

DIRECTORATE OF TRAINING,
EXCISE AND TAXATION DEPARTMENT,
PUNJAB, PATIALA

GST UPDATE
(August 2024)

INDEX

Sr. No.	Subject	Page No.
I	CONTENTS	3-4
II	GIST of GST NOTIFICATIONS	4
III	CGST NOTIFICATION TAX	05-15
IV	CGST NOTIFICATION TAX (RATE)	16-20
V	CIRCULAR	21-54
VI	JUDGEMENTS	55-73

Contents

Sr. No. ***Subject***

I. CGST Notification

1.	NOTIFICATION No. G.S.R. 32/P.A.5/2017/S. 164/Arnd. (69)/2024,
2.	No. S.O. 35/P.A.5/2017/S.52/2024
3.	No. S.O. 36/P.A.5/2017/S.11/2024

II. CGST Notification Center Tax (Rate)

1.	NOTIFICATION No. S.O. 32/P.A5/2017/S.9,11,15 and 148/2024
2.	Notification No. S.O. 34/P.A.5/2017/S.44/2024

III. Circular

1	TNGST Circular 8-2024 - TNCTD
2	Circular No 15/2024-Kerala SGST
3	Circular No.12/2024-Kerala SGST
4	Trade Circulars No. JC (11Q)-5/AR-2/GST/2024/ADM-8/B-112

IV. Judgements

1	Seizure of cash & silver bars recovered during GST search is not sustainable: SC
2	Delay in filing of an appeal occurred due to search of relevant document condoned: Madras HC

3	Principles of natural justice violated as matter reopened without assigning specific reason: Madras HC
4	Kerala HC Orders Hearing for ITC Rectification in GST Case
5	Ocean Freight Services is not subjected to GST: Madras HC
6	Missing Hearing Dates, Reasons & Undisclosed Facts: HC Quashes ITC Rejection Order

GIST of GST Notification

Centre's Notification No.	Subject
NOTIFICATION No. G.S.R. 32/P.A.5/2017/S. 164/Arnd. (70)/2024,	Seeks to make amendments (Amendment, 2024) to the CGST Rules, 2017.
No. S.O. 35/P.A.5/2017/S.52/2024	Seeks to exempt the registered person whose aggregate turnover in FY 2023-24 is upto Rs. two crores, from filing annual return for the said financial year.
No. S.O. 36/P.A.5/2017/S.11/2024	Seeks to amend Notification No. 52/2018-Central Tax, dated 20.09.2018.
Centre's Notification Tax (Rate)	Subject
NOTIFICATION No. S.O. 32/P.A.5/2017/S.9,11,15 and 148/2024	Seeks to amend Notification No 12/2017-Central Tax (Rate) dated 28.06.2017.
Notification No. S.O. 34/P.A.5/2017/S.44/2024	Seeks to amend notification No. 2/2017-Central Tax (Rate)

Notification Central Tax Page NO-5 to 15

PART III
GOVERNMENT OF PUNJAB
DEPARTMENT OF EXCISE AND TAXATION
(EXCISE AND TAXATION-II BRANCH)
NOTIFICATION

The 21st August, 2024

NOTIFICATION No. G.S.R. 32/P.A.5/2017/S. 164/Arnd. (70)/2024.

Dated 14th February, 2024

In exercise of the powers conferred by section 164 of the Punjab Goods and Services Tax Act, 2017(Punjab Act 5 of 2017), and all other powers enabling him in this behalf, the Governor of Punjab, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, is pleased to make the following rules further to amend the Punjab Goods and Services Tax Rules, 2017, namely: -

1. Short title and commencement.-

(1) These rules may be called the Punjab Goods and Services Tax (Third Amendment) Rules, 2024.

(2) They shall be deemed to have come into force on and from the 26th of October, 2023. "

2. In the Punjab Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), rule 28 shall be renumbered as sub-rule (1) and after the sub-rule as so renumbered, the following sub-rule shall be inserted, namely: -

"(2) Notwithstanding anything contained in sub-rule (1), the value of supply of services by a supplier to a recipient who is a related person, by way of providing corporate guarantee to any banking company or financial institution on behalf of the said recipient, shall be deemed to be one per cent of the amount of such guarantee offered, or the actual consideration, whichever is higher. "

3. In the said rules, in rule 142, in sub-rule (3), for the words "proper officer shall issue an order", the words "proper officer shall issue an intimation" shall be substituted.

4. In the said rules, in rule 159, in sub-rule (2), after the words "Commissioner to that effect", the words "or on expiry of a period of one year from the date of issuance of order under sub-rule (1), whichever is earlier," shall be inserted.

5. In the said rules, in FORM GST REG-01, in PART-B, in serial number 2, after clause (xiv), the following clause shall be inserted, namely:-

"(xiva) One Person Company".

6. In the said rules, for FORM GST REG-08, the following form shall be substituted, namely:-

Form GST REG-08

[See Rule 12(3)]

Order of Cancellation of Registration as Tax Deductor at source or Tax Collector at source

This is in reference to the request raised vide letter/mail dated....for cancellation of registration under the Act

due to the following reason, namely:-

The undersigned is of opinion that the effective date of cancellation of registration is <<DD/MM/YYYY>>.

2. You are required to furnish pending returns immediately.

3. Kindly refer to the supportive document(s) attached for case specific details.

4. It may be noted that the cancellation of registration shall not affect the liability to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.

OR

Order of Cancellation of Registration as Tax Deductor at source or Tax Collector at source

This has reference to the show-cause notice issued dated.....

o Whereas no reply to the show cause notice has been submitted,

and whereas, the undersigned based on record available with this office is of the opinion that your registration is liable to be cancelled for the following reason(s) : or

o Whereas reply to the show cause notice has been submitted vide letter dated ,

and whereas, the undersigned on examination of your reply to show cause notice and based on record available with this office is of the opinion that your registration is liable to be cancelled for the following reason(s) :- or

o Whereas no reply to the show cause notice has been submitted and on day fixed for personal hearing, you did not appear in person or through authorised representative,

and whereas, the undersigned based on record available with this office is of the opinion that your registration is liable to be cancelled for following reason(s) : or

o Whereas no reply to the show cause notice has been submitted, but you or authorised representative attended the personal hearing and made a written or verbal submission,

and whereas, the undersigned on examination of your written or verbal submission made during personal hearing and based on record available with this office is of the opinion that your registration is liable to be cancelled for the following reason(s) : or

o Whereas reply to the show cause notice has been submitted vide letter dated But, you or authorised

representative did not attend the personal hearing on scheduled or extended date. and whereas, the undersigned on examination of your reply to show cause notice and based on record available with this office is of the opinion that your registration is liable to be cancelled for the following reason(s) : or

o Whereas reply to the show cause notice has been submitted vide letter datedand you or authorised

representative attended the personal hearing, made a written/oral submission during personal hearing. And whereas, the undersigned has examined your reply to show cause notice as well as submissions made at the time of personal hearing and is of the opinion that your registration is liable to be cancelled for the following reason(s)

The effective date of cancellation of registration is<<DD/MM/YYYY>>.

2. Kindly refer to the supportive document(s) attached for case specific details.

3. You are required to furnish pending returns immediately.

4. It may be noted that the cancellation of registration shall not affect the liability to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.

Place:

Date:

Signature

Name of the Officer

Designation

Jurisdiction

7. In the said rules, in FORM GSTR-8,-

(a) serial number 5 shall be omitted;

(b) for serial number 7 and entries relating thereto, the following serial number and entries shall be substituted, namely:-

"7. Interest, late fee payable & paid

(c) for serial number 9 and entries relating thereto, the following serial number and entries shall be substituted, namely:-

"9. Debit entries in cash ledger for TCS, interest and late fee payment [to be populated after filing of statement]

8. In the said rules, in FORM GST PCT-01, in PART-B, for serial number 4 and entries relating thereto, the following serial number 4 and entries shall be substituted, namely:-

Note: Sr. No. (4) to (8) of the table should be from an Indian University established by any law for the time being in force.

9. In the said rules, in FORM GST DRC-22, after the last paragraph, the following paragraph shall be inserted, namely:-

"This order shall cease to have effect, on the date of issuance of order in FORM GST DRC-23 by the Commissioner, or on the expiry of a period of one year from the date of issuance of this order, whichever is earlier."

VIKAS PRATAP,
Additional Chief Secretary-cum-
Financial Commissioner (Taxation)
to Government of Punjab,
Department of Excise and Taxation

Notification Central Tax Page NO-5 to 15

**PART III
GOVERNMENT OF PUNJAB
DEPARTMENT OF EXCISE AND TAXATION
(EXCISE AND TAXATION-II BRANCH)
NOTIFICATION**

The 21st August, 2024

Notification No. S.O. 35/P.A.5/2017/S.52/2024.- In exercise of the powers conferred by subsection (1) of section 52 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, the Governor of Punjab, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, is pleased to make the following amendments in the Government of Punjab, Department of Excise and Taxation, Notification No. SC). 146

/P.A.5/2017/S.52/2018, dated the 3rd of October,2018 published in the Punjab

Government Gazette (Extraordinary), Part-111, dated the 5th of October,2018, namely:-

AMENDMENT

In the said notification, for the words "half per cent," the figure and word "0.25 per cent," shall be substituted.

2. This notification shall be deemed to have come into force on and with effect from the 10th day of July, 2024.

VIKAS PRATAP,
Additional Chief Secretary-
cum-Financial Commissioner
(Taxation) to Government of
Punjab,

Notification Central Tax Page NO-5 to 15

**PART III
GOVERNMENT OF PUNJAB
DEPARTMENT OF EXCISE AND TAXATION
(EXCISE AND TAXATION-II BRANCH)
NOTIFICATION**

The 21st August, 2024

Notification No. S.O. 36/P.A.5/2017/S.11/2024.-In exercise of the powers conferred by subsection (1) of section 11 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, the Governor of Punjab, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, is pleased to make the following amendments in the Government of Punjab, Department of Excise and Taxation, Notification No.

S.O.18/P.A.5/2017/S.11/2017, dated the 30th June, 2017, published in the Punjab, Government Gazette (Extraordinary), Part-111, dated the 30th June,2017, namely:

AMENDMENT

In the said notification, after the Schedule, in the Explanation, in clause (ii), after the entries relating thereto, the following proviso shall be inserted, namely:-

"Provided that not with standmg anything contained in the Legal Metrology Act, 2009 (1 of 2010) and the Riles made thereunder, as amended from time to time, the supply of agricultural farm produce 111 package(s) of commodities contaming quantity of more than 25 kilogram or 25 litre shall not be considered as a supply made within the scope of expression 'pre-packaged and labelled' .".

2. This notification shall be deemed to have come into force on and with effect from the 15th day of July, 2024.

VIKAS PRATAP,
Additional Chief
Secretary-cum-Financial
Commissioner
(Taxation) to
Government of Punjab,

Notification Central Tax (Rate) Page NO-16 to 20

PART 111
GOVERNMENT OF PUNJAB
DEPARTMENT OF EXCISE AND TAXATION
(EXCISE AND TAXATION-II BRANCH)

The 21st August, 2024

NOTIFICATION No. S.O. 32/P.A.5/2017/S.9,11,15 and 148/2024.-In exercise of the powers conferred by sub-sections (3) and (4) of section 9, sub-section (1) of section 11, subsection (5) of section 15 and section 148 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, the Governor of Punjab, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, is pleased to make the following amendments in the Government of Punjab, Department of Excise and Taxation, Notification No. SO 37/P.A.5/2017/S.11/2017, dated the 30th June 2017, published in the Punjab Government Gazette (Extraordinary), Part-III, dated the 30th June, 2017, namely:-

AMENDMENT

In the said notification, in the Table -

- (A) after serial number 9D and the entries relating thereto, the following serial numbers and entries shall be inserted, namely:-

"9E	Chapter 99	<p>Services provided by Ministry of Railways (Indian Railways) to individuals by way of—</p> <p>(a) sale of platform tickets;</p> <p>(b) facility of retiring rooms/waiting rooms;</p> <p>(c) cloak room services;</p> <p>(d) battery operated car services.</p>	Nil	Nil
9F	Chapter 99	<p>Services provided by one zone/division under zone(s)/division(s) Ministry of Railways (Indian Railways) to another under Ministry of Railways (Indian Railways).</p>	Nil	Nil
9G	Chapter 99	<p>Services provided by Special Purpose Vehicles (SPVs) to Ministry of Railways (Indian Railways) by way of allowing Ministry of Railways (Indian Railways) to use the infrastructure built and owned by</p>	Nil	Nil"

		them during the concession period against consideration and services of		
		maintenance supplied by Ministry of Railways (Indian Railways) to SPVs in relation to the said infrastructure built and owned by the SPVs during the concession period against consideration.		

(B) in serial number 12, -

(i) in column (2), the words and figures "Heading 9963 or" shall be omitted;

(ii) in column (3), the Explanation shall be numbered as Explanation I thereof, and after Explanation I so re-numbered, the following Explanation shall be inserted, namely: -

'Explanation 2.- Nothing contained in this entry shall apply to-

- (a) accommodation services for students in student residences;
- (b) accommodation services provided by Hostels, Camps, Paying Guest accommodations and the like. "; and

(C) after serial number 12 and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

--	--	--	--	--

"12A	Heading 9963	Supply of accommodation services having value of supply less than or equal to twenty thousand rupees per person per month provided that the accommodation service is supplied for a nummm continuous penod of ninety days.	Nil	Nil"
------	-----------------	--	-----	------

2. This notification shall be deemed to have come into force on and with effect from the 15th day of July, 2024.

VIKAS PRATAP,
Additional,Chief,Secretary-cum-
Financial Commissioner (Taxation)
to Govemment of Punjab,
Department of Excise and
Taxation.

Notification Central Tax Page (Rate) NO-16 to 20

**PART III
GOVERNMENT OF PUNJAB
DEPARTMENT OF EXCISE AND TAXATION
(EXCISE AND TAXATION-II BRANCH)
NOTIFICATION**

21st August, 2024

No. S.O. 34/P.A.5/2017/S.44/2024.- In exercise of the powers confened by the first proviso to section 44 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), the Commnssloner, on the recommendations of the Council, hereby exempts the registered person whose aggregate tumover in the financial year 2023-24 is up to two crore rupees, from filmg annual retum for the said financial year.

2. This notification shall be deemed to have come into force on and with effect from the 10th day of July, 2024.

**VARUN ROOJAM,
COMMISSIONER OF STATE TAX**

Notification Circular Page NO-21 to 54

GOVERNMENT OF TAMIL NADU

COMMERCIAL TAXES DEPARTMENT

EZHILAGAM, CHENNAI- 600 005

PRESENT: DR. D. JAGANNATHAN I.A.S.,

COMMISSIONER OF STATE TAX

Circular No: 8/2024 (A1/553/2024/ Dated: 29.08.2024 Ease of Business Cell) Sub: Commercial Taxes Department – Goods and Services Tax (GST) Acts – Adjudication proceedings – certain guidelines issued – regarding. A well-drafted GST order, issued by a proper officer, is an important component of fair and efficient Goods and Services Tax (GST) administration. Effective orders must demonstrate qualities such as clarity, transparency and adherence to the provisions of the GST Acts and Rules, 2017. The adjudication process is a holistic exercise of the application of laws and reflecting it properly in the notices and orders. Many times, because of hurried and poor drafting of notices and orders, various appellate forums and Hon’ble High Court set aside such notices / orders, resulting in a loss of efforts and time of Proper Officers and revenue to the Department. Hence, the following

guidelines are issued to make the adjudication process more transparent, reduce the litigations and realize revenue to the Exchequer. 1. QUALITIES OF A GOOD GST ORDER: (i) Clarity and Conciseness: It is of utmost importance to maintain clarity and simplicity while drafting GST adjudication orders. Usage of Clear and unambiguous language ensures that taxpayers can easily comprehend the officer's decision. Also avoiding unnecessary elaboration helps to maintain the focus on the core reasoning behind the orders enhancing its effectiveness and ensuring efficient communication of the decisions to the taxpayer. (ii) Logical Reasoning: A well-drafted GST adjudication order shall provide a logical and reasoned explanation for the decision arrived by the proper officer. It should meticulously detail the facts of the case, citing relevant legal provisions from the GST Acts and Rules and illustrating how those provisions were applied to the specific circumstances at hand. By doing so, the order establishes a clear and compelling rationale for the decision arrived in the adjudication process. (iii) Fairness and Impartiality: The order should be free from any bias or prejudice. The order should demonstrate a commitment to fairness and impartiality throughout. It should be evident that the decision was reached through a meticulous evaluation of all evidences and strict adherence to the GST Acts and Rules. (iv) Compliance with Legal Standards: The order should meticulously adhere to the legal standards and established procedures under the GST Acts and Rules. It should

showcase the officer's comprehensive understanding and accurate application of relevant provisions in reaching a 'just' outcome. (v) Consistency with Precedents: Consistency with prior judgements and the established legal principles related to GST are crucial aspects of a well drafted adjudication order. This ensures coherence within the GST framework. This consistency not only enhances the credibility of the decision arrived by the proper officer but also provides clarity to the taxpayers and promoting confidence in them about the enactment of GST Acts. (vi) Clarity on Remedies: If the order grants any remedies or reliefs (such as refunds, adjustments), it should clearly specify the nature and extent of those remedies. This includes details on refunds, adjustments or other forms of relief awarded. (vii) Just and Equitable Outcome: The order should provide a just and equitable resolution of all issues involved. It should carefully address the issues to achieve a fair and impartial outcome. (viii) Protection of Rights: A fundamental requirement of the order is to ensure the protection of rights and legal safeguards guaranteed under the GST Acts and the Constitution of India. (ix) Finality and Enforcement: The order should clearly state whether the order is subject to appeal and, if so, the timeframe for filing an appeal and the authority before whom the appeal is to be filed Additionally, the order should outline the mechanisms for enforcing its decisions, such as collection of taxes, interest and penalties or implementation of other directives. (x) Clarity on Costs: If the order includes any payment dues,

it should transparently explain the methodology for calculating and determining those dues. (xi) Timeliness: A commendable order should be issued promptly after the conclusion of the proceedings. This minimizes uncertainties and delays for the parties involved. (xii) Correctness: Above all, the adjudication order must be legally sound. It should be a well-reasoned and accurate interpretation and application of the relevant provisions of the GST Acts and Rules specific to the case at hand. (xiii) Language and Structure: The order should be well-structured and utilize appropriate legal language and terminology to convey the message with utmost clarity and precision. A professional and respectful tone should be maintained throughout, avoiding dismissive or accusatory language. Conclusion: These qualities collectively contribute to a well-drafted GST adjudication order and a process that fulfills its purpose within the legal system.

2. ROLE OF ADJUDICATING AUTHORITY: As per Section 2(4) of The Tamil Nadu Goods and Services Tax Act, 2017 “adjudicating authority” means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Commissioner, Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority and the Appellate Tribunal. After issuance of Show cause notice, the adjudicating authority shall issue a speaking order after thorough verification of the written submission and supporting

documents filed by the taxable person and subsequent discussions during the personal hearing by applying relevant statutory provisions and by strictly adhering to the Principles of Natural Justice. Principles of Natural Justice: There are mainly three Principles of Natural Justice. These three principles are: i) Nemo judex in causa sua or Rule Against Bias This principle states that 'No one should be made a judge in his own cause'. It means that a decision-maker must be impartial and unbiased while making a decision. The decision of adjudicating authority should not be biased or arbitrary. ii) Audi Alteram Partem or Rule of Fair Hearing This principle means 'hear the other party or No one should be condemned unheard'. The grant of adequate opportunity of personal hearing is the primary responsibility of any adjudicating authority before deciding a case as per the statutory provisions of tax laws. The same should be real, reasonable and effective and not merely an empty formality. The rule of fair hearing encompasses several aspects which include the right to notice, adequate opportunity of being heard and right to present the case and evidence. iii) Rule of Speaking Order or Reasoned Decision The third principle of Natural Justice which has developed in course of time is that the order passed must be a Speaking Order or Reasoned Decision. When the adjudicating authority provides the reason behind their decision, the decision is treated as the reasoned decision. It is also called a speaking order. The taxable person must know why and on what grounds an order has been passed for/against

him. This is necessary with a view to exclude the possibility of arbitrariness in the action. Once the taxable person had filed reply/objections pursuant to the show cause notice, it is the duty of the Adjudicating authority to pass a speaking order, providing reasons for rejection of the reply/objections raised by the taxable person. If any cryptic order is passed without touching upon the queries/contentions of the taxable person, ultimately, it will result in filing of writ petition under Article 226 of the Constitution of India, by the taxable person before the Hon'ble High court. Therefore, the orders to be passed by the Adjudicating authority shall always be a speaking order.

3. GENERAL CONTENTS EXPECTED IN A SHOW CAUSE NOTICE: (i) Brief introduction about the taxable person and their nature of business. (ii) The period for which the proposed action and statutory provision (Relevant Section) under which notice is being issued has to be mentioned. The issue shall be properly demarcated for invoking Section 73 or Section 74 as the case may be, by the Adjudicating authority. Specific reference to reason of fraud or any wilful misstatement or suppression of facts shall be established in the notice for invoking Section 74 of the GST Act. (iii) The records or evidences which is relied on by the adjudicating authority for the proposed action has to be referenced. (iv) The self-declaration, if any, made by the taxable person to the department which is sought to be disagreed by the adjudicating authority has to be stated. (v) Detailed analysis of evidences/records

based on which the proposed action is sought to be made. (vi) Conclusion of the adjudicating authority based on the analysis as stated above. (vii) Value of supply for which notice issued has to be mentioned and applicable tax, interest and penalty has to be quantified. Further HSN/SAC dealt by the taxpayer, for the respective commodity/service in which the discrepancy is pointed out must be clearly mentioned along with appropriate rate of tax. (viii) Arithmetic as well as logical calculation resorted by the adjudicating authority to arrive into the liability proposed has to be provided with reasonable clarity. (ix) If any additions or estimations based on best judgment of the adjudicating authority is made, the special circumstances and reasons which warrants such additions or estimation has to be spelt out. The Quantum of additions or estimation shall have a realistic bearing on the nature of irregularity detected, size of business etc. (x) The tax payer shall be afforded with reasonable time to show cause against the proposal. (xi) The request of the tax payer for perusal/obtaining copies of the documents or records relied by the authority for making such proposal shall be considered judiciously and allowed. Copies of documents relied on can be given along with the notice itself so as to avoid any delay. (xii) The request for cross examination of the witness, if any, shall be considered judiciously and allowed. (xiii) On completion of the above time limit, an opportunity of being heard in the matter shall also be given. (xiv) Request for adjournment of time and hearing shall be

granted based on the merit of such requests. (xv) Where the adjudication provisions require that the tax payer shall be given a reasonable opportunity of being heard, the provisions shall be followed in letter and spirit, by intimating the taxable person regarding the date, time and venue of hearing. It shall not be a vague intimation like “the taxable person is at liberty to have hearing on any date within the time stipulated for submitting the objections.”

4. POINTS TO BE NOTED BEFORE ISSUANCE OF ORDERS:

a. The Proper Officer shall ensure that all the components of natural justice, such as opportunity to show cause, grant of copies of documents relied on for assessment, cross examination of witnesses whose documents were relied on for making the assessment, opportunity of being heard in person, grant of reasonable time to file reply, requests for adjournment etc., are properly available in the adjudication process. The detailed guidelines already issued by the Principal Secretary/ Commissioner of Commercial Taxes in Circular No.12/2022 dated 26.09.2022 relating to the adherence to Principles of Natural Justice in the adjudication process shall be followed in letter and spirit.

b. The Proper Officer shall ensure that the request for appearance by authorized representative under Section 116 of the GST Act, 2017 are properly considered in the adjudication process.

c. Once the taxable person has filed his objections, the authority shall carefully analyse the contentions raised by the tax payer against the proposal and shall have a cross check with the facts already available. If any ambiguity in the tax

payer's contention needs further clarification, it can easily be done at the time of personal hearing. This would give a better understanding of the matter at his disposal. d. Subsequently, oral submissions made by the taxable person at the time of Personal hearing, if any, shall be reduced to writing by the authority by way of Record of Proceedings. Such Notes can be required to be authenticated by the taxable person which will be a token of proper hearing. Copy of such 'Record of Personal Hearing', signed by the Officer and Taxpayer/Authorised Representative, shall be retained in the Assessment records and a copy of it shall be shared with the taxpayer as well to ensure transparency. e. Circumstances may arise where the evidences or records produced by the tax payer or otherwise, points toward enhanced liability than already proposed. In such circumstances, in accordance with GSTN system / back-office provision, a separate notice shall be issued and all the safeguards and procedures taken for the original notices shall be followed. 5. POINTS TO BE NOTED WHILE DRAFTING THE ORDERS: The following guidelines are only illustrative in nature, not exhaustive and can further be elaborated depending upon the need and requirement of a given case:-

- a. Check the year for which notice has been issued.
- b. Check the documents and reply filed by the tax payer to see that it represents to the relevant year.
- c. The records of notice issued, acknowledgments, adjournments, documents and evidences shall be marked and referenced. The references shall be chronologically quoted including the

proposal notice, revised proposal notice (if any), reply to the proposals, evidences submitted, etc. d. Start with Brief introduction about the taxable person and their nature of business. The period for which the order has been issued and statutory provision (Relevant Section) under which action has been taken shall be mentioned clearly. e. Gist of the reasons for which the notice has been issued shall be narrated first. The main issues framed as per the proposal notice shall also be provided in detail. f. The date of filing of reply, the objections/contentions raised by taxable person, the date of awarding personal hearing and the details of oral submission put forth by him at the time of hearing have to be specifically mentioned in the order. The evidences or other documents, if any, adduced by the taxpayer shall be detailed out. g. Further, the contentions raised by the tax payer against the issues raised in the proposal can be logically listed according to the facts of each case. Related issues have to be identified from the reply and evidences and need to be grouped together. It must be ensured that all the contentions raised by the taxpayer has been taken up and listed. h. After listing all issues to be decided upon, the adjudicating authority shall segregate the issues broadly in two categories:- (i) One category in which there is no dispute between Department and taxable person; and (ii) Other category in which the dispute between Department and taxable person persists. i. The issues, on which there is no dispute, may be summarized in one or two paragraphs of the findings. The remaining issues, where dispute

between the Department and taxable person exists, shall be listed. At this stage, the sequencing of the issues is required to be considered carefully.

j. Now, the issues listed can be taken up chronologically and answered one by one with consideration to the evidences, records and other documents already in possession. Resultantly, the finding is to be explicitly arrived and recorded.

k. If any proceedings are made in pursuance of the directions of the Appellate Authority and Hon'ble High Court, the fact of such directions and its applicability to the proceeding has to be provided in detail and acted accordingly.

l. Value of supply has to be mentioned and applicable tax, interest and penalty has to be quantified. Further, HSN/SAC, for the respective Commodity / Service dealt by tax payer in which the discrepancy is pointed out must be clearly mentioned along with appropriate rate of tax.

m. The arithmetical calculation as well as logical conclusion based on which the issue is decided against the tax payers has to be resorted to fix the liability of the tax payer. Addition or Estimation, if any resorted shall be in tune with the facts of the case and not be too low or too excessive. The tabulation shall be descriptive enough. Anyone who goes through the tabulation must be able to understand the ratio / logic applied behind such fixation of liability.

n. After preparing the draft, it is necessary to go through the same to find out, if anything, essential to be mentioned, has escaped discussion.

o. The order shall have sustained chronology. It shall have flow and perfect sequence of events, which would continue to generate

interest in the reader. p. Appropriate care shall be taken not to load it with all legal knowledge on the subject as citation of too many judgements creates more confusion rather than clarity. While citing any judgement, the latest judgement in which all previous judgements has been considered shall be mentioned. Priority has to be given based on the hierarchy of orders issued (i.e.,) Hon'ble Supreme Court of India, Jurisdictional High Court (High court of Madras). q. It must be specifically provided in the Order that the final liability fixed along with the interest shall be paid as per the Demand Notice attached. A Demand Notice requiring the tax payer to pay the liability has to be attached along with the Order electronically. r. The order shall specify the Authority before whom an appeal can be filed and the time limit with in which it has to be filed.

6. GENERAL CONTENTS OF A MODEL ORDER ARRANGED IN LOGICAL, SEQUENCE:

- a. Full address of the Authority including email and phone number.
- b. Statutory provision(s) which gives authority to pass the order.
- c. Quote the references (in chronological order) Eg. Returns/statement of accounts/audit reports /Reconciliation Statement etc.
- i. Notice for checking of accounts/audit.
- ii. Adjournment requests.
- iii. Adjournments granted.
- iv. External information received/ details of e-way bill.
- v. Statement recorded.
- vi. Extract /narration in accounts.
- vii. Invoices of Inward and Outward supply.
- viii. Inspection reports.
- ix. Cross examination request.
- x. Pre-assessment/penalty notices.
- xi. Replies filed by the tax payer.

d. Narrate

the name and address, GSTIN, and brief business practice, person to whom the order is intended and the assessment year to which the order relates. e. The Adjudication order shall contain a bilingual preamble in Tamil and English for better understanding of the tax payers (Model enclosed as Annexure) f. Narrate the contents of the notice. g. Narrate tax payer's reply. h. Personal hearing and Record of personal hearing. i. Briefly discuss and decide on the issues conceded by the taxable person. j. Issues framed on matters in which there is difference between adjudicating authority and the taxable person. Connected issues to be answered along with the main issue. k. Discuss issue-wise along with evidence and facts. Judgments, if any cited, shall be discussed in depth relating to the issue. l. Furnish the tax liability calculation. Quantify the tax, interest and penalty payable by the taxable person. If tax demand is yet to be paid, interest may not be quantified as it will be accruing every passing day till the date of payment. Hence, as regards interest not quantified cases, a mention that Interest at applicable rates as per Section 50 (1) or (3) would be payable will be quintessential. m. Specify the Authority before whom an appeal can be filed and the time limit within which it has to be filed. 7. The above instructions are meant to be guidelines for Adjudicating Authorities and shall not be cited by any Proper officer as reference in the show cause notice or in any order. All Proper Officers shall follow the above guidelines. All Joint Commissioners and Deputy Commissioners shall supervise the

compliance to above Guidelines. Detailed training and awareness shall be conducted among all officers of the Department through the Commercial Taxes Staff Training Institute / Regional Training Chapters.

Dr. Jagannathan,

Commissioner of State Tax

Notification Circular Page NO-21 TO 54

**Office of the Commissioner of the State Goods and Services Tax
Department, Tax Towers, Karamana, Thiruvananthapuram – 695
002. Ph: 04712785276, e-mail: cstpolicy.sgst@kerala.gov.in**

SGST Policy Division

date : 17-08-2024

File No. SGST/5773/2024-PLC1

Circular No 15/2024-Kerala SGST

1. Notification SRO 664/2024 dtd 31.7.2024.

2. Notification SRO 665/2024 dtd 31.7.2024.

3. Notification SRO 666/2024 dtd 31.7.2024

1. Filing of returns under Kerala Value Added Tax Act 2003, Kerala General Sales Tax Act 1963 and Central Sales Tax Act 1956 are to be carried out through a new software ‘Kerala Indirect Tax Information System’ in short ‘KITIS’ from 1st August 2024 onwards. Necessary amendments have been brought into the relevant provision of Kerala General Sales Tax Rules, 1963, Kerala Value Added Tax Rules, 2005 and Central Sales Tax Act Rules, 1957 as per the notification issued on 31st July 2024 and published as per S.R.O No 665/2024, S.R.O No.

666/2024 and S.R.O. No. 667/2024 respectively for the implementation of filing of return under the above three Acts and to make payment through the new software. 2. As per the notifications mentioned above, the returns under the aforementioned acts are to be filed through a return in Form No. 9 and in the manner prescribed under Rule 22A of the Kerala General Sales Tax Act 1963 and such electronically filed returns and statements are to be authenticated by the dealer. The said rule empowers the Commissioner of State Tax to specify the manner of authentication of the returns or statements filed electronically through the Kerala Indirect Tax Information System. 3. In the circumstances mentioned above and in exercise of the powers conferred by rule 22A of the Kerala General Sales Tax Rules 1963, the Commissioner of State Tax hereby specifies that the electronically filed return or statement under the aforementioned Acts through Kerala Indirect Tax Information System (KITIS) shall be authenticated through electronic verification code sent to the registered mobile number of the dealer in KITIS, not later than the due date for filing such return.

Dr. Jagannathan,

Commissioner of State Tax

Notification Circular Page NO-21 TO 54

Office of the Commissioner of the State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram SGST Policy Division

E-mail: cstpolicy.sgst@kerala.gov.in

Ph: 0471-2785276

No. SGST/53 1 0/2024-PLC6

Circular No.12/2024-Kerala SGST Date: 13-08-2024

Sub: – Manner of penalty calculation under IGST Act, 2017 for the show cause notices issued under section 73(1)/74(1) of the KSGST Act, 2017 read with section 20 of the IGST Act, 2017 – clarifications issued – reg. 1. It has come to the notice that field formations require clarity in the computation and imposition of penalty under the fourth proviso of Section 20 of the Integrated Goods and Services Tax (IGST) Act, 2017 in cases where tax is being demanded under Section 73(1)/74(1) of the Kerala Goods and Services Tax (KSGST) Act, 2017. 2. In order to ensure uniformity in the implementation of the provisions of law across the field formations, in exercise of the powers conferred by section 168

(1) of the Kerala State Goods and Services Tax Act, 2017 (hereinafter referred to as “KSGST Act”), clarifies the issues as under: 3. Section 73 of the KSGST Act, 2017 provides for the determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for any reason other than fraud or any willful-misstatement or suppression of facts. 4. Section 73(9) of the KSGST Act, 2017 reads as follows: “The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.” 5. Section 74 of the KSGST Act, 2017 provides for the determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason of fraud or any willful-misstatement or suppression of facts. 6. Section 74(1) of the KSGST Act, 2017 reads as follows: “(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable

thereon under section 50 and a penalty equivalent to the tax specified in the notice” 7. Section 20(xxv) of the Integrated Goods and Services Tax Act, 2017 reads as follows: “Subject to the provisions of this Act and the rules made thereunder, the provisions of Central Goods and Services Tax Act relating to,—(i) scope of supply; (ii) composite supply and mixed supply; (iii) time and value of supply; (iv) input tax credit;.....
..... (xvi) demands and recovery;..... (xxi) offences and penalties;..... (xxv) miscellaneous provisions including the provisions relating to the imposition of interest and penalty, shall, mutatis mutandis, apply, so far as may be, in relation to integrated tax as they apply in relation to central tax as if they are enacted under this Act:

8. The 4th proviso of section 20 of the Integrated Goods and Services Tax Act, 2017 says that “in cases where the penalty is leviable under the Central Goods and Services Tax Act and the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, the penalty leviable under this Act shall be the sum total of the said “ 9. In terms of 4th proviso to Section 20 of the IGST Act, the amount of penalty to be quantified/levied is the sum total of the amount of penalty “leviable” under the CGST Act plus the SGST Act. As such, there is no independent provision of its own under the IGST Act to quantify the amount of penalty; it arrives at such quantification through the provisions of the CGST and the SGST Acts. 10. In this scenario, what emerges is that the

quantum of penalty under the IGST Act is entirely dependent upon the penalty “leviable” under the CGST and the SGST Acts. 11. As per 4th proviso of Section 20 of IGST Act, the penalty leviable under the IGST Act would be the sum total of the quantum of penalty to be levied under the CGST Act and the SGST Act. This is clarified with an Illustration worked out as under: 12. Illustration: For a service attracting 18% rate of tax, the tax levied under CGST is at the rate of 9% and that under SGST is at the rate of 9%. If it becomes an intra-state supply, the penalty to be levied on each Act is 10% as per section 73(9) of the CGST and the SGST Acts. (i.e., Taxable value x 9% x 10%). Now, applying these rates to the above clause of the IGST Act- Provided also that in cases where the penalty is leviable under the Central Goods and Services Tax Act (i.e., Taxable value x 9% x 10%) or the State Goods and Services Tax Act (i.e., Taxable value x 9% x 10%), the penalty leviable under this Act shall be the sum total of the said penalties ((Taxable value x 9% x 10%) + (Taxable value x 9% x 10%)) Therefore, the penalty is (CGST (Taxable value x 9% x 10%) + SGST (Taxable value x 9% x 10%)), which is equal to 10% of (9% + 9%), i.e., which is equal to 10% of 18%. In short, the ‘penalty’ is ten per cent of tax amount under IGST Act. Therefore, as per section 20 of IGST Act, it is the penalty amounts that must be added, (The penalty rates should NOT be added.) 13. The above scenario can be explained with the following examples (assume the tax rate is 18%)\$

Notification Circular Page NO-21 TO 54

GOVERNMENT OF TAMIL NADU
COMMERCIAL TAXES DEPARTMENT
EZHILAGAM, CHENNAI- 600 005
PRESENT: DR. D. JAGANNATHAN I.A.S.,
COMMISSIONER OF STATE TAX

Dated: 29.08.2024

Circular No: 8/2024(A1/553/2024/ Ease of Business Cell)

Sub: Commercial Taxes Department – Goods and Services Tax (GST) Acts – Adjudication proceedings – certain guidelines issued – regarding. A well-drafted GST order, issued by a proper officer, is an important component of fair and efficient Goods and Services Tax (GST) administration. Effective orders must demonstrate qualities such as clarity, transparency and adherence to the provisions of the GST Acts and Rules, 2017. The adjudication process is a holistic exercise of the

application of laws and reflecting it properly in the notices and orders. Many times, because of hurried and poor drafting of notices and orders, various appellate forums and Hon'ble High Court set aside such notices / orders, resulting in a loss of efforts and time of Proper Officers and revenue to the Department. Hence, the following guidelines are issued to make the adjudication process more transparent, reduce the litigations and realize revenue to the Exchequer.

1. QUALITIES OF A GOOD GST ORDER:

(i) Clarity and Conciseness: It is of utmost importance to maintain clarity and simplicity while drafting GST adjudication orders. Usage of Clear and unambiguous language ensures that taxpayers can easily comprehend the officer's decision. Also avoiding unnecessary elaboration helps to maintain the focus on the core reasoning behind the orders enhancing its effectiveness and ensuring efficient communication of the decisions to the taxpayer.

(ii) Logical Reasoning: A well-drafted GST adjudication order shall provide a logical and reasoned explanation for the decision arrived by the proper officer. It should meticulously detail the facts of the case, citing relevant legal provisions from the GST Acts and Rules and illustrating how those provisions were applied to the specific circumstances at hand. By doing so, the order establishes a clear and compelling rationale for the decision arrived in the adjudication process.

(iii) Fairness and Impartiality: The order should be free from any bias or prejudice. The order should demonstrate a commitment to fairness and impartiality throughout. It should be evident that the

decision was reached through a meticulous evaluation of all evidences and strict adherence to the GST Acts and Rules. (iv) Compliance with Legal Standards: The order should meticulously adhere to the legal standards and established procedures under the GST Acts and Rules. It should showcase the officer's comprehensive understanding and accurate application of relevant provisions in reaching a 'just' outcome. (v) Consistency with Precedents: Consistency with prior judgements and the established legal principles related to GST are crucial aspects of a well drafted adjudication order. This ensures coherence within the GST framework. This consistency not only enhances the credibility of the decision arrived by the proper officer but also provides clarity to the taxpayers and promoting confidence in them about the enactment of GST Acts. (vi) Clarity on Remedies: If the order grants any remedies or reliefs (such as refunds, adjustments), it should clearly specify the nature and extent of those remedies. This includes details on refunds, adjustments or other forms of relief awarded. (vii) Just and Equitable Outcome: The order should provide a just and equitable resolution of all issues involved. It should carefully address the issues to achieve a fair and impartial outcome. (viii) Protection of Rights: A fundamental requirement of the order is to ensure the protection of rights and legal safeguards guaranteed under the GST Acts and the Constitution of India. (ix) Finality and Enforcement: The order should clearly state whether the order is subject to appeal and, if so, the timeframe for filing an appeal

and the authority before whom the appeal is to be filed. Additionally, the order should outline the mechanisms for enforcing its decisions, such as collection of taxes, interest and penalties or implementation of other directives. (x) Clarity on Costs: If the order includes any payment dues, it should transparently explain the methodology for calculating and determining those dues. (xi) Timeliness: A commendable order should be issued promptly after the conclusion of the proceedings. This minimizes uncertainties and delays for the parties involved. (xii) Correctness: Above all, the adjudication order must be legally sound. It should be a well-reasoned and accurate interpretation and application of the relevant provisions of the GST Acts and Rules specific to the case at hand. (xiii) Language and Structure: The order should be well-structured and utilize appropriate legal language and terminology to convey the message with utmost clarity and precision. A professional and respectful tone should be maintained throughout, avoiding dismissive or accusatory language. Conclusion: These qualities collectively contribute to a well-drafted GST adjudication order and a process that fulfills its purpose within the legal system. This ensures a fair, transparent and efficient GST administration.

2. ROLE OF ADJUDICATING AUTHORITY:

As per Section 2(4) of The Tamil Nadu Goods and Services Tax Act, 2017 “adjudicating authority” means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Commissioner, Revisional Authority, the Authority

for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority and the Appellate Tribunal. After issuance of Show cause notice, the adjudicating authority shall issue a speaking order after thorough verification of the written submission and supporting documents filed by the taxable person and subsequent discussions during the personal hearing by applying relevant statutory provisions and by strictly adhering to the Principles of Natural Justice. Principles of Natural Justice: There are mainly three Principles of Natural Justice. These three principles are: i) Nemo iudex in causa sua or Rule Against Bias This principle states that 'No one should be made a judge in his own cause'. It means that a decision-maker must be impartial and unbiased while making a decision. The decision of adjudicating authority should not be biased or arbitrary. ii) Audi Alteram Partem or Rule of Fair Hearing This principle means 'hear the other party or No one should be condemned unheard'. The grant of adequate opportunity of personal hearing is the primary responsibility of any adjudicating authority before deciding a case as per the statutory provisions of tax laws. The same should be real, reasonable and effective and not merely an empty formality. The rule of fair hearing encompasses several aspects which include the right to notice, adequate opportunity of being heard and right to present the case and evidence. iii) Rule of Speaking Order or Reasoned Decision The third principle of Natural Justice which has developed in course of time is that the order passed must be a Speaking

Order or Reasoned Decision. When the adjudicating authority provides the reason behind their decision, the decision is treated as the reasoned decision. It is also called a speaking order. The taxable person must know why and on what grounds an order has been passed for/against him. This is necessary with a view to exclude the possibility of arbitrariness in the action. Once the taxable person had filed reply/objections pursuant to the show cause notice, it is the duty of the Adjudicating authority to pass a speaking order, providing reasons for rejection of the reply/objections raised by the taxable person. If any cryptic order is passed without touching upon the queries/contentions of the taxable person, ultimately, it will result in filing of writ petition under Article 226 of the Constitution of India, by the taxable person before the Hon'ble High court. Therefore, the orders to be passed by the Adjudicating authority shall always be a speaking order.

3. GENERAL CONTENTS EXPECTED IN A SHOW CAUSE NOTICE: (i) Brief introduction about the taxable person and their nature of business. (ii) The period for which the proposed action and statutory provision (Relevant Section) under which notice is being issued has to be mentioned. The issue shall be properly demarcated for invoking Section 73 or Section 74 as the case may be, by the Adjudicating authority. Specific reference to reason of fraud or any wilful misstatement or suppression of facts shall be established in the notice for invoking Section 74 of the GST Act. (iii) The records or evidences which is relied

on by the adjudicating authority for the proposed action has to be referenced. (iv) The self-declaration, if any, made by the taxable person to the department which is sought to be disagreed by the adjudicating authority has to be stated. (v) Detailed analysis of evidences/records based on which the proposed action is sought to be made. (vi) Conclusion of the adjudicating authority based on the analysis as stated above. (vii) Value of supply for which notice issued has to be mentioned and applicable tax, interest and penalty has to be quantified. Further HSN/SAC dealt by the taxpayer, for the respective commodity/service in which the discrepancy is pointed out must be clearly mentioned along with appropriate rate of tax. (viii) Arithmetic as well as logical calculation resorted by the adjudicating authority to arrive into the liability proposed has to be provided with reasonable clarity. (ix) If any additions or estimations based on best judgment of the adjudicating authority is made, the special circumstances and reasons which warrants such additions or estimation has to be spelt out. The Quantum of additions or estimation shall have a realistic bearing on the nature of irregularity detected, size of business etc. (x) The tax payer shall be afforded with reasonable time to show cause against the proposal. (xi) The request of the tax payer for perusal/obtaining copies of the documents or records relied by the authority for making such proposal shall be considered judiciously and allowed. Copies of documents relied on can be given along with the notice itself so as to avoid any delay. (xii)

The request for cross examination of the witness, if any, shall be considered judiciously and allowed. (xiii) On completion of the above time limit, an opportunity of being heard in the matter shall also be given. (xiv) Request for adjournment of time and hearing shall be granted based on the merit of such requests. (xv) Where the adjudication provisions require that the tax payer shall be given a reasonable opportunity of being heard, the provisions shall be followed in letter and spirit, by intimating the taxable person regarding the date, time and venue of hearing. It shall not be a vaaue intimation like “the taxable person is at liberty to have hearing on any date within the time stipulated for submitting the objections.”

4. POINTS TO BE NOTED BEFORE ISSUANCE OF ORDERS:

a. The Proper Officer shall ensure that all the components of natural justice, such as opportunity to show cause, grant of copies of documents relied on for assessment, cross examination of witnesses whose documents were relied on for making the assessment, opportunity of being heard in person, grant of reasonable time to file reply, requests for adjournment etc., are properly available in the adjudication process. The detailed guidelines already issued by the Principal Secretary/ Commissioner of Commercial Taxes in Circular No.12/2022 dated 26.09.2022 relating to the adherence to Principles of Natural Justice in the adjudication process shall be followed in letter and spirit.

b. The Proper Officer shall ensure that the request for appearance by authorized representative under Section 116 of the GST Act, 2017 are

properly considered in the adjudication process. c. Once the taxable person has filed his objections, the authority shall carefully analyse the contentions raised by the tax payer against the proposal and shall have a cross check with the facts already available. If any ambiguity in the tax payer's contention needs further clarification, it can easily be done at the time of personal hearing. This would give a better understanding of the matter at his disposal. d. Subsequently, oral submissions made by the taxable person at the time of Personal hearing, if any, shall be reduced to writing by the authority by way of Record of Proceedings. Such Notes can be required to be authenticated by the taxable person which will be a token of proper hearing. Copy of such 'Record of Personal Hearing', signed by the Officer and Taxpayer/Authorised Representative, shall be retained in the Assessment records and a copy of it shall be shared with the taxpayer as well to ensure transparency. e. Circumstances may arise where the evidences or records produced by the tax payer or otherwise, points toward enhanced liability than already proposed. In such circumstances, in accordance with GSTN system / back-office provision, a separate notice shall be issued and all the safeguards and procedures taken for the original notices shall be followed. 5. POINTS TO BE NOTED WHILE DRAFTING THE ORDERS: The following guidelines are only illustrative in nature, not exhaustive and can further be elaborated depending upon the need and requirement of a given case:-

- a. Check the year for which notice has been issued.
- b. Check the

documents and reply filed by the tax payer to see that it represents to the relevant year. c. The records of notice issued, acknowledgments, adjournments, documents and evidences shall be marked and referenced. The references shall be chronologically quoted including the proposal notice, revised proposal notice (if any), reply to the proposals, evidences submitted, etc. d. Start with Brief introduction about the taxable person and their nature of business. The period for which the order has been issued and statutory provision (Relevant Section) under which action has been taken shall be mentioned clearly. e. Gist of the reasons for which the notice has been issued shall be narrated first. The main issues framed as per the proposal notice shall also be provided in detail. f. The date of filing of reply, the objections/contentions raised by taxable person, the date of awarding personal hearing and the details of oral submission put forth by him at the time of hearing have to be specifically mentioned in the order. The evidences or other documents, if any, adduced by the taxpayer shall be detailed out. g. Further, the contentions raised by the tax payer against the issues raised in the proposal can be logically listed according to the facts of each case. Related issues have to be identified from the reply and evidences and need to be grouped together. It must be ensured that all the contentions raised by the taxpayer has been taken up and listed. h. After listing all issues to be decided upon, the adjudicating authority shall segregate the issues broadly in two categories:- (i) One category in which there is no

dispute between Department and taxable person; and (ii) Other category in which the dispute between Department and taxable person persists. i. The issues, on which there is no dispute, may be summarized in one or two paragraphs of the findings. The remaining issues, where dispute between the Department and taxable person exists, shall be listed. At this stage, the sequencing of the issues is required to be considered carefully. j. Now, the issues listed can be taken up chronologically and answered one by one with consideration to the evidences, records and other documents already in possession. Resultantly, the finding is to be explicitly arrived and recorded. k. If any proceedings are made in pursuance of the directions of the Appellate Authority and Hon'ble High Court, the fact of such directions and its applicability to the proceeding has to be provided in detail and acted accordingly. l. Value of supply has to be mentioned and applicable tax, interest and penalty has to be quantified. Further, HSN/SAC, for the respective Commodity / Service dealt by tax payer in which the discrepancy is pointed out must be clearly mentioned along with appropriate rate of tax. m. The arithmetical calculation as well as logical conclusion based on which the issue is decided against the tax payers has to be resorted to fix the liability of the tax payer. Addition or Estimation, if any resorted shall be in tune with the facts of the case and not be too low or too excessive. The tabulation shall be descriptive enough. Anyone who goes through the tabulation must be able to understand the ratio / logic applied behind such fixation

of liability. n. After preparing the draft, it is necessary to go through the same to find out, if anything, essential to be mentioned, has escaped discussion. o. The order shall have sustained chronology. It shall have flow and perfect sequence of events, which would continue to generate interest in the reader. p. Appropriate care shall be taken not to load it with all legal knowledge on the subject as citation of too many judgements creates more confusion rather than clarity. While citing any judgement, the latest judgement in which all previous judgements has been considered shall be mentioned. Priority has to be given based on the hierarchy of orders issued (i.e.,) Hon'ble Supreme Court of India, Jurisdictional High Court (High court of Madras). q. It must be specifically provided in the Order that the final liability fixed along with the interest shall be paid as per the Demand Notice attached. A Demand Notice requiring the tax payer to pay the liability has to be attached along with the Order electronically. r. The order shall specify the Authority before whom an appeal can be filed and the time limit with in which it has to be filed.

6. GENERAL CONTENTS OF A MODEL ORDER ARRANGED IN LOGICAL, SEQUENCE:

- a. Full address of the Authority including email and phone number.
- b. Statutory provision(s) which gives authority to pass the order.
- c. Quote the references (in chronological order) Eg. Returns/statement of accounts/audit reports /Reconciliation Statement etc.
- i. Notice for checking of accounts/audit.
- ii. Adjournment requests.
- iii. Adjournments granted.
- iv. External

information received/ details of e-way bill. v. Statement recorded. vi. Extract /narration in accounts. vii. Invoices of Inward and Outward supply. viii. Inspection reports. ix. Cross examination request. x. Pre-assessment/penalty notices. xi. Replies filed by the tax payer. d. Narrate the name and address, GSTIN, and brief business practice, person to whom the order is intended and the assessment year to which the order relates. e. The Adjudication order shall contain a bilingual preamble in Tamil and English for better understanding of the tax payers (Model enclosed as Annexure) f. Narrate the contents of the notice. g. Narrate tax payer's reply. h. Personal hearing and Record of personal hearing. i. Briefly discuss and decide on the issues conceded by the taxable person. j. Issues framed on matters in which there is difference between adjudicating authority and the taxable person. Connected issues to be answered along with the main issue. k. Discuss issue-wise along with evidence and facts. Judgments, if any cited, shall be discussed in depth relating to the issue. l. Furnish the tax liability calculation. Quantify the tax, interest and penalty payable by the taxable person. If tax demand is yet to be paid, interest may not be quantified as it will be accruing every passing day till the date of payment. Hence, as regards interest not quantified cases, a mention that Interest at applicable rates as per Section 50 (1) or (3) would be payable will be quintessential. m. Specify the Authority before whom an appeal can be filed and the time limit within which it has to be filed. 7. The above instructions are meant to be

guidelines for Adjudicating Authorities and shall not be cited by any Proper officer as reference in the show cause notice or in any order. All Proper Officers shall follow the above guidelines. All Joint Commissioners and Deputy Commissioners shall supervise the compliance to above Guidelines. Detailed training and awareness shall be conducted among all officers of the Department through the Commercial Taxes Staff Training Institute / Regional Training Chapters.

DR. Jagannathan,

Commissioner of State Tax

Notification Judgement Page NO-55 to 73

Seizure of cash & silver bars recovered during GST search is not sustainable: SC

Case Law Details

Case Name : Commissioner of CGST Vs Deepak Khandelwal
(Supreme Court of India)

Appeal Number : Special Leave Petition (C) Diary No. 31886 of 2024

Date of Judgement/Order : 14/08/2024

Related Assessment Year :

Commissioner of CGST Vs Deepak Khandelwal (Supreme Court of India)

Summary: The Supreme Court of India dismissed the Special Leave Petition (SLP) by the Commissioner of CGST in the case against Deepak Khandelwal, thereby upholding the Delhi High Court's decision that the seizure of cash and silver bar

Notification Judgement Page NO-56 to 73

Delay in filing of an appeal occurred due to search of relevant document condoned: Madras HC

Case Law Details

Case Name : Tv1.PGN Traders Vs Assistant Commissioner (ST)(FAC)
(Madras High Court)

Appeal Number : W.P. No. 23637 of 2024

Date of Judgement/Order : 20/08/2024

Related Assessment Year :

Courts : All High Courts Madras High Court

Tv1.PGN Traders Vs Assistant Commissioner (ST)(FAC) (Madras High Court)

Madras High Court condoned the delay in filing of an appeal before concerned authority as delay occurred in searching relevant documents to disprove the allegation of business transaction undertaken with a non-existent entity. Facts- It is alleged by the respondent that the petitioner was engaged in business transaction with a non-existing entity, viz., M/s.R.R.Traders. However, since the petitioner was in the search of the

relevant documents to establish his case to prove the existence of the entity, he was not in a position to file an appeal within the period of limitation. Hence, though he had sought for larger relief in this petition, he had restricted his relief to the extent to request this Court to condone the delay in filing the appeal before the concerned Authority and contest the matter on merits by producing all the relevant documents to substantiate his case. Conclusion- Held that the petitioner has restricted his relief and requested this Court to condone the delay in filing the appeal before the concerned Authority on the basis that they had found some of the new documents, which will substantiate their case before the concerned Authority. In such case, this Court is of the view that the justice has to be rendered to the petitioner by providing an opportunity to present his case before the concerned Authority and hence, this Court is inclined to consider the submissions made by the petitioner, subject to the terms as contended by the respondent.

Notification Judgement Page NO-56 to 73

Principles of natural justice violated as matter reopened without assigning specific reason: Madras HC

Case Law Details

Case Name : Ella Tea Industry Vs Deputy State Tax Officer-I (Madras High Court)

Appeal Number : W.P. No. 19671 of 2024

Date of Judgement/Order : 08/08/2024

Related Assessment Year :

Courts : All High Courts Madras High Court

Ella Tea Industry Vs Deputy State Tax Officer-I (Madras High Court)

Madras High Court held that reopening the closed matter without assigning specific or new reasons is contrary to law and in violation of the principles of natural justice. Thus, order impugned is liable to be quashed. Facts- Petitioner is engaged in the Tea Industry and are a registered dealer under the Tamil Nadu Goods and Services Tax (TNGST) Act. Upon scrutiny u/s. 61 of the Act, for the year 2018- 2019, the respondent found some discrepancies in the petitioner's tax return and issued a show cause notice dated 25.11.2021, stating that the petitioner company had not declared its correct tax liability, while filing

GSTR-3B for the said period and had claimed excess Input Tax Credit (ITC) than what was available in the inward data. Upon receipt of the same, the petitioner submitted its reply on 19.12.2022 with supporting documents, and the respondent, being satisfied with the explanation provided, dropped further proceedings against the petitioner vide order dated 03.01.2023. Despite the closure of the matter on previous occasion, the respondent issued another show cause notice on 28.12.2023, alleging that the petitioner had availed excess ITC for the same year 2018-2019, and was required to reverse the same. Respondent, without duly considering the reply submitted by the petitioner, simply confirmed the proposal stated in the show cause notice dated 28.12.2023 and passed a demand order u/s. 73(9) of the TNGST/CGST Acts, 2017. Aggrieved by the same, the petitioner has filed the present writ petition. Conclusion- Held that in respect of the issue pertaining to the assessment year 2018-2019, the respondent had already dropped the proceedings after being satisfied with the petitioner's reply submitted by Despite this, the respondent reopened the case and issued a show cause notice for the very same assessment year 2018-19, which ultimately ended in passing of the impugned order. Though the petitioner submitted its detailed reply to the said notice, the respondent rejected the same by simply stating "not satisfied", without giving any adequate or specific reason. Such course adopted by the respondent is contrary to law and in violation of the principles of natural

justice. Therefore, the order impugned herein is liable to be set aside. consent, this writ petition is taken up for disposal at the stage of admission itself. 2. According to the petitioner, they are engaged in the Tea Industry and are a registered dealer under the Tamil Nadu Goods and Services Tax (TNGST) Act. Upon scrutiny under Section 61 of the Act, for the year 2018- 2019, the respondent found some discrepancies in the petitioner's tax return and issued a show cause notice dated 25.11.2021, stating that the petitioner company had not declared its correct tax liability, while filing GSTR-3B for the said period and had claimed excess Input Tax Credit (ITC) than what was available in the inward data. Upon receipt of the same, the petitioner submitted its reply on 19.12.2022 with supporting documents, and the respondent, being satisfied with the explanation provided, dropped further proceedings against the petitioner vide order dated 03.01.2023. 3. It is further stated by the petitioner that despite the closure of the matter on previous occasion, the respondent issued another show cause notice on 28.12.2023, alleging that the petitioner had availed excess ITC for the same year 2018-2019, and was required to reverse the same. Pursuant to the same, the petitioner prepared its detailed reply and uploaded it on the common portal on 15.02.2024 with all necessary documents. However, the respondent, without duly considering the reply submitted by the petitioner, simply confirmed the proposal stated in the show cause notice dated 28.12.2023 and passed a demand order under Section 73(9) of the

TNGST/CGST Acts, 2017, on 29.04.2024. Aggrieved by the same, the petitioner has filed the present writ petition to quash the said orders passed by the respondent and to direct the respondent to reconsider the submissions made by the petitioner. 4. The learned counsel for the petitioner contends that the respondent, after considering the reply and supporting documents filed by the petitioner in the earlier proceedings, had dropped the charges for the assessment year 2018-2019. Yet, without assigning any specific or new reasons, the respondent reopened the case and passed the impugned orders for the very same year. The learned counsel would further submit that the respondent's failure to address the grounds raised in the petitioner's detailed reply is in violation of the principles of natural justice. Therefore, the learned counsel prayed to allow this writ petition by setting aside the orders impugned herein. 5. On the other hand, the learned Government Advocate (Taxes) made his submissions supporting the orders passed by the respondent. 6. Heard the learned counsel on either side and perused the materials available on record. 7. It is an admitted fact that in respect of the issue pertaining to the assessment year 2018-2019, the respondent had already dropped the proceedings after being satisfied with the petitioner's reply submitted by. Despite this, the respondent reopened the case and issued a show cause notice for the very same assessment year 2018-19, which ultimately ended in passing of the impugned order. Though the petitioner submitted its detailed reply to the said notice, the respondent rejected the same by

simply stating “not satisfied”, without giving any adequate or specific reason. Such course adopted by the respondent is contrary to law and in violation of the principles of natural justice. Therefore, the order impugned herein is liable to be set aside. 8. Accordingly, the order dated 29.04.2024 passed by the respondent is set aside and the respondent is directed to pass a detailed order afresh, on merits and in accordance with law, more specifically addressing each grounds raised by the petitioner in their reply. Such an exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this 9. This writ petition is disposed of on the above terms. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Notification Judgement Page NO-56 to 73

Kerala HC Orders Hearing for ITC Rectification in GST Case

Case Law Details

Case Name : Rinshad Maliyam Karim Vs State Tax Officer (Kerala High Court)

Appeal Number : WP(C) No. 26262 of 2024

Date of Judgement/Order : 06/08/2024

Related Assessment Year :

Courts : All High Courts Kerala High Court

Rinshad Maliyam Karim Vs State Tax Officer (Kerala High Court)

In the case of Rinshad Maliyam Karim Vs State Tax Officer, the Kerala High Court addressed a GST dispute where the petitioner, a registered dealer, faced a liability due to discrepancies between the GSTR-1 filed by the supplier and the GSTR-3B filed by the petitioner. This mismatch resulted in the denial of certain input tax credits (ITC) to which the petitioner was entitled, leading to additional liabilities, interest, and penalties. The petitioner had filed an application under Section 161 of the CGST/SGST Act for rectification of the assessment order. The Kerala High Court, without delving into the merits of the case, directed the competent authority to review the rectification application (Ext.P9)

and pass a decision in accordance with the law. The court mandated that the petitioner be given an opportunity to be heard and that a decision be made within three months from the receipt of the judgment's certified copy. The petitioner is a registered dealer under the CGST/SGST Act. According to the petitioner owing to mismatch between GSTR-I filed by the supplier and GSTR-3B filed by the petitioner certain input tax credit to which the petitioner was entitled has not been granted to him, as a result of which huge liability has been imposed on the petitioner together with interest and penalty. The petitioner has preferred Ext.P9 application under Section 161 of the CGST/SGST Act for rectification of the order. 2. The learned counsel appearing for the petitioner submits that the petitioner will be satisfied if a direction is issued to the respondent to consider Ext.P9 in accordance with the law after affording an opportunity of hearing to the petitioner. 3. The learned Senior Government Pleader submits that the respondent can be directed to take a decision on Ext.P9 in accordance with the law. 4. Having heard the learned counsel appearing for the petitioner and the learned Senior Government Pleader and having regard to the limited nature of the reliefs now sought for by the petitioner, without going into the merits, this writ petition will stand disposed of directing the respondent to consider and pass orders on Ext.P9 rectification application filed by the petitioner in accordance with the law, after affording an opportunity of

hearing to the petitioner within a period of 3 months from the date of receipt of a certified copy of this judgment.

\

Notification Judgement Page NO-56 to 73

Ocean Freight Services is not subjected to GST: Madras HC

Case Law Details

Case Name : Viterra India Pvt Ltd Vs Union of India (Madras High Court)

Appeal Number : W.P(MD)No. 19314 of 2024

Date of Judgement/Order : 14/08/2024

Related Assessment Year :

Courts : All High Courts Madras High Court

Viterra India Pvt Ltd Vs Union of India (Madras High Court)

Madras High Court held that GST is not leviable on Ocean Freight Services as per Supreme Court judgement and relevant notification. Thus, any amount collected by department as GST on Ocean Freight Services needs to be refunded back. Facts- This Writ Petition is filed to quash the order in appeal dated 03.12.2021 and rectification order dated 28.06.2022 passed by the respondent Nos.2 and 3 respectively and direct the respondents to forthwith sanction and grant the refund of Rs. 13,147/- along with appropriate interest for the month of July 2019. It is submitted by the learned counsel for the petitioner as well as the learned counsel for the respondents that the issue stands covered by the

judgment of the Hon'ble Supreme Court in 2022(61) GSTL 257 (SC) confirming the judgment of Gujarat High Court, wherein it was held that the levy of GST on Ocean Freight Services vide notification 8/2017-IT(Rate), dated 28.07.2017 and the Entry of the Notification No.10 of 2017-IT(Rate), dated 06.2017 was struck down. Conclusion- Held that it is an admitted fact that the issue of levy of GST on Ocean Freight Services is settled by the Hon'ble Supreme Court and the Notification 8/2017- IT(Rate) dated, 28.07.2017 and the Entry of the Notification No.10 of 2017-IT(Rate), dated 06.2017 is struck down as ultra vires. In such circumstances the respondents are not empowered to collect GST for the Ocean Freight Services and consequently the respondents are bound to refund the amount collected. This Writ Petition is filed to quash the order in appeal dated 03.12.202 1 and rectification order dated 28.06.2022 passed by the respondent Nos.2 and 3 respectively and direct the respondents to forthwith sanction and grant the refund of Rs. 13,147/- along with appropriate interest for the month of July 2019. 2. It is submitted by the learned counsel for the petitioner as well as the learned counsel for the respondents that the issue stands covered by the judgment of the Hon'ble Supreme Court in 2022(61)GSTL 257 (SC) confirming the judgment of Gujarat High Court, wherein it was held that the levy of GST on Ocean Freight Services vide notification 8/2017-IT(Rate), dated 28.07.2017 and the Entry of the Notification No.10 of 2017-IT(Rate), dated 06.2017 was struck down. The relevant portion of

the judgment is extracted hereunder: “3. The issue raised in this Writ petition was already allowed in favour of the assessee by the Hon’ble Gujarat High Court in the case of Mohit Minerals V. Union of India, reported in [2020 (33) GSTL 321 (Guj.)] whereby the Notification 8/2017- IT(Rate) dated, 28.07.2017 and the Entry of the Notification No.10 of 2017-IT(Rate), dated 06.2017 was struck down. Subsequently the Department preferred SLP before the Hon ‘ble Supreme Court, whereby the Civil Appeal was dismissed vide order dated 19.05.2022 reported in 2022 (61) GSTL 257 (SC) confirming the judgment of Gujarat High Court holding that the levy of GST on Ocean Freight Services vide the notification stated supra is ultra vires section 8 of the CGST Act as well as section 5(3) of the IGST Act and accordingly no GST is leviable on such service. 4. Based on the aforesaid judgment, the petitioner had filed rectification application dated 30.05.2022 under section 161 of CGST to rectify the Order-in-Original dated 03.12.2012, but the respondents rejected the application vide order dated 28.06.2022, stating that the petitioner is having remedy before the Goods and Service Tax Appellate Tribunal. However the Tribunal has not been constituted and thus the Tribunal is not in existence. Hence the petitioner had filed the present writ petition. 5. It is an admitted fact that the issue of levy of GST on Ocean Freight Services is settled by the Hon ’ble Supreme Court and the Notification 8/2017- IT(Rate) dated, 28.07.2017 and the Entry of the Notification No.10 of 2017-IT(Rate), dated 06.2017 is struck

down as ultra vires. In such circumstances the respondents are not empowered to collect GST for the Ocean Freight Services and consequently the respondents are bound to refund the amount collected. 6. Therefore, the respondents are liable to refund an amount of Rs. 45,93,793/- and the respondents are directed to refund the same. As far as the interest portion is concerned, this Court is leaving open to the parties to adjudicate the same.” 3. In view thereof, the Writ Petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Notification Judgement Page NO-56 to 73

Missing Hearing Dates, Reasons & Undisclosed Facts: HC Quashes ITC Rejection Order

Case Law Details

Case Name : Arihant Steel Vs State of U.P. And 2 Others (Allahabad High Court)

Appeal Number : Writ Tax No. 1534 of 2022

Date of Judgement/Order : 07/08/2024

Related Assessment Year :

Courts : All High Courts Allahabad High Court

Arihant Steel Vs State Of U.P. And 2 Others (Allahabad High Court) In the case of Arihant Steel vs. State of U.P. and others, the Allahabad High Court reviewed a writ petition challenging the orders passed by the Assistant Commissioner and Additional Commissioner of State Goods & Service Tax, which had rejected the petitioner's Input Tax Credit (ITC) claims. The petitioner argued that the rejection was unjust as it lacked proper notice and reasoning. Specifically, the notice did not include hearing dates or reasons for the rejection, and new facts used against the petitioner in the appeal were not previously disclosed. The Court agreed, noting that the petitioner was denied an opportunity to

present their case effectively. Consequently, the Court quashed the impugned orders and remanded the matter for a fresh, reasoned decision by the authorities, ensuring proper hearing and consideration of all relevant facts. Heard Sri Parth Goswami, Advocate holding brief Sri Pranjali Shukla, learned counsel for the petitioner and learned Standing Counsel for the State-respondents. 2. By means of instant writ petition, the petitioner has assailed the order dated 24.09.2019 passed by Assistant Commissioner, Sector-8, State Goods & Service Tax, Bareilly as well as the impugned order dated 07.07.2022 passed by the Additional Commissioner, Grade-2 (Appeal) 1st, State Goods & Service Tax, Bareilly. 3. Learned counsel for the petitioner submits that the petitioner, being a registered dealer, in normal course of business, purchased the goods from authorized dealer through tax invoice and paid the due tax thereof. The goods were transported to M/s Awadh Transporter, Nanpara, bill has already been filed to which payment was made through banking channel. Thereafter, the petitioner claimed the Input Tax Credit, which has wrongly been rejected without issuing proper notice or reasoned order, which has been confirmed by the appellate court. He submits that in the notice dated 14.08.2019, neither the place of venue nor date of hearing was given and therefore the impugned order has illegally been passed, rejecting the claim under Section 73 of the SGST Act, as no reason has been assigned therein for rejection and only refers the ITC claim rejected, against which an appeal was preferred, which

has also been dismissed without considering the material available on record. 4. He further submits that since the petitioner was neither given any opportunity of hearing nor to lead his case as no date was fixed for personal hearing in the notice nor any reason in the notice or in the order has been assigned for rejecting the claim of the petitioner. Further, the appeal has also been rejected on the facts, which was brought for the first time in the appeal and therefore, the material, which has been used against the petitioner for the first time in the appeal, cannot be used without giving due opportunity to rebut the same. 5. Per contra, learned Standing Counsel supports the impugned orders by submitting that since the petitioner has wrongly availed the ITC, therefore, the same has rightly been rejected. 6. After hearing the parties, the Court has perused the record. 7. In the notice issued to the petitioner, neither the date for personal hearing was fixed nor any reason has been assigned for initiating the proceedings under Section 73 of the SGST Act, and the impugned order has been passed by the assessing authority i.e. respondent no.3 without assigning any reason. Further, in the appeal, new facts were brought to which the petitioner was never put to notice, learned Standing Counsel could not dispute the said fact that for the first time, the new facts have been mentioned in the impugned order to which the petitioner has not been given any opportunity to rebut the same. 8. In view of the categorical statements made by the learned Standing Counsel as well as material available on record, impugned orders cannot

sustain in the eyes of law and the same are hereby quashed. 9. Accordingly, the writ petition is allowed. The matter is remanded to the respondent no.3 to pass a fresh reasoned and speaking order, without being influenced from any observation made here-in-above, within a period of two months from the date of production of certified copy of this order, after hearing all the stakeholders. 10. Any amount deposited by the petitioner pursuant to the impugned orders, shall be subject to the outcome of the fresh order to be passed by the respondent