not binding on this Court particularly in the light of the fact that the Courts did not examine the issue from the perspective of the definition of "works contract" in the respective tax enactments. They merely discussed the issue from the perspective of the definition of "sale" simpliciter;

v. Therefore, the ratio in the four decisions do not have a binding ratio for this Court to follow them.

vi. Since the dispute pertains to the assessment years 2006 onwards considerable time has lapsed, the petitioners are directed to file their respective replies within two months from the date of receipt of this Order;

vii. Petitioner shall co-operate with the respondent assessing officer by furnishing all records that are available with them within 30 days of this order.

viii. The respondent shall exclude the value of medicine and other consultation charges while determining the taxable value. The demand shall be confirmed to the value of prosthetics and charges incurred towards X-ray, C.T.Scan, PET Scan etc.

ix. The respondent assessing officer shall hear out the petitioners separately and pass appropriate order on merits all the other issues raised in the respective notices impugned in these writ petitions;

x. The respondent assessing officer shall keep the observations contained herein while passing final orders in response to the impugned notices;

xi. If the Covid-19 pandemic continues, the respondent may hear the petitioners through video conference and pass such order within a period of 6 months from the date of this order;

xii. It is for the petitioner to approach the Government independently and request the Government for a suitable retrospective relaxation by way of exemption for hospital/medical services rendered by them in the light of the fact that the same activity/transaction appears to have been exempted under the GST Regime from July 2017.

201. These writ petitions stand disposed of with the above observation. No Cost. Consequently, connected miscellaneous petitions are closed.”

4. In view of the said directions, all these Writ Petitions are disposed of and the directions issued in the judgment cited supra is made applicable to the present Writ Petitions. Accordingly, they are at liberty to redress their grievances. However, there shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

## **19. Consider inclusion of Petrol, Diesel under GST: HC to GST Council**

Case Name : **Kerala Pradesh Gandhi Darshanvedhi Vs Union of India (Kerala High Court)**

Appeal Number : WP(C) No. 12481 of 2021

Date of Judgement/Order : 21/06/2021

Kerala Pradesh Gandhi Darshanvedhi has filed the instant Public Interest Litigation for the following reliefs:

“1. To issue a writ of mandamus or any other writ or order directing the respondents 1 and 2 to include petrol and diesel under the **GST regime**.

2. To issue a writ of mandamus or any other writ or order directing the 3rd respondent to recommend the inclusion of petrol and diesel under the GST regime so as to achieve a harmonized national market as contemplated under Article 279 A (6) of the Constitution of India.

3. To declare that the non-inclusion of petrol and diesel under the GST regime are violative of Article 14 and 21 of the Constitution of India.

4. To issue a writ of mandamus or any other writ or order directing the 3rd respondent to consider and pass orders on Exhibit P2 representation.

5. To issue a writ of mandamus or any other writ or order directing the 4th respondent to consider and pass orders on Exhibit P3 representation.”

2. Material on record discloses that the petitioner has submitted Exhibit P2 representation to the Special Secretary, Office of the GST Council Secretariat, New Delhi (respondent No.3) to recommend inclusion of petrol and diesel under the GST regime.

3. Material on record further discloses that the petitioner has also submitted Exhibit P3 representation to the Chief Secretary, Government of Kerala, Thiruvananthapuram (respondent No.4) to request the GST Council to include the petrol and diesel in the GST regime and till a decision is taken by the **GST Council**, Government of Kerala may refrain from levying the state tax on petrol and diesel.

4. Mr.Arun B.Varghese, learned counsel for the writ petitioner submitted that appellant would be satisfied, if a direction is issued to respondent Nos.3 and 4 to dispose of the above said representations within a time frame.

5. Mr.C.E.Unnikrishnan, learned Senior Government Pleader appearing for the Chief Secretary, Government of Kerala, Thiruvananthapuram (respondent No.4) submitted that he has no objection for issuing a direction to consider the representations stated supra.

6. Mr.P.Vijayakumar, learned Assistant Solicitor General, who takes notice for the Union of India and the Secretary, Ministry of Petroleum and Natural Gas (respondent Nos.1 and 2 respectively), submitted that inclusion or deletion of GST is a policy decision.

7. Mr.P.R.Sreejith, learned standing counsel for the GST Council (respondent No.3) submitted that a Hon'ble Division Bench of this court in W.A.No.2061 of 2017 has held that no mandamus can be issued to the GST Council to take any decision. He further submitted that Union of India (respondent No.1) is the competent authority to take a decision on the abovesaid issue.

8. Placing on record the abovesaid submissions and taking note of the decision of the Hon'ble Division Bench of this court in W.A.No.2061 of 2017, we only direct the Goods and Services Tax Council represented by the Special Secretary, Office of the GST Council Secretariat, New Delhi (respondent No.3) to forward Exhibit P2 representation dated 7.6.2021 to the Union of India, represented by the Finance Secretary, New Delhi, to take an appropriate decision within a period of six weeks from the date of receipt of a copy of Exhibit P2 representation. Similarly, Chief Secretary, Government of Kerala, Thiruvananthapuram (respondent No.4), to dispose of Exhibit P3 representation.

Writ petition is disposed of accordingly.

Pending interlocutory applications, if any, shall stand closed.

## **20. AP VAT: ACAR can review on application by dealer & other affected parties- HC**

Case Name : **Gail (India) Ltd. Vs The Assistant Commissioner (CT) (Andhra Pradesh High Court)**



Appeal Number : Writ Petition No. 3312 of 2021

Date of Judgement/Order : 21/06/2021

Section 67(5) of Andhra Pradesh Value Added Tax, 2005 pellucidly tells that authority for clarifications shall have the power to review, amend or revoke its rulings at any time for good and sufficient cause by giving an opportunity to the affected parties. It says that an order giving affect to such review or amendment or revocation shall not be subject to the period of limitation. What all Rule-5 pronounces is the power of ACAR to review, amend or revoke its ruling. A plain reading of this provision does not in restricted terms say that the aforesaid power is only a suo motu power i.e., exercisable by ACAR on its own proposition and not by the application of the dealer or other affected parties. Thus, in our considered view, the review can be taken up also on the application by the dealer and other affected parties.

## **21. A.P. VAT : No illegality in Higher VAT Rate for Sale during Non-Registration**

Case Name : **Balaji Agencies Vs Special Chief Secretary to Government  
(Andhra Pradesh High Court)**

Appeal Number : Write Petition No. 25379 of 2007

Date of Judgement/Order : 22/06/2021

Since the turnover of the petitioner for the 1st quarter ending 30.06.2006 was Rs.13,14,724/- which exceeded Rs.10 lakhs, the petitioner had an opportunity to apply for registration as VAT dealer. As per Rule (5) of A.P. VAT Act, the petitioner was required to make an application by the 15th of the month subsequent to the month in which the liability to register for VAT arose, meaning thereby, he should have applied before 15.07.2006 for VAT registration since the turnover for the 1st quarter ending 30.06.2006 exceeded Rs.10 lakhs. He did not avail that opportunity but waited for completion of 12 months period. The total turnover for 12 months period from 01.04.2006 to 31.03.2007 was Rs. 43,47,418/-.

The relevant provision for registrations is under **Section 17**. The original Section 17(3) as it stood prior to the amendment under the Act 4 of 2009 dated 03.03.2009 was as follows:

**“17. (1) Every dealer other than a casual trader shall be liable to be registered in accordance with the provisions of the Act.**

**(2) xxx...**

**(3) Every dealer whose taxable turnover in the preceding three months exceeds Rs.10,00,000/- (Rupees ten lakhs only) or in the twelve preceding months exceeds Rs.40,00,000/- (Rupees forty lakhs only) shall be liable to be registered as VAT dealer.**

As per the second leg of Section 17(3), he has to apply for VAT registration since the total turnover for 12 preceded months exceeded Rs. 40 lakhs. As per Rule-5 (b), he has to apply for VAT registration before 15.04.2007. However, he applied for VAT registration only on 18.05.2007 i.e., long after the expiry of stipulated period. Therefore, the 2nd respondent rightly rejected his claim and passed the impugned

order directing the petitioner to pay VAT @ 12.5% and also treating him as VAT dealer. In this regard, it should be noted that as per Section 4(1), every dealer registered or liable to be registered as VAT dealer (emphasis supplied) shall be liable to pay tax on every sale of goods in the State at the rate specified in the schedules. In the instant case, since the petitioner was liable to be registered as a VAT dealer, the 2nd respondent rightly levied the tax @ 12.5%. The petitioner cannot plead any illegality or irregularity in the order impugned. So also the petitioner cannot challenge the provision under Section 17(3) and Section 49(2) of A.P. VAT Act.

## **22. Chhattisgarh VAT: ITC can be claimed only within Stipulated Timeline**

Case Name : **M/s Aman Auto Vs State of Chhattisgarh (Chhattisgarh High Court at Bilaspur)**

Appeal Number : WPT No. 54 of 2012

Date of Judgement/Order : 22/06/2021

The Supreme Court in ALD Automotive Pvt. Ltd., 2019 SCC 225 (supra) while dealing with the **input tax credit** held that the condition under which the concession and benefit is given is always to be strictly construed. It further held that in the event it is accepted that there is no time period for claiming input tax credit, the provision becomes too flexible and gives rise to large number of difficulties including difficulty in verification of claim of input credit. It also held that taxing statutes contain self-contained scheme of levy, computation and collection of tax. The time under which a return is to be filled for the purpose of assessment of the tax cannot be dependent on the will of a dealer.

9. Under such interpretation when we refer to transitory provisions of section 73 sub-section (2) of the VAT Act, 2005 it mandates that where any goods specified in Schedule-II held in stock by registered dealer on the date of commencement of the Act, which have been purchased not earlier than 12 months from such date and are tax paid goods within the meaning of the Act repealed by the Act of 2005 and are for sale by him on or after the date within the State of Chhattisgarh or in the course of inter-State trade or commerce, he shall claim or to be allowed in respect of such goods within such period as may be prescribed an input tax rebate. Section 73(1) has used the word 'shall' with a further phrase "within such period" meaning thereby time limit has been fixed and Rule 80 of C.G. VAT Act 2006 also used the words in express language that "the registered dealer shall furnish a statement in Form-74 in respect of goods, specified in Schedule II within a stipulated time. Therefore, the legislature has used the word 'shall' and hence it cannot be interpreted by the Court that it would be directory in nature. The statute and condition of the VAT Act therefore are to be strictly complied with. Further more, claiming an input tax credit would be in the nature of concession provided by the legislature on fulfillment of certain conditions. In order to fulfill the condition under the VAT Act and Rules, the dealer has to follow certain time-line as otherwise, to claim the privilege the conditions cannot be said to be fulfilled at the wish and will of the dealer.

### **23. DGGI Officers entitled to issue summons under Section 70 of CGST Act**

Case Name : **Yasho Industries Limited Vs Union of India (Gujarat High Court)**

Appeal Number : R/Special Civil Application No. 7388 of 2021

Date of Judgement/Order : 24/06/2021

Section 70 empowers the proper officer under the Act to summon any person to give evidence and produce documents in connection with the inquiry initiated against him and the said proceedings are deemed to be judicial proceedings within the meaning of Section 193 and Section 228 of IPC.

Chapter XV of **CGST Act** pertains to demand and recovery and Section 74 falling therein pertains to the determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for any reason of fraud or any willful misstatement or suppression of facts.

Since the impugned Circular dated 5.7.2017 has been issued in exercise of the powers conferred by Section 2(91) of CGST Act read with Section 20 of **IGST Act**, it may be noted that Section 20 of the IGST Act pertains to the application of the provisions of CGST Act to the IGST Act mutatis mutandis.

From the bare reading of Section 70 of the CGST Act, it clearly emerges that the proper officer has the power to summon any person whose attendance he considers necessary either to give evidence or to produce the documents in any inquiry in the same manner in the case of a Civil Court under the CPC. Now, as per the definition of 'proper officer' as contained in Section 2(91), a 'proper officer' in relation to any function to be performed under the CGST Act means the Commissioner or the officer of the Central Tax, who is assigned that function by the Commissioner in the Board. It is pertinent to note that as stated in the petition itself, the respondent No.3 is an officer of Directorate General of Goods and Services Tax Intelligence (DGGI) holding the designation of Senior Intelligence Officer, who was appointed as the Central Tax Officer with all the powers under the CGST Act and IGST Act and the Rules made thereunder, as are exercisable by the Central Tax Officers of the corresponding rank of Superintendent as specified in the **Notification No.14 of 2017-CT dated 1.7.2017** issued by the Central Board of Excise and Customs. It is further pertinent to note that the respondent No.3 being the officer of the Central Tax and the Superintendent under the CGST Act by virtue of the said Notification dated 1.7.2017, he was also assigned the powers of proper officer by the Board vide Circular dated 5.7.2017 issued in exercise of the powers conferred by Clause (91) of Section 2 of the CGST Act read with Section 20 of the IGST Act. Therefore, the respondent No.3 is a proper officer in relation to the function to be performed under the CGST Act as contemplated under Section 2(91), and as such, was entitled to issue summons under Section 70 of the CGST Act in connection with the inquiry initiated against the petitioner.

#### **24. Electronic credit ledger cannot be blocked for any period in excess of one year**

Case Name : **M/s Vimal Petrothin Private Limited. Vs Commissioner, CGST and others (Uttarakhand High Court)**

Appeal Number : Writ Petition (M/S) No. 1128 of 2021

Date of Judgement/Order : 24/06/2021

Petitioner's electronic credit ledger cannot be blocked for any period in excess of one year, in view of express provision contained in Sub-Rule (3) of Rule 86(A) of C.G.S. T. Rules. Thus, he submits that petitioner's contention to this extent is correct that continuance of blockage of his input credit ledger after 14.01.2021 is not supported by any law.

In view of the admission by the respondents, through their counsel, that continuance of blockage of petitioner's electronic credit ledger cannot continue beyond one year, the writ petition stands allowed. Respondent no. 1 is directed to forthwith unblock input tax credit availed by the petitioner in its electronic credit ledger. However, this order will not preclude the respondents from taking such action against the petitioner, as is permissible under law.

#### **25. GST Landmark Case Law: No Reversal of ITC in Respect of Loss of Inputs During a Manufacturing Process**

Case Name : **ARS Steels & Alloy International Pvt. Ltd. Vs State Tax Officer (Madras High Court)**

Appeal Number : W.P. Nos. 2885, 2888, 2890,3930, 3936 and 3933 of 2020 and WMP Nos. 3341, 3345, 3336, 4664, 4656 and 4661 of 2020

Date of Judgement/Order : 24/06/2021

GST Landmark Case Law: Hon. Madras HC – Section – 17(5)(h) of **CGST Act** – No Reversal of ITC in Respect of Loss of Inputs During a Manufacturing Process

The petitioners are engaged in the manufacture of MS Billets and Ingots. MS scrap is an input in the manufacture of MS Billets and the latter, in turn, constitutes an input for manufacture of TMT/CTD Bars. There is a loss of a small portion of the inputs, inherent to the manufacturing process.

The impugned orders seek to reverse a portion of the ITC claimed by the petitioners, proportionate to the loss of the input, referring to the provisions of Section 17(5)(h) of the GST Act.

The impugned assessment orders reject a portion of ITC claimed, invoking the provisions of clause (h) which relates to goods lost, stolen, destroyed, written off or disposed by way of gift or free samples.

The situations as set out above in clause (h) indicate loss of inputs that are quantifiable, and involve external factors or compulsions.

A loss that is occasioned by consumption in the process of manufacture is one which is inherent to the process of manufacture itself.

The expression 'inputs of such finished product', 'contained in finished products' cannot be looked at theoretically with its semantics. It has to be understood in the context of what a manufacturing process is. If there is no dispute about the fact that every manufacturing process would automatically result in some kind of a loss such as evaporation, creation of by-products, etc., the total quantity of inputs that went into the making of the finished product represents the inputs of such products in entirety.'

The reversal of ITC involving Section 17(5)(h) by the revenue, in cases of loss by consumption of input which is inherent to manufacturing loss is misconceived, as such loss is not contemplated or covered by the situations adumbrated under Section 17(5)(h).

## **26. Penalty imposed on Revenue for lethargy delay in filing SLP**

Case Name : **Union of India & Ors. Vs Vishnu Aroma Pouching Pvt. Ltd. & Anr. (Supreme Court of India)**

Appeal Number : Special Leave Petition (Civil) No. 1434/2021

Date of Judgement/Order : 29/06/2021

The Hon'ble Supreme Court of India in ***Union of India & Ors. v. M/s Vishnu Aroma Pouching Pvt. Ltd. & Anr. [Special Leave Petition(Civil) Diary No(s). 1434/2021 dated June 29, 2021]*** has imposed penalty of 25000/- INR on the Revenue Department for delay in filing the Special Leave Petition ("**SLP**") for wastage of judicial time. Further, directed to recover the amount from officers responsible for the delay in filing the **SLP**.

### **Facts:**

This petition has been filed by the Revenue Department ("**the Petitioner**") against the judgment of the Hon'ble Gujarat High Court in the case of ***M/s Vishnu Aroma Pouching Pvt. Ltd. v. Union of India [R/Special Civil Application No. 5629 of 2019 dated November 14, 2019]***, wherein the Court held that, the assessee cannot be saddled with the liability of paying excessive interest at the rate of 18% p.a. on the tax liability, which was already discharged on time, but not recorded due to system-glitch/crash without there being any default on assessee's part.

### **Issue:**

- Whether the SLP filed by the Petitioner without any valid reason for condonation of delay is admissible?

### **Held:**

The Hon'ble Supreme Court of India in ***Special Leave Petition (Civil) Diary No(s). 1434/2021 dated June 29, 2021*** held as under:

- Noted that, the proposal for filing the SLP was sent by the officials of the Petitioner after six months on May 20, 2020 and after that, the same was filed after another three months on August 25, 2020.
- Opined that, such kind of lethargy on part of the Petitioner with so much computerization having been achieved is not acceptable and the delay in filing SLP in a casual manner and without any cogent or plausible ground for condonation of delay, shows incompetence of the Petitioner.
- Stated that, the Court has repeatedly discouraged State Governments and public authorities for adopting the casual approach towards the Supreme Court and ignoring the period of limitation prescribed by the statutes, as if the limitation statute does not apply to them.
- Categorized the matter as “certificate case” filed with the only object to obtain a quietus from the Court as a last resort, and the objective is to complete a mere formality and save the skin of the officers who may be in default in following the due process or may have done it deliberately.
- Imposed penalty of INR 25000/- on the Petitioner looking to the period of delay and the casual manner in which the application has been filed, and for wastage of judicial time which has its own value
- Directed to deposit the penalty in the Supreme Court Advocates on Record Welfare Fund within four weeks.
- Further directed the Petitioner to recover the amount from the officers responsible for the delay in filing the SLP and to file a certificate of recovery.

## **27. Constitutional validity of Rule 86A of CGST Rules challenged**

Case Name : **MRS Realty Private Ltd. and Anr. Vs Union of India and Ors.**  
**(Calcutta High Court)**

Appeal Number : WPA 8142 of 2021

Date of Judgement/Order : 29/06/2021

Calcutta High Court issued a notices to the Centre as well as State Government in a writ petition where vires of Rule 86A was also challenged and it was also prayed to read down section 16(2)(c) of The **CGST Act**. As per this Section input tax credit is disallowed when the tax relating to a transaction is not paid to the government.

## **28. Wrongful availment of ITC – Orissa HC denies Bail**

Case Name : **Santosh Kumar Gupta Vs Union of India (Orissa High Court)**

Appeal Number : BLAPL No. 3282 of 2021

Date of Judgement/Order : 30/06/2021

The genesis of the case relates to the search conducted on 29.02.2020 in the office premises of M/s. Pacific Packaging Industries which is a proprietorship concern of the Petitioner by the Senior Intelligence Officers of the Directorate General of Goods and Services Tax Intelligence. In course of the same, several documents relating to the business activities of the Firm with other concerned Firms have been collected. The

statement of the Petitioner being then recorded, the Officers strongly sensed something fishy and dubious going on in the matter touching the unwanted entitlement and availment of ITC. It is said that ten (10) Firms have been created by hatching conspiracy in carrying out such magnitude of business activities like transfer of goods and services inter se without those taking place in reality and showing fake transactions to be genuine with other financial adjustment as those were ascertained upon investigation leading to the arrest of the Petitioner on 16.12.2020. Materials are yet to surface as to the developments with regard to the notices/summons issued to those entitles for deposit of the ITC as according to the Prosecution, illegally availed for pecuniary gain by playing fraud on the system and mechanism in place.

The Petitioner is said to have been involved in commission of the above Economic offences which are considered to be grave. Such dubious activities in committing offences for making huge unlawful gain by causing huge loss to the State Exchequer is a step towards not only scuttling the process of development in the country but also in standing as developed country in the globe in which our march is on. This introduction of the GST is for simplification and harmonization of Indirect Tax Regime in reducing cost of production, reducing inflation and making Indian trade and Industry more competitive, domestically as well as internationally and with seamless transfer of Input Tax Credit (ITC) from one stage to another in the chain of value addition; in creating in-built mechanism in the design of goods and services tax is with an aim to incentivize tax compliance by the tax payers so as to finally broaden its base in lowering the tendency of evasion. Such roles alleged to have been played by the Petitioner stands in the direction of making unlawful financial gain by putting up the show that for such sincere involvement in business and carrying out the same, his entitlement to the huge sum as incentive in the form of Input Tax Credit (ITC) flowed which he received having the tendency of foiling the entire move in introducing this new Tax Regime.

With all these aforesaid, this Court is not inclined to accept the present move of the Petitioner for grant of bail.

### **29. Detention under GST: Out of two e-way bills validity of one expired – Conditional release by Tripura HC**

Case Name : **ATC Supply Chain Solution Pvt. Ltd. Vs. The State of Tripura & Ors (Tripura High Court)**

Appeal Number : WP(C) No.433/2021

Date of Judgement/Order : 30/06/2021

Disposing WP(C) No.433/2021, Dated: 30<sup>th</sup> June, 2021 in **ATC Supply Chain Solution Pvt. Ltd. Vs. The State of Tripura & Ors**, the Hon'ble High Court of Tripura, granted a conditional release of goods & vehicle detained U/s. 129 of the **CGST/SGST Acts, 2017**.

### **Facts of the case**

Petitioner is a transporter(GTA) and the goods being transported by them along with the vehicle have been detained by the State GST authorities at Churaibari border on the ground that out of the two e-way bills generated by the petitioner validity of one of them had expired. In fact, one of the bills had validity up to 22<sup>nd</sup> June, 2021. On account of the vehicle in which the goods were being transported breaking down in Assam there was some delay in crossing the State border. The vehicle and the goods arrived at the northern State border of the State of Tripura on 23<sup>rd</sup> June, 2021. The petitioner had generated a fresh e-way bill which has the validity up to 9<sup>th</sup> July, 2021. However, in the meantime, the GST authorities have detained the goods and the vehicle at the check post. According to the petitioner there was no intention on part of them to evade payment of duty and in fact, the consignee has paid the full tax of ₹1,78,283.00 on the value of the goods. It is also argued that the goods are in the nature of Amul Butter and detention of such goods at the border check post under unprotected conditions would damage the goods as the product is perishable. Under the circumstances the only request of the petitioner was that the vehicle and the goods may be released on some reasonable conditions.

### **Held by the Court**

Considering the circumstances of the case, the court was of the opinion that further continued detention of the vehicle and the goods would serve no purpose. **The vehicle with the goods can be released on certain terms and conditions.** While permitting the GST authorities to carry on assessment if the competent authority is of the opinion that there has been any infraction of any rules, regulations or statutory requirement. However, pending such adjudication the goods and the vehicle are ordered to be released subject to the following conditions;

- **The petitioner shall either deposit or give Bank guarantee to the tune of 25% of possible duty with penalty.** For such purpose, respondent concerned, shall convey to the petitioner within 2(two) days the possible amount of duty with penalty that may ultimately be imposed even if the petitioner's explanations are not accepted.
- The petitioner shall furnish bond for the remaining amount of probable duty with penalty.
- As soon as the petitioner fulfils these two conditions, the vehicle and the goods shall be released.
- It would be open for the competent authority to carry on adjudication, on the question of unpaid duty with interest and penalty if any.
- The petitioner shall cooperate with such proceedings if the competent authority issues a show cause notice in this respect.