

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

**GST UPDATE**  
**(October 2023)**

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Notification No: 52/2023 – Central Tax, G.S.R. 798(E)	Seeks to amend Notification No 05/2017- Central Tax (Rate) dated 28.06.2017.
Notification No: 12/2023-Central Tax (Rate)	Seeks to amend Notification No 05/2017- Central Tax (Rate) dated 28.06.2017.
Notification No: 13/2023-Central Tax (Rate)	Seeks to amend Notification No 11/2017- Central Tax (Rate) dated 28.06.2017.
Notification No: 14/2023-Central Tax (Rate)	Seeks to amend Notification No 12/2017- Central Tax (Rate) dated 28.06.2017.
Notification No: 15/2023-Central Tax (Rate)	Seeks to amend Notification No 13/2017- Central Tax (Rate) dated 28.06.2017
Notification No: 16/2023-Central Tax (Rate)	Seeks to amend Notification No 15/2017- Central Tax (Rate) dated 28.06.2017.
Notification No: 17/2023-Central Tax (Rate)	Seeks to amend Notification No 17/2017- Central Tax (Rate) dated 28.06.2017.
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Notification No: 17/2023- Integrated Tax (Rate)	Seeks to amend Notification No 10/2017- Integrated Tax (Rate) dated 28.06.2017.

Notification No: 18/2023- Integrated Tax (Rate)	Seeks to amend Notification No 12/2017- Integrated Tax (Rate) dated 28.06.2017.
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Notification No: 20/2023- Integrated Tax (Rate)	Seeks to amend Notification No 01/2017- Integrated Tax (Rate) dated 28.06.2017
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## **(I) CENTRE GST NOTIFICATIONS**

### **1. Notification No: 52/2023 – Central Tax, G.S.R. 798(E)**

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

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

**NOTIFICATION  
No. 52/2023 – Central Tax**

**New Delhi, dated the 26<sup>th</sup> October,**

**2023 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 Central 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 (Fourth Amendment) Rules, 2023.

(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 (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 rule12(3)]*

Reference No

Date:

To

Name:

Address:

Application Reference No.(ARN)

Date:

**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:—

i. ii.

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.....

- 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

- 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

- 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

- 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

- 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

- Whereas reply to the show cause notice has been submitted vide letter dated\_\_\_\_\_ and 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) :

i. ii.

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 and paid**

Description	Amount payable	Amount paid
1	2	3
<b>(I) Interest on account of TCS in respect of</b>		
(a) Integrated tax		
(b) Central Tax		
(c) State/UT Tax		
<b>(II) Late fee</b>		
(a) Central tax		
(b) State / UT tax		

“,

(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]**

Description	Tax	Interest	Late fee
1	2	3	4
(a) Integrated tax			
(b) Central Tax			
(c) State/UT Tax			

”.

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:-

“

4	Enrolment sought:	<ul style="list-style-type: none"> <li>(1) Chartered Accountant</li> <li>(2) Company Secretary</li> <li>(3) Cost and Management Accountant</li> <li>(4) Graduate or Postgraduate or its equivalent degree in Law</li> <li>(5) Graduate or Postgraduate or its equivalent degree in Commerce</li> <li>(6) Graduate or Postgraduate or its equivalent degree in Banking including Higher Auditing</li> <li>(7) Graduate or Postgraduate or its equivalent degree in Business Administration</li> <li>(8) Graduate or Postgraduate or its equivalent degree in Business Management</li> <li>(9) Degree examination of any Foreign University recognized by any Indian University</li> </ul>
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		(10) Retired Government Officials (11) Sales Tax practitioner under existing law for a period of not less than five years (12) Tax return preparer under existing law for a period of not less than five years (13) Any other examination notified by Government
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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.”.

[F. No. CBIC-20001/10/2023-GST]

(Raghvendra Pal Singh)  
Director

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 were last amended *vide* notification No. 51/2023 - Central Tax, dated the 29<sup>th</sup> September, 2023 published *vide* number G.S.R. 707(E), dated the 29<sup>th</sup> September, 2023.

**(II) CGST RATE NOTIFICATIONS**

**1. Notification No. 12/2023- Central Tax (Rate)**

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

Government of India

Ministry of Finance

(Department of Revenue)

Notification No. 12/2023- Central Tax (Rate)

New Delhi, the 19<sup>th</sup>

October, 2023

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, -

(A) in the Table,

- (i) against serial number 8, in column (3), in item (vi), after the condition in column (5) against the rate of 2.5 percent, the following condition shall be inserted, namely:-

“Provided further that where the supplier of input service in the same line of business charges central tax at a rate higher than 2.5%, credit of input tax charged on the input service in the same line of business in excess of the tax paid or payable at the rate of 2.5%, shall not be taken.

Illustration: ‘A’ engages ‘B’ for transport from New Delhi to Jaipur in a motor cab for Rs. 1000. ‘B’, for supplying the said service, hires a motor cab with operator from ‘C’ for Rs.

800. ‘C’ charges ‘B’ central tax at the rate of 6% (Rs. 48). If ‘B’ charges ‘A’ central tax at the rate of 2.5%, he shall be entitled to take input tax credit on the input service in the

same line of business supplied by 'C' only to the extent of Rs. 20 (2.5% of Rs. 800) and not Rs.

48.”;

- (ii) against serial number 10, in column (3), in item (i), after the condition in column (5) against the rate of 2.5 percent, , the following condition shall be inserted, namely:-

“Provided further that where the supplier of input service in the same line of business charges central tax at a rate higher than 2.5%, credit of input tax charged on the input service in the same line of business in excess of the tax paid or payable at the rate of 2.5%, shall not be taken. Illustration: 'A' engages 'B' for transport from New Delhi to Jaipur in a motor cab for Rs.

1000. 'B', for supplying the said service, hires a motor cab with operator from 'C' for Rs.

800. 'C' charges 'B' central tax at the rate of 6% (Rs. 48). If 'B' charges 'A' central tax at the rate of 2.5%, he shall be entitled to take input tax credit on the input service in the same line of business supplied by 'C' only to the extent of Rs. 20 (2.5% of Rs. 800) and not Rs. 48.”;

- (iii) against serial number 34, -

- (a) in column (3), in item (iv), for the words “totalisator or a license to” , the words “licensing a” shall be substituted;



(b) in column (3), item (v) and the entries relating thereto shall be omitted;

(B) in the Annexure: Scheme of Classification of Services,-

(i) serial number 696 and the entries relating thereto shall be omitted; (ii) serial number 698 and the entries relating thereto shall be omitted.

2. This notification shall come into force with effect from the 20<sup>th</sup> day of October, 2023.

[F.No. CBIC-190354/195/2023-TO (TRU-II)-CBEC]

(Rajeev Ranjan) Under  
Secretary to the Government  
of India

Note: -The principal notification number 11/2017 -Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 690 (E), dated the 28th June, 2017 and was last amended vide notification number 06/2023-Central Tax (Rate), dated the 26<sup>th</sup> July, 2023 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 537(E), dated the 26<sup>th</sup> July, 2023.

## **2. Notification No. 13/2023- Central Tax (Rate)**

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

Government of India  
Ministry of Finance  
(Department of Revenue)

Notification No. 13/2023- Central Tax (Rate)

New Delhi, the 19<sup>th</sup> October, 2023

G.S.R. -----(E). -In exercise of the powers conferred by sub-sections (3) and (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 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 amendment further to amend the notification of the Government of India, Ministry of Finance (Department of Revenue), No.12/2017-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. 691(E), dated the 28th June, 2017, namely:—

In the said notification, in the Table, -

(1.) after serial number 3A and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
"3B	Chapter 99	Services provided to a Authority by way of - (a) water supply; (b) public health; (c) sanitation conservancy; (d) solid waste management; and (e) slum improvement and upgradation.	Nil	Nil";

(2.) against serial number 6, in column (3), in item (a), after the words "Department of Posts", the words and brackets "and the Ministry of Railways (Indian Railways)" shall be inserted;

- (3.) against serial number 7, in column (3), in the Explanation, in item (a), in sub-item(i), after the words “Department of Posts”, the words and brackets “and the Ministry of Railways (Indian Railways)” shall be inserted;
- (4.) against serial number 8, in column (3) in the proviso, in item (i), after the words “Department of Posts”, the words and brackets “and the Ministry of Railways (Indian Railways)” shall be inserted;
- (5.) against serial number 9, in column (3), in the first proviso, in item (i), after the words “Department of Posts”, the words and brackets “and the Ministry of Railways (Indian Railways)” shall be inserted;

2. This notification shall come into force with effect from the 20<sup>th</sup> day of October, 2023.

[F.No. CBIC-190354/195/2023-TO (TRU-II)-CBEC]

(Rajeev Ranjan) Under  
Secretary to the Government  
of India

Note: The principal notification no. 12/2017 - Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 691 (E), dated the 28th June, 2017 and was last amended vide notification no. 07/2023 - Central Tax (Rate), dated the 26<sup>th</sup> July, 2023 published in the Gazette of India, Extraordinary, Part II , Section 3 , Sub-section (i) vide number G.S.R. 540(E), dated the 26<sup>th</sup> July, 2023.

### **3. Notification No. 14/2023- Central Tax (Rate)**

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

Government of India  
Ministry of Finance  
(Department of Revenue)

Notification No. 14/2023- Central Tax (Rate)

New Delhi, the 19<sup>th</sup> October, 2023

GSR.....(E).-In exercise of the powers conferred by sub-section (3) of section 9 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.13/2017-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. 692(E), dated the 28th June, 2017, namely:

In the said notification, in the Table, -

(i) against serial number 5, in column (2), in item (2), in sub-item (i), after the words “Department of Posts”, the words and brackets “and the Ministry of Railways (Indian Railways)” shall be inserted;

(ii) against serial number 5A, in column (2), after the words “Services supplied by the Central Government”, the words and brackets “[excluding the Ministry of Railways (Indian Railways)]” shall be inserted.

2. This notification shall come into force with effect from the 20<sup>th</sup> day of October, 2023.

[F.No. CBIC-190354/195/2023-TO (TRU-II)-CBEC]

(Rajeev Ranjan) Under  
Secretary to the Government  
of India

Note: -The principal notification no. 13/2017 -Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3,

Sub-section (i) , vide number G.S.R. 692 (E), dated the 28th June, 2017 and was last amended vide notification no. 08/2023 -Central Tax (Rate), dated the 26<sup>th</sup> July, 2023 published in the Gazette of India, Extraordinary,Part II , Section 3 , Sub-section (i) vide number G.S.R. 543(E), dated the 26<sup>th</sup> July, 2023.



#### **4. Notification No. 15/2023- Central Tax (Rate)**

[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. 15/2023-Central Tax (Rate)

New Delhi, the 19<sup>th</sup> October, 2023

G.S.R.....(E).- In exercise of the powers conferred by sub-section (3) of section 54 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 amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue) No. 15/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i), vide number G.S.R. 694(E), dated the 28th June, 2017, namely:-

In the said notification, in opening paragraph , for the words, brackets, letters and figures “specified in subitem (b) of item 5 of Schedule II of the Central Goods and Services Tax Act”, the words, “of construction of a complex, building or a part thereof, intended for sale to a buyer, wholly or partly, where the amount charged from the recipient of service includes the value of land or undivided share of land, as the case may be, except where the entire consideration has been received after issuance of completion certificate , where required , by the competent authority or after its first occupation , whichever is earlier”, shall be substituted.

2. This notification shall come into force with effect from the 20<sup>th</sup> October, 2023.

[F.No. CBIC-190354/195/2023-TO (TRU-II)-CBEC]

(Rajeev Ranjan)

Under Secretary to the Government of India

Note:-The principal notification no. 15/2017-Central Tax (Rate), dated the 28<sup>th</sup> June,2017 was published in the

Gazette of India, Extraordinary, vide number G.S.R. 694(E),dated the 28<sup>th</sup> June, 2017.

## **5. Notification No. 16/2023- Central Tax (Rate)**

[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION 3,

SUBSECTION (i)]

Government of India  
Ministry of Finance  
(Department of Revenue)

Notification No. 16/2023-Central Tax (Rate)

New Delhi, 19<sup>th</sup> October, 2023

G.S.R.....(E).- In exercise of the powers conferred by sub-section (5) of section 9 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.17/2017- 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. 696(E) dated the 28th June, 2017, namely:-

In the said notification,

(i.) in clause (i), for the words “omnibus or any other motor vehicle”, the words “or any other motor vehicle except omnibus” shall be substituted;

(ii.) after clause (i), the following clause shall be inserted, namely:-

“(ia) services by way of transportation of passengers by an omnibus except where the person supplying such service through electronic commerce operator is a company.”;

(iii.) in the Explanation, after item (c), the following item shall be inserted, namely, -

“(d) “Company” has the same meaning as assigned to it in clause (20) of section 2 of the Companies Act, 2013(18 of 2013).”.

2. This notification shall come into force with effect from the 20<sup>th</sup> day of October, 2023.

[F.No. CBIC-190354/195/2023-TO (TRU-II)-CBEC]

(Rajeev Ranjan) Under  
Secretary to the Government  
of India

Note:-The principal notification No. 17/2017 -Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 696 (E), dated the 28th June, 2017 and was last amended by notification No. 17/2021 -Central Tax (Rate), dated the 18<sup>th</sup> November, 2021 vide number G.S.R. 813(E), dated the 18<sup>th</sup> November, 2021.

## **6. Notification No. 17/2023- Central Tax (Rate)**

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

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION No. 17/2023-Central Tax (Rate)

New Delhi, the 19<sup>th</sup> October, 2023

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, 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%, -

- (i) after S. No. 92 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:

-

(1)	(2)	(3)
“92A.	1703	Molasses”;

- (ii) after S. No. 96 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:

-

(1)	(2)	(3)
“96A.	1901	Food preparation of millet flour, in powder form, containing at least 70% millets by weight, pre-packaged and labelled”;

- (B) in Schedule III – 9%,

- (i) against S. No. 13, in column (3), for the words and figures “of heading 1905”, the words and figures

“of heading 1905; food preparation of millet flour, in powder form, containing at least 70% millets by weight, pre-packaged and labelled ” shall be substituted;

- (ii) after S. No. 25 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

(1)	(2)	(3)
“25A.	2207 10 12	Spirits for industrial use”;

(C) in Schedule IV – 14%, S. No. 1 and the entries relating thereto shall be omitted.

2. This notification shall come into force with effect from the 20<sup>th</sup> day of October, 2023.

[F. No. CBIC-190354/195/2023-TO(TRU-II)-CBEC]

Vikram Wanere

Under Secretary

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. 11/2023– Central Tax (Rate), dated the 29<sup>th</sup> September, 2023, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 711(E), dated the 29<sup>th</sup> September, 2023.



## **7. Notification No. 18/2023- Central Tax (Rate)**

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

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION No. 18/2023-Central Tax (Rate)

New Delhi, the 19<sup>th</sup> October, 2023

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), the Central Government, 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, Ministry of Finance (Department of Revenue), No.2/2017-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. 674(E), dated the 28<sup>th</sup> June, 2017, namely:-

In the said notification, in the Schedule, after S. No. 94 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

(1)	(2)	(3)
-----	-----	-----

“94A.	1901	Food preparation of millet flour, in powder form, containing at least 70% millets by weight, other than pre-packaged and labelled”.
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2. This notification shall come into force with effect from the 20<sup>th</sup> day of October, 2023.

[F. No. CBIC-190354/195/2023-TO(TRU-II)-CBEC]

Vikram Wanere

Under Secretary

Note: - The principal notification No.2/2017-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. 674(E)., dated the 28<sup>th</sup> June, 2017 and was last amended by notification No. 04/2023 – Central Tax (Rate), dated the 28<sup>th</sup> February, 2023, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 150(E)., dated the 28<sup>th</sup> February, 2023.

## **8. Notification No. 19/2023- Central Tax (Rate)**

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

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)

NOTIFICATION No. 19/2023-Central Tax (Rate)

New Delhi, the 19<sup>th</sup> October, 2023

G.S.R.....(E).- In exercise of the powers conferred by sub-section (3) of section 9 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, Ministry of Finance (Department of Revenue), No. 4/2017- 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. 676(E), dated the 28<sup>th</sup> June, 2017, namely:-

In the said notification, in the Table, against S. No. 6, in column 4, for the entry, the following entry may be substituted, namely: -

“Central Government [excluding Ministry of Railways (Indian Railways)], State Government,  
Union  
territory or a local authority.”

2. This notification shall come into force with effect from the 20<sup>th</sup> day of October, 2023.

[F. No. CBIC-190354/195/2023-TO(TRU-II)-CBEC]

Vikram Wanere  
Under Secretary

Note: - The principal notification No. 4/2017-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. 676(E), dated the 28<sup>th</sup> June, 2017 and was last amended by notification No. 14/2022-Central Tax (Rate), dated the 30<sup>th</sup> December, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 922 (E), dated the 30<sup>th</sup> December, 2022.

## **9. Notification No. 20/2023- Central Tax (Rate)**

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

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)

Notification No. 20/2023-Central Tax (Rate)

New Delhi, the 19<sup>th</sup> October, 2023

G.S.R. (E).- In exercise of the powers conferred by clause (ii) of the proviso to sub-section (3) of section 54 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. 5/2017-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. 677(E), dated the 28<sup>th</sup> June, 2017, namely :-

In the said notification, in the TABLE, after S. No. 6A and the entries relating thereto, following S.No. and the entries shall be inserted, namely:-

(1)	(2)	(3)
“6AA.	5605	Imitation zari thread or yarn made out of Metallised polyester film /plastic film;

		Explanation: This entry shall apply for refund of input tax credit only on polyester film /plastic film”;
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2. This notification shall come into force with effect from the 20<sup>th</sup> day of October, 2023.

[F. No. CBIC-190354/195/2023-TO(TRU-II)-CBEC]

Vikram Wanere

Under Secretary

Note: - The principal notification No.5/2017-Central Tax (Rate), dated the 28th day of June, 2017, was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 677(E)., dated the 28<sup>th</sup> day of June, 2017, and was last amended by notification No. 9/2022 – Central Tax (Rate), dated the 13<sup>th</sup> July, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 559(E)., dated the 13<sup>th</sup> July, 2022.

### **(III) IGST NOTIFICATIONS**

#### **1. Notification No. 05/2023- Integrated Tax**

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

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

**NOTIFICATION  
No. 05/2023 – Integrated Tax**

**New Delhi, the 26<sup>th</sup> October, 2023**

G.S.R.....(E):—In exercise of the powers conferred by sub-section (4) of section 16 of Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, 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. 01/2023-Integrated Tax, dated the 31<sup>st</sup> July, 2023, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 578 (E), dated the 31<sup>st</sup> July, 2023, namely:-

In the said notification, for the portion commencing with the words “all goods or services” and ending with the words “the refund of tax so paid:”, the following shall be substituted and shall be deemed to have been substituted with effect from the 1<sup>st</sup> day of October, 2023, namely:—

“(i) all goods or services (except the goods specified in column (3) of the TABLE below) as the class of goods or services which may be exported on payment of integrated tax and on which the supplier of such goods or services may claim the refund of tax so paid; and

(ii) all suppliers to a Developer or a unit in Special Economic Zone undertaking authorised operations as the class of persons who may make supply of goods or services (except the goods specified in column (3)

of the TABLE below) to such Developer or a unit in Special Economic Zone for authorised operations on payment of integrated tax and on which the said suppliers may claim the refund of tax so paid:

*Explanation,— For the purpose of this clause:—*

- (i) the term “authorised operations” shall have the same meaning as defined in clause (c) of Section 2 of the Special Economic Zone Act, 2005 (28 of 2005),*
- (ii) the term “Developer” shall have the same meaning as defined in clause (g) of Section 2 of the Special Economic Zone Act, 2005 (28 of 2005),*
- (iii) the term “Special Economic Zone” shall have the same meaning as defined in clause (za) of Section 2 of the Special Economic Zone Act, 2005 (28 of 2005),*
- (iv) the term “unit” shall have the same meaning as defined in clause (zc) of Section 2 of the Special Economic Zone Act, 2005 (28 of 2005).*

2. This notification shall come into force on the date of its publication in the Official Gazette.

[F. No. CBIC-20001/10/2023-GST]

(Raghavendra Pal Singh)

Director

Note: The principal notification No. 01/2023- Integrated Tax, dated the 31<sup>st</sup> July, 2023, was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 578(E), dated the 31<sup>st</sup> July, 2023.



#### **(IV) IGST RATE NOTIFICATIONS**

### **1. Notification No: 15/2023- Integrated Tax (Rate)**

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

Government of India  
Ministry of Finance  
(Department of Revenue)

Notification No. 15/2023- Integrated Tax (Rate)

New Delhi, the 19 October, 2023

G.S.R.....(E).-In exercise of the powers conferred by sub-sections (1), (3) and (4) of section 5, subsection (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, 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. 8/2017 Integrated 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. 683(E), dated the 28th June, 2017, namely:-

In the said notification, -

(A) in the Table,

- (i) against serial number 8, in column (3), in item (vi), after the condition in column (5) against the rate of 5 percent, the following condition shall be inserted, namely:-

“Provided further that where the supplier of input service in the same line of business charges integrated tax at a rate higher than 5%, credit of input tax charged on the input service in the same line of business in excess of the tax paid or payable at the rate of 5%, shall not be taken. Illustration:

‘A’ engages ‘B’ for transport from New Delhi to Jaipur in a motor cab for Rs.

1000. ‘B’, for supplying the said service, hires a motor cab with operator from ‘C’ for Rs. 800. ‘C’ charges ‘B’ integrated tax at the rate of 12% (Rs. 96). If ‘B’ charges ‘A’ integrated tax at the rate of 5%, he shall be entitled to take input tax credit on the input service in the same line of business supplied by ‘C’ only to the extent of Rs. 40 (5% of Rs. 800) and not Rs. 96.”;

- (ii) against serial number 10, in column (3), in item (i), after the condition in column (5) against the rate of 5 percent , the following condition shall be inserted, namely:-

“Provided further that where the supplier of input service in the same line of business charges integrated tax at a rate higher than 5%, credit of input tax charged on the input service in the same line of business in excess of the tax paid or payable at the rate of 5%, shall not be taken. Illustration:

‘A’ engages ‘B’ for transport from New Delhi to Jaipur in a motor cab for Rs. 1000. ‘B’, for supplying the said service, hires a motor cab with operator from ‘C’ for Rs. 800. ‘C’ charges ‘B’ integrated tax at the rate of 12% (Rs. 96). If ‘B’ charges ‘A’ integrated tax at the rate of 5%, he shall be

entitled to take input tax credit on the input service in the same line of business supplied by 'C' only to the extent of Rs. 40 (5% of Rs. 800) and not Rs. 96.”;

(iii) against serial number 34,-

(a) in column (3), in item (iv), for the words “totalisator or a license to” , the words “licensing a” shall be substituted;

(b) in column (3), item (v) and the entries relating thereto shall be omitted;

(B) in the Annexure: Scheme of Classification of Services,-

(i) serial number 696 and the entries relating thereto shall be omitted;

(ii) serial number 698 and the entries relating thereto shall be omitted.

2. This notification shall come into force with effect from the 20<sup>th</sup> day of October, 2023.

[F.No. CBIC-190354/195/2023-TO (TRU-II)-CBEC]

(Rajeev Ranjan) Under Secretary to  
the Government of India

Note: - The principal notification number 08/2017 - Integrated Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) , vide number G.S.R. 683 (E), dated the 28th June, 2017 and was last amended vide notification

number 11/2023-Integrated Tax (Rate), dated the 26<sup>th</sup> September, 2023 published in the Gazette of India, Extraordinary, Part II , Section 3 , Sub-section (i) vide number G.S.R. 689(E), dated the 26<sup>th</sup> September, 2023.

## **2. Notification No: 16/2023- Integrated Tax (Rate)**

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

Government of India  
Ministry of Finance  
(Department of Revenue)

Notification No. 16/2023- Integrated Tax (Rate)

New Delhi, the 20<sup>th</sup> October, 2023

G.S.R.....(E).-In exercise of the powers conferred by sub-section (3) and sub-section (4) of section 5, subsection (1) of section 6 and clause (xxv) of section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), read with sub-section (5) of section 15 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 amendment in the notification of the Government of India, Ministry of Finance (Department of Revenue) No.9/2017-Integrated 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. 684 (E), dated the 28th June, 2017, namely:-

In the said notification, in the Table, -

- (1.) after serial number 3A and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
"3B	Chapter 99	Services provided to a Governmental Authority by way of - (a) water supply; (b) public health; (c) sanitation conservancy; (d) solid waste management; and (e) slum improvement and upgradation.	Nil	Nil";

- (2.) against serial number 6, in column (3), in item (a), after the words "Department of Posts", the words and brackets "and the Ministry of Railways (Indian Railways)" shall be inserted;

- (3.) against serial number 7, in column (3), in the Explanation, in item (a), in sub-item(i), after the words "Department of Posts", the words and brackets "and the Ministry of Railways (Indian Railways)" shall be inserted;

- (4.) against serial number 8, in column (3) in the proviso, in item (i), after the words "Department of Posts", the words and brackets "and the Ministry of Railways (Indian Railways)" shall be inserted;

(5.) against serial number 9,in column (3), in the first proviso, in item (i), after the words “Department of Posts”, the words and brackets“and the Ministry of Railways (Indian Railways)” shall be inserted;

2. This notification shall come into force with effect from the 20<sup>th</sup> day of October, 2023.

[F.No. CBIC-190354/195/2023-TO (TRU-II)-CBEC]

(Rajeev Ranjan) Under Secretary to  
the Government of India

Note: The principal notification no. 9/2017 -Integrated Tax (Rate), dated the 28th June, 2017 was published in the

Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) , vide number G.S.R. 684 (E), dated the 28th June, 2017 and was last amended vide notification no. 12/2023 -Integrated Tax (Rate), dated the 26<sup>th</sup> September, 2023 published in the Gazette of India, Extraordinary, Part II , Section 3 , Sub-section (i) vide number G.S.R. 690 (E), dated the 26<sup>th</sup> September, 2023.

### **3. Notification No: 17/2023- Integrated Tax (Rate)**

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

Government of India  
Ministry of Finance  
(Department of Revenue)

Notification No. 17/2023- Integrated Tax (Rate)

New Delhi, the 19<sup>th</sup> October, 2023

GSR.....(E).-In exercise of the powers conferred by sub-section (3) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 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.10/2017-Integrated 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. 685(E), dated the 28th June, 2017, namely:-

In the said notification, in the Table, -

- (i) against serial number 6, in column (2), in item (2), in sub-item (i), after the words "Department of Posts", the words and brackets "and the Ministry of Railways (Indian Railways)" shall be inserted;

(ii) against serial number 6A, in column (2), after the words “Services supplied by the Central Government”, the words and brackets “[excluding the Ministry of Railways (Indian Railways)]” shall be inserted.

2. This notification shall come into force with effect from the 20<sup>th</sup> day of October, 2023.

[F.No. CBIC-190354/195/2023-TO (TRU-II)-CBEC]

(Rajeev Ranjan) Under Secretary to  
the Government of India

Note: -The principal notification no. 10/2017 -Integrated Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 685 (E), dated the 28th June, 2017 and was last amended vide notification no. 13/2023-Integrated Tax (Rate), dated the 26<sup>th</sup> September, 2023 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 691(E), dated the 26<sup>th</sup> September, 2023.



## **4. Notification No: 18/2023- Integrated Tax (Rate)**

[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. 18/2023-Integrated Tax (Rate)

New Delhi, the 19<sup>th</sup> October, 2023

G.S.R.....(E).- In exercise of the powers conferred by clause (xiii) of section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) read with sub-section (3) of section 54 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 amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue) No. 12/2017-Integrated 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. 687(E), dated the 28th June, 2017, namely:-

In the said notification, in opening paragraph, for the words, brackets, letters and figures “specified in sub-item (b) of item 5 of Schedule II of the Central Goods and Services Tax Act”, the words, “of construction of a complex, building or a part thereof, intended for sale to a buyer, wholly or partly, where the amount charged from the recipient of service includes the

value of land or undivided share of land, as the case may be, except where the entire consideration has been received after issuance of completion certificate , where required , by the competent authority or after its first occupation , whichever is earlier”, shall be substituted.

2. This notification shall come into force with effect from the 20<sup>th</sup> October, 2023.

[F.No. CBIC-190354/195/2023-TO (TRU-II)-CBEC]

(Rajeev Ranjan)

Under Secretary to the Government of India

Note:-The principal notification no. 12/2017-Integrated Tax (Rate), dated the 28<sup>th</sup> June,2017 was published in the Gazette of India, Extraordinary, vide number G.S.R. 687(E),dated the 28<sup>th</sup> June, 2017.

## **5. Notification No: 19/2023- Integrated Tax (Rate)**

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

Government of India  
Ministry of Finance  
(Department of Revenue)

Notification No. 19/2023-Integrated Tax (Rate)

New Delhi, 19<sup>th</sup> October, 2023

G.S.R.....(E).-In exercise of the powers conferred by sub-section (5) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following amendments further to amend the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.14/2017-Integrated 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. 689(E) dated the 28th June, 2017, namely:-

In the said notification,

- (i.) in clause (i), for the words “omnibus or any other motor vehicle”, the words “or any other motor vehicle except omnibus” shall be substituted;

(ii.) after clause (i), the following clause shall be inserted, namely:-

“(ia) services by way of transportation of passengers by an omnibus except where the person supplying such service through electronic commerce operator is a company.”;

(iii.) in the Explanation to the notification, after item (c) , the following item shall be inserted, namely, -

“(d) “Company” has the same meaning as assigned to it in clause (20) of section 2 of the Companies Act, 2013(18 of 2023).”.

2. This notification shall come into force with effect from the 20<sup>th</sup> day of October, 2023.

[F.No. CBIC-190354/195/2023-TO (TRU-II)-CBEC]

(Rajeev Ranjan) Under Secretary to  
the Government of India

Note:-The principal notification No. 14/2017 –Integrated Tax (Rate), dated the 28th June, 2017, vide number G.S.R. 689(E), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) and was last amended by notification No. 17/2021 –Integrated Tax (Rate), dated the 18<sup>th</sup> November, 2021 vide number G.S.R. 814(E), dated the 18<sup>th</sup> November, 2021.

## **6. Notification No: 20/2023- Integrated Tax (Rate)**

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

GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
(Department of Revenue)

NOTIFICATION No. 20/2023- Integrated Tax (Rate)

New Delhi, the 19<sup>th</sup> October, 2023

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), 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%, -

(i) after S. No. 92 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:

-

(1)	(2)	(3)
“92A.	1703	Molasses”;

- (ii) after S. No. 96 and the entries relating thereto, the following S. No. and entries shall be inserted, namely:

-

(1)	(2)	(3)
"96A.	1901	Food preparation of millet flour, in powder form, containing at least 70% millets by weight, pre-packaged and labelled";

- (B) in Schedule III – 18%,

- (i) against S. No. 13, in column (3), for the words and figures "of heading 1905", the words and figures

"of heading 1905; food preparation of millet flour, in powder form, containing at least 70% millets by weight, pre-packaged and labelled " shall be substituted;

- (ii) after S. No. 25 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

(1)	(2)	(3)
"25A.	2207 10 12	Spirits for industrial use";

- (C) in Schedule IV – 28%, S. No. 1 and the entries relating thereto shall be omitted.

2. This notification shall come into force with effect from the 20<sup>th</sup> day of October, 2023.

[F. No. CBIC-190354/195/2023-TO(TRU-II)-CBEC]

Vikram Wanere

Under Secretary

Note: - The principal notification No. 1/2017- Integrated 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. 666(E)., dated the 28<sup>th</sup> June, 2017 and was last amended by notification No. 14/2023– Integrated Tax (Rate), dated the 29<sup>th</sup> September, 2023, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 712(E), dated the 29<sup>th</sup> September, 2023.

## **7. Notification No: 21/2023- Integrated Tax (Rate)**

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

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION No 21/2023- Integrated Tax (Rate)

New Delhi, the 19<sup>th</sup> October, 2023

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), the Central Government, 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, Ministry of Finance (Department of Revenue), No. 2/2017-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. 667(E), dated the 28<sup>th</sup> June, 2017, namely

In the said notification, in the Schedule, after S. No. 94 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

(1)	(2)	(3)
“94A.	1901	Food preparation of millet flour, in powder form, containing at least 70% millets by weight, other than pre-packaged and labelled”.

2. This notification shall come into force with effect from the 20<sup>th</sup> day of October, 2023.

[F. No. CBIC-190354/195/2023-TO(TRU-II)-CBEC]

Vikram Wanere

Under Secretary

Note: - The principal notification No.2/2017- Integrated 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. 667(E)., dated the 28<sup>th</sup> June, 2017 and was last amended by notification No. 04/2023 – Integrated Tax (Rate), dated the 28<sup>th</sup> February, 2023, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 151(E)., dated the 28<sup>th</sup> February, 2023.



## **8. Notification No: 12/2023- Integrated Tax (Rate)**

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

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(Department of Revenue)

NOTIFICATION No. 22/2023- Integrated Tax (Rate)

New Delhi, the 19<sup>th</sup> October, 2023

G.S.R. ....(E).- In exercise of the powers conferred by sub-section (3) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 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, Ministry of Finance (Department of Revenue), No. 4/2017-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. 669(E), dated the 28<sup>th</sup> June, 2017, namely:-

In the said notification, in the Table, against S. No. 6, in column 4, for the entry, the following entry may be substituted, namely: -

“Central Government [excluding Ministry of Railways (Indian Railways)] , State Government,  
Union  
territory or a local authority.”

2. This notification shall come into force with effect from the 20<sup>th</sup> day of October, 2023.

[F. No. CBIC-190354/195/2023-TO(TRU-II)-CBEC]

Vikram Wanere

Under Secretary

Note: - The principal notification No. 4/2017- Integrated 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. 669(E), dated the 28<sup>th</sup> June, 2017 and was last amended by notification No. 14/2022- Integrated Tax (Rate), dated the 30<sup>th</sup> December, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 923 (E), dated the 30<sup>th</sup> December, 2022.

## **9. Notification No: 13/2023- Integrated Tax (Rate)**

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

GOVERNMENT OF INDIA

MINISTRY OF FINANCE

(Department of Revenue)

Notification No. 23/2023- Integrated Tax (Rate)

New Delhi, the 19<sup>th</sup> October, 2023

G.S.R. (E).- In exercise of the powers conferred by clause (ii) of the proviso to sub-section (3) of section 54 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 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. 5/2017-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. 670(E), dated the 28<sup>th</sup> June, 2017, namely :-

In the said notification, in the TABLE, after S. No. 6A and the entries relating thereto, following S.No. and the entries shall be inserted, namely:-

(1)	(2)	(3)
“6AA.	5605	Imitation zari thread or yarn made out of Metallised polyester film /plastic film;  Explanation: This entry shall apply for refund of input tax credit only on polyester film /plastic film”;

2. This notification shall come into force with effect from the 20<sup>th</sup> day of October, 2023.

[F. No. CBIC-190354/195/2023-TO(TRU-II)-CBEC]

Vikram Wanere

Under Secretary

Note: - The principal notification No.5/2017- Integrated Tax (Rate), dated the 28th day of June, 2017, was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 670(E)., dated the 28<sup>th</sup> day of June, 2017, and was last amended by notification No. 9/2022 – Integrated Tax (Rate), dated the 13<sup>th</sup> July, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 560(E)., dated the 13<sup>th</sup> July, 2022.

## **(V) ADVANCE RULING**

### **1. ITC Eligibility for Construction Project: Central Air Conditioning Plant, Lift etc.**

**Case Name : In re Varachha Co-op. Bank Ltd (GST AAAR Gujrat)**

**Appeal Number : Advance Ruling (Appeal) No. GUJ/GAAAR/APPEAL/2023/05**

**Date of Judgement/Order : 04/10/2023**

**Related Assessment Year :**

**Courts : AAAR (490) AAR Gujarat (379) Advance Rulings (3353)**

#### **In re Varachha Co-op. Bank Ltd (GST AAAR Gujrat)**

**Introduction:** In the legal case of Varachha Co-op. Bank Ltd. before the GST AAAR Gujarat, a pivotal query arises concerning the availability of Input Tax Credit (ITC) in the context of a construction project. The appellant has embarked on the construction of their new administrative office and seeks clarity regarding their ITC entitlement for various items, including the Central Air Conditioning Plant, Lift, Electrical Fittings (excluding those used in civil construction), Solar Plant, Fire Safety Extinguishers, Architect Service Fees, and Interior Designing Fees.

#### **Detailed Analysis:**

##### **1. Central Air Conditioning Plant:**

- Appellant's Claim: The Central Air Conditioning System is not an immovable property, and thus, not subject to ITC restrictions.
- Authority's Decision: The Central Air Conditioning Plant was classified as an immovable property, rendering it ineligible for ITC.

##### **2. Lift:**

- Appellant's Claim: The Lift/Elevator installation process and components should not categorize it as an immovable property.
- Authority's Decision: The installation of Lifts was categorized as a works contract service for immovable property construction, making it ineligible for ITC.

##### **3. Electrical Fittings:**

- Appellant's Claim: Most Electrical Fittings are concealed within the building and should not be categorized as immovable property.
- Authority's Decision: Electrical Fittings are considered a works contract service,

integrated into the building structure, and thus, ineligible for ITC.

#### **4. Roof Solar Plant:**

- Appellant's Claim: The Roof Solar Plant, designed for in-house consumption and flexibility in installation angles, should not be classified as immovable property.
- Authority's Decision: The Roof Solar Plant was considered plant and machinery, hence eligible for ITC.

#### **5. Fire Safety Extinguishers:**

- Appellant's Claim: Fire Safety Extinguishers, as mandated by law, should not be classified as immovable property.
- Authority's Decision: Fire Safety Extinguishers, integral to the building, are considered immovable property and are ineligible for ITC.

#### **6. Architect Service Fees and Interior Designer Fees:**

- Appellant's Claim: Architect Service Fees and Interior Designer Fees should be eligible for ITC as capital expenses.
- Authority's Decision: Both services are related to the construction of immovable property, classifying them as works contract services and making ITC disallowed.

**Conclusion:** In summary, ITC eligibility in a construction project hinges on whether the supplied items or services become part of the immovable property. Items such as Central Air Conditioning Plant, Lift, Electrical Fittings, and Fire Safety Extinguishers were classified as immovable property, rendering them ineligible for ITC. Conversely, the Roof Solar Plant was deemed to be plant and machinery, making it eligible for ITC. Architect Service Fees and Interior Designer Fees were also ineligible due to their connection with the construction of immovable property. This case underscores the critical importance of accurately categorizing items and services when seeking ITC in construction projects

Read AAR Order : [Admissibility of ITC on Central AC Plant, Lift, New Locker Cabinet installed during Construction of New office](#)

## **2. GST applicable on supply of water to residents of society by Company**

**Case Name : In re Amarnath Aggarwal (GST AAR Haryana)**

**Appeal Number : Advance Ruling No. HAAR/08/2022-23**

**Date of Judgement/Order : 14/10/2022**

**Related Assessment Year :**

**Courts : AAR Haryana (113) Advance Rulings (3353)**

In re Amarnath Aggarwal (GST AAR Haryana)

The main issue is whether the activity of the supply of water to the residents of this society is a taxable event or not under the GST Act, 2017? In this regard, it is observed by the authority that as per the notification no. 12/2017 dated 28.06.2017, Pure Services (excluding works contract services) or other composite supplies involving supply of other goods provided to the local authority by way of any activity in relation to any function entrusted to municipality under article 243 W of the constitution of India are nil rated. Whereas the applicant is a Private Limited Company registered under the companies Act, 2013 and not entitled for the said exemption.

AAR held that activity of water distribution system by the applicant to the residents of the Complex is covered under definition of business as enumerated above and it is a taxable supply. The scope of the supply under the GST Act is quite vast and encompasses all the supplies of goods and services which are not explicitly exempted by the government. The water distribution system is an independent business enterprise and here in the present case it is part of business activities of the applicant. It can also be said that it is a supply which is being done by the applicant for the furtherance of business.

The relevant entry no. 3 of Pure Services in the exemption Notification No. 12-CT(R) dated 28.06.2017 which got amended on 18.11.2021 w.e.f 01.01.2022 is as: Pure Services (excluding works contract service or other composite supplies involving supply of any goods) provided to the Central Government, State Government or Union territory or local authority by way of any activity in relation to any function entrusted to a Panchayat under Article 243 G of the Constitution or in relation to any function entrusted to a Municipality under Article 243W of the Constitution.

From this, it can be construed that for any supply to be covered under the Pure Services that there should be no supply of goods, the recipient should be Central government/State government/Union territory/ Local Authority and services should be 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. Exclusion in this entry is already mentioned.

3. **GST payable on web based spot billing & collection of payment services for water supply**

Case Name : in re BCITS Pvt Ltd (AAR Haryana)

Appeal Number : Advance Ruling No. HR/HAAR/01/2022-23

Date of Judgement/Order : 14/10/2022

Related Assessment Year :

Courts : AAR Haryana (113) Advance Rulings (3353)

**in re BCITS Pvt Ltd (GST AAR Haryana)**

It is observed that in the present matter the water distribution system is under the control of Municipal Corporation, Gurugram. The function of water supply to the public at large has been entrusted to MCG by the Government of Haryana. In the **notification no. 12/2017 CT (Rate) dated 28.06.2017** nil rate of tax is applicable on pure services provided to the Local Authority by way of any activity in relation to any function entrusted to a municipality under article 243 W of the Constitution of India. The functions are listed in the 12th Schedule of the Constitution (Under Article 243 W). In the present matter, MCG has further sought services related to activities of design and development electronic billing and distribution of the bills and collection system for water supply and sewerage bills from the applicant. These services includes spot billing i.e. taking reading, generation and delivery of the bills to the end consumers and AMC of the software to the applicant i.e. M/s BCITS Pvt. Ltd. The manpower is also provided by the applicant for the said activity.

The nature of services rendered by the applicant is like a software tool operated by its staff. The said services include creation and maintenance of data base of the consumers and the web based spot billing and collection of payments on behalf of Municipal Corporation. These services cannot be termed as pure services as defined under the provisions of the GST Act, 2017. So, these are not covered in the clause 5 of 12th Schedule i.e. water supply for domestic, industrial and commercial purposes. This function of water supply has been entrusted to a Municipality under Article 243W of the Constitution of India and these services provided by the applicant to the MCG are not in relation to the water distribution system per se.

Water supply system necessarily requires procurement, transmission and supply of water to the consumers and meter installation but these functions are being done by the MCG. Whereas the applicant has provided the software services along with manpower to the MCG for the support of water distribution services. It enhances the effectiveness of the services provided by the MCG to the consumers (public at large).



The main function of water distribution services is of MCG and the same can be considered as pure services. But the services received by MCG from the applicant are not in the nature of Pure Services and not the support services as these are support services and not in relation to any function which is entrusted to the MCG. The goods (tangible and Intangible) and services provided by the applicant cannot be regarded as an integral part of the water distribution system itself. These are add on activities. The definition of the Scope of Supply and Business under the **CGST Act, 2017** is quite extensive. The taxability of any supply of goods and services is covered under these definitions. There should be an express/explicit provision for the availment of any exemption under the CGST Act, 2017. Exemptions are not optional and the conditions/constrained prescribed under the provisions must be fulfilled. And in the present case, it is clearly observe that the said services provided by the applicant to the MCG are not part and parcel of the water supply system.

**So, it is concluded from the above discussion and legal provisions that the services provided by the applicant to MC, Gurugram is a taxable supply.**

1. Engagement of system integrator for implementation water revenue management system, creation and maintenance of database, spot billing/meter reading and bill distribution (MRBD) services for water supply & sewerage connections under the jurisdiction of Municipal Corporation, Gurugram is covered under which SAC of the GST Act, 2017?

**SAC Code 998633**

2. Determination of the liability to pay tax on the above services means the rate of output tax liability on abovementioned services?

18%

3. Is this service exempt under clause 3 of notification 12/2017 dated 28.06.2017?

No.

## **(VI) JUDGEMENTS**

### **1. Rajasthan HC Sets Aside Non-Speaking Order of GST Appellate Authority**

**Case Name : Jaipur Palace Hotels Private Limited Vs State Of Rajasthan (Rajasthan High Court)**

**Appeal Number : D.B. Civil Writ Petition No. 12537/2023**

**Date of Judgement/Order : 06/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Rajasthan High Court (323)**

Jaipur Palace Hotels Private Limited Vs State Of Rajasthan (Rajasthan High Court)

Introduction: In a recent ruling by the Rajasthan High Court, a non-speaking order passed by the Appellate Authority under Section 107 of the Goods and Services Tax (GST) Act was set aside. The petitioner had raised concerns about the lack of reasoning in the order and the failure to address the grounds of the appeal.

Detailed Analysis: The petitioner in this case challenged an order dated 28th April 2023, issued by the Appellate Authority under Section 107 of the GST Act. The primary contention raised by the petitioner was that the impugned order was a “non-speaking order.” A non-speaking order is one that lacks any reasoning, explanation, or justification for the decision taken. Upon reviewing the order and considering the arguments presented by the petitioner’s counsel, the court found that the order in question was indeed a non-speaking order. The court highlighted that the order did not provide any reasons for the decision, nor did it address the grounds raised in the appeal. In light of these findings, the court ruled to set aside the impugned order. The matter was remanded back to the Appellate Authority for a fresh decision. The Appellate Authority was instructed to thoroughly consider the grounds of appeal and provide a reasoned decision. Additionally, the court imposed a time frame for the Appellate

Authority to make its decision, mandating that it be done within two months from the date of the appearance of the parties before it, which was fixed as 16th October 2023.

Conclusion: The Rajasthan High Court's decision to set aside the non-speaking order by the GST Appellate Authority underscores the importance of providing clear and reasoned decisions in legal matters. Such decisions ensure transparency, fairness, and accountability in the application of tax laws. This ruling serves as a reminder of the judicial system's commitment to upholding the principles of justice and due process in matters related to taxation.

## **2. No Understanding Can Deem SGST & CGST as IGST Without Tax Law Compliance**

**Case Name : Vishwanath Iron Store Vs Union of India (Patna High Court)**

**Appeal Number : Civil Writ Jurisdiction Case No. 1384 of 2021**

**Date of Judgement/Order : 06/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Patna High Court (106)**

### **Vishwanath Iron Store Vs Union of India (Patna High Court)**

**Introduction:** A recent case at the Patna High Court revolves around an issue related to input tax credit (ITC) and the interpretation of Central Goods and Services Tax (CGST), State Goods and Services Tax (SGST), and Integrated Goods and Services Tax (IGST) in a specific transaction. The petitioner, Vishwanath Iron Store, sought a correction of an invoice to avail ITC. This article delves into the details of the case and the court's findings.

#### **Detailed Analysis:**

- 1. Background of the Case:** Vishwanath Iron Store, a partnership firm based in Sasaram, Bihar, operates under the goods and services tax (GST) regime and is primarily involved in buying and selling scrap materials. The firm is registered under the Bihar State Goods and Services Tax Act, 2017. Vishwanath Iron Store participated in an e-auction

conducted by the East Central Railways to sell scrap and other materials. Following a successful bid, the firm received materials valued at Rs. 17 lakhs based on an invoice (Annexure-2). This invoice levied CGST and SGST at 9% each.

**2. Claim for Input Tax Credit:** Vishwanath Iron Store later realized that, as the goods were moved out of the state, the correct tax to be levied should have been IGST rather than CGST and SGST. As a result, the firm's request for ITC was denied.

**3. Legal Argument and Request for a Revised Invoice:** The petitioner argued that they were not initially aware of the tax requirements, and the correction was only brought to their attention after consulting a tax consultant. They emphasized that, as per various notifications issued by the Railways, the invoice should have been issued under IGST due to a mistake. Therefore, the tax collected should be deemed as IGST, not CGST and SGST. The petitioner sought a writ of mandamus to compel the Railways to issue a revised invoice for the purpose of claiming ITC.

**4. Court's Analysis:** The court considered the circumstances of the case. It noted that the goods were delivered in Jharkhand, and the sale was treated as a local sale, as evident from the delivery/sale release order. The petitioner received the goods in Jharkhand. If the petitioner intended to move the materials outside the state, the sale should have been designated as an inter-state transaction. While the auction was conducted in Samastipur, the sale was to be executed from Jharkhand. For a sale to be classified as interstate, it should involve the movement of goods out of the state.

**5. Absence of Proof for Goods Movement:** The court observed that the petitioner was a registered dealer under the Bihar GST Act, and the sale was made from the state of Jharkhand. However, there was no concrete evidence to establish that the goods had indeed moved outside the state of Jharkhand. The court also highlighted that the mere assertion of the Railways that the invoice should be considered issued under the IGST Act did not automatically entitle the petitioner to claim ITC. The understanding between the parties to the transaction could not override the provisions of tax laws. Furthermore, any

claim for ITC should be reflected in the ledger account maintained by the taxpayer with the tax department.

**6. Timing of the Legal Action:** The court took note that the invoice in question was issued during the 2017-18 assessment year. The petitioner filed the writ petition in 2021, well beyond the time frame for claiming ITC. The enabling provision for claiming ITC in such cases was not available at this point. According to Section 16(4) of the Bihar GST Act, ITC must be claimed within specific timeframes.

**Conclusion:** The Patna High Court's judgment in the case of Vishwanath Iron Store vs. Union of India reiterates the significance of proper tax classification for transactions. Understanding between parties cannot supersede the provisions of taxation laws. In this particular case, the petitioner's request for a revised invoice for the purpose of availing input tax credit was denied, primarily due to the absence of evidence for the movement of goods and the timing of the legal action. This judgment serves as a reminder of the importance of adherence to GST regulations and timelines for claiming ITC.

### **3. SC Dismisses SLP on Availability of Alternative Remedy under CGST Act**

**Case Name : Dhan Prakash Gupta Vs CGST Department (Supreme Court of India)**

**Appeal Number : Special Leave to Appeal (C) No. 21648/2023**

**Date of Judgement/Order : 06/10/2023**

**Related Assessment Year :**

**Courts : Supreme Court of India (2234)**

Dhan Prakash Gupta Vs CGST Department (Supreme Court of India)

**Introduction:** In a recent judgment delivered by the Supreme Court of India, a matter involving Dhan Prakash Gupta vs. the CGST Department was brought to light. The focus of the case revolved around the availability of an alternative legal remedy under the Central Goods and Services Tax (CGST) Act.

**Detailed Analysis:** The petitioner, represented by Shri Chandrakant Tyagi, had sought relief in this matter. The High Court initially stated that the petitioner had an alternative statutory remedy at their disposal. However, it made certain observations regarding the merits of the case, ultimately allowing the petitioner to pursue alternative remedies.

The Supreme Court's decision primarily centers on the issue of whether the High Court was right in making observations on the case's merits, even though it acknowledged the existence of an alternative statutory remedy. The Court emphasized that once the High Court recognized the availability of an alternative remedy, it should not have proceeded to comment on the case's merits or stated that the petitioner could explore alternative remedies. In light of these considerations, the Supreme Court dismissed the special leave petition while preserving the petitioner's right to avail themselves of the alternative remedy if they so choose. The Court also clarified that any observations made on the merits of the case in the impugned order should not hinder the appellate authority from considering the petitioner's case on its merits. Moreover, the Supreme Court made a significant point about the issue of limitation. It emphasized that if the petitioner files a statutory appeal within four weeks from the date of this judgment, the appellate authority should not raise concerns about the appeal's timeliness. As a result of the Supreme Court's decision, any pending applications related to this case were disposed of accordingly.

Conclusion: The Supreme Court's judgment in the case of Dhan Prakash Gupta vs. the CGST Department highlights the importance of recognizing and respecting alternative statutory remedies available under the law. The Court's decision underscores that once such a remedy is identified, courts should refrain from making observations on the merits of a case and should allow petitioners to pursue the alternative route. This ruling emphasizes the fundamental principles of judicial procedure and statutory remedies in the context of tax matters.

**4. Order passed without considering reply results into non-speaking order hence matter remanded**

**Case Name : Chennai Silks Vs Assistant Commissioner (ST) (FAC) (Madras High Court)**

**Appeal Number : W.P. No. 29095 of 2023**

**Date of Judgement/Order : 12/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Madras High Court (1310)**

Chennai Silks Vs Assistant Commissioner (ST) (FAC) (Madras High Court)

Madras High Court remanded the matter back to the Assessing Officer since Assessing Officer failed to consider the reply/ objections made by the petitioner. Passing of order without considering the reply/objection results into non-speaking order.

Facts- The petitioner firm is engaged in the business of trading of garments and other allied items in the brand name of “The Chennai Silks” in the domestic market. The respondent/Department issued an intimation in Form DRC-01A dated 23.11.2021 with regard to the ascertained tax liability u/s. 74 of the Tamil Nadu Goods and Services Tax Act, wherein, several alleged defects were noticed by the Department and issues were mainly concerned with reconciliation of returns and books, ITC verification with GSTR-2A among other things, for which, the petitioner had replied on 17.1.2022 and 02.2.2022. According to the petitioner, though the petitioner a reply and their reply was also recorded by the respondent, the impugned order dated 04.7.2023 came to be issued without considering the replies and passed a non-speaking order.

Conclusion- Once the assessee filed reply/objections pursuant to the show cause notice, it is bounden duty of the Assessing Officer to pass a speaking order, providing reasons for rejection of the reply/objections raised by the the assessee. If any cryptic order is passed without touching upon the queries/contentions of the assessee, ultimately, it would be fatal to the assessee and also cause huge revenue loss to the revenue. Held that in the present case, the respondent/Assessing Officer, admittedly, has failed to consider the reply/objections made by the petitioner pursuant to the show cause notice and passed a non-speaking. Thus, this Court is inclined to set-aside the impugned order

and remit the matter back for re-consideration. Accordingly, the respondent/Assessing Officer is directed to pass a detailed order after taking into consideration the reply filed by the petitioner.

## **5. HC Denies Anticipatory Bail in ₹2.27 Crores Fraud via Bogus GST-**

### **Registered Firm**

**Case Name : Shashi Kant Gupta Vs State Through Incharge Economic Office Wing (Delhi High Court)**

**Appeal Number : Bail Appln. 3366/2022**

**Date of Judgement/Order : 20/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Delhi High Court (2713)**

Shashi Kant Gupta Vs State Through Incharge Economic Office Wing (Delhi High Court)

HC refused to grant Anticipatory Bail for fraud of 2.27 Crores Sale Transaction through Bogus Firm registered under GST Act

Conclusion: Mr Sujeet Singh Hussain, in whose name M/s Madhu Enterprises was registered, had stated that he was working as a security guard in the office of present applicants, who got his signatures for opening the bank account and fraudulently got the firm registered in his name as well as other employees. The said fraudulently opened firm had made transactions worth crores of rupees with eight firms registered with the GST Departments and M/s Madhu Enterprises had shown goods and articles worth 2.27 Crores sold to three of the eight firms of which the applicants herein were directors, therefore, the interim protection granted to directors was withdrawn.

Held: In the present case, a Chartered accountant by profession had filed a complaint at Economic Offences Wing (EOW) and when he downloaded his form 26AS from the Income Tax portal, he came to know that a GST number had fraudulently been generated in the name of M/s Madhu Enterprises using his PAN number. The complainant further alleged that using this fraudulently obtained GST number, the accused showed transactions worth Rs. 14.80 Crores in the short duration of July 2019 to November 2019. The present case was registered and an investigation was taken up.



During the investigation, documents/information were obtained from the GST department. It was found that said number was activated on 01.07.2019 and was registered in the name of one Mr. Surjeet Singh. During interrogation, he revealed that he was working as a security guard in the family-owned firm/companies of the applicant. The Security guard was interrogated in detail and revealed that copies of Identity-related documents in the name of opening a bank account for credit of salary in the account were obtained from him, however, he had never been informed regarding the bank accounts opened if any, in his name. On perusal of the bank account of Miss Shashi Plast Pvt. Ltd. maintained with Bandhan Bank, it had been found that an amount of Rs. 3.00 crore (Approx) had been transferred into the accounts of suspected firms namely Global Traders, Parfait Dealers. It was worth mentioning that Shashi Plast Pvt. Ltd., Global Traders and Parfait Dealers were the firms/companies with whom lots of business transactions with the subject firm namely Madhu Enterprises, had been found. In Shashi Plast Pvt. Ltd. Mr Shahsi Kant Gupta present applicant and Mr. Akshay Gupta were the Directors. On the other hand, in M/s Global Traders and Parfait dealers Surjeet Singh Gusain was one of the partners. Crores of rupees had also been found transferred from this account to many other firms named by the employee of Bandhan Bank. During the investigation, records of business transactions relating to the firm namely M/s Madhu Enterprises were obtained from the GST Department, Jamshedpur. It was found that the said fraudulently opened firm had made transactions worth crores of rupees with eight firms registered with the GST Departments in Delhi and Uttarakhand. As per the investigation, these eight firms were in direct control of the present applicants and it was revealed that the said alleged fraudulent firm M/s Madhu Enterprises had shown goods and articles worth 2.27 Crores sold to three of the eight firms above of which the applicants herein were directors. Applicant had vehemently argued that the contents of the status report filed by the Investigating Officer were mala fide. It was held that further investigation from the GST Department had also revealed that M/s Madhu Enterprises made business transactions worth crores of rupees with three entities of which the present applicants were directors and despite that said fact, the applicants

had been evading from giving details of the said transaction. Thus, custodial interrogation of the applicants was necessary to unearth entire chain of transactions linked with M/s Madhu Enterprise at the behest of the present applicants and the entities in their control. The interim protection granted to Shashi Kant Gupta and Akshy Gupta was withdrawn.

## **6. GST refund cannot be denied for merely for multiple inputs & output supplies**

**Case Name : Nahar Industrial Enterprises Limited Vs Union of India (Rajasthan High Court)**

**Appeal Number : D. B. Civil Writ Petition No. 8476/2021**

**Date of Judgement/Order : 31/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Rajasthan High Court (323)**

### **Nahar Industrial Enterprises Limited Vs Union of India (Rajasthan High Court)**

The Nahar Industrial Enterprises Limited vs. Union of India case, heard in the Rajasthan High Court, sheds light on the complexities of Goods and Services Tax (GST) refund claims in cases involving multiple inputs and outputs. This case underscores the significance of adhering to the statutory provisions and objectives of GST refunds in such scenarios.

**1. Nature of the Petitioner's Business:** Nahar Industrial Enterprises Limited is engaged in the manufacture of various types of yarn, including cotton yarn, cotton blended yarn, polyester/viscose yarn, and polyester/viscose blended yarn. These products have different GST rates, ranging from 0.1% to 12%. The petitioner uses various raw materials and inputs, each attracting different GST rates, ranging from 5% to 28%.

**2. GST Rates on Inputs and Outputs:** The case involves a detailed analysis of GST rates applied to both inputs and output supplies. For instance, cotton yarn and cotton blended yarn have a GST rate of 5%, while other inputs like packing material, store consumables, and spares

have rates ranging from 12% to 28%. The situation becomes even more complex when dealing with polyester/viscose blended yarn and polyester/viscose yarn, where multiple inputs with varying GST rates are used to produce output supplies.

**3. Statutory Provisions and Legislative Intent:** The case closely examines Section 54(3) of the Central Goods and Services Tax Act, 2017 (CGST Act). This section deals with the refund of unutilized input tax credit (ITC) and focuses on the concept of an “inverted duty structure.” The court emphasizes the legislative intent and purpose of this provision, which is to refund accumulated ITC when the rate of tax on inputs is higher than the rate on output supplies.

**4. Strict Interpretation of Taxing Statutes:** The court relies on the principle of strict interpretation of taxing statutes, emphasizing the need to adhere to the clear and unambiguous language used in the law. The use of plural words like “inputs” and “output supplies” in the statute highlights that the provision applies to scenarios involving multiple inputs and outputs.

**5. Key Legal Precedents:** The court refers to important legal precedents, including the case of Union of India & Others vs. VKC Footsteps India Private Limited, to establish that the **scheme of refund based on an inverted duty structure applies regardless of the number of inputs and output supplies involved. The central criteria are whether the rate of tax on inputs exceeds the rate on output supplies, which holds true in this case.**

**6. Applying Rule 89(5) of CGST Rules, 2017:** The court clarifies that the computation of the refund amount is determined by Rule 89(5) of the Central Goods and Services Tax Rules, 2017. This rule provides a formula for calculating the maximum limit of the refund based on the statutory parameters, and the refund claim should adhere to this formula.

**7. Conclusion:** The Rajasthan High Court’s decision in the Nahar Industrial Enterprises Limited vs. Union of India case reinforces the principle that **GST refunds should not be denied solely due to the presence of multiple inputs and outputs with varying GST rates.** The court upholds the strict interpretation of the law, emphasizing that the legislative intent is to refund

accumulated input tax credit when the rate of tax on inputs is higher than the rate on output supplies.

The judgment highlights the importance of statutory provisions and the need to follow the rule of law in GST refund claims. This case sets a precedent for similar situations in the future, ensuring that taxpayers are not unfairly denied their rightful refunds when an inverted duty structure exists.

## **7. Kerala HC Grants Opportunity for Claim of ITC reflecting in Form GSTR 2A**

**Case Name : Geetha Agencies Vs Deputy Commissioner of State Tax (Kerala High Court)**

**Appeal Number : WP(C) No. 32070 of 2023**

**Date of Judgement/Order : 03/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Kerala High Court (624)**

### **Geetha Agencies Vs Deputy Commissioner of State Tax (Kerala High Court)**

A recent judgment by the Kerala High Court in the case of Geetha Agencies vs. Deputy Commissioner of State Tax has significant implications for taxpayers and businesses. The court's decision revolves around the denial of Input Tax Credit (ITC) due to discrepancies between GSTR 2A and GSTR 3B.

#### **Detailed Analysis:**

- 1. Grounds for Denial:** The primary issue in this case is the denial of the petitioner's input tax credit for an amount totaling Rs. 1,10,769 (SGST + CGST). The reason cited for this denial is a mismatch between the data in GSTR 2A and GSTR 3B.
- 2. Petitioner's Response:** The petitioner, Geetha Agencies, responded to the show-cause notice by stating that they had claimed the input tax credit based on valid invoices

in GSTR-3B. They argued that certain suppliers had encountered technical issues while uploading data in GSTR-1, resulting in incorrect data showing up as '0' tax items.

**3. Unsatisfactory Response:** The response provided by the petitioner was deemed unsatisfactory, leading to the issuance of GST DRC-01A. Subsequently, a notice under Section 73 of the State Goods and Services Tax Act, 2017 was issued, culminating in the assessment order (Exhibit P1) for an amount of Rs. 3,61,304. This amount includes the denied input tax credit of Rs. 1,62,526, interest at 79.5% amounting to Rs. 1,78,778, and a penalty of Rs. 20,000. A recovery notice (Exhibit P2) was also issued.

**4. Supplier's Delayed Tax Remittance:** It was argued on behalf of the petitioner that the supplier/dealer had indeed collected the tax from them for the inward supply. The delay in remitting the tax to the government was attributed to the supplier/dealer.

**5. Difference Between GSTR 2A and GSTR 3B:** The essence of the dispute lies in the variation between the GSTR 3B, on which the petitioner based their input tax credit claim, and the GSTR 2A, which reflects the tax paid by the supplier/dealer.

**6. Relevance of Previous Judgment:** The petitioner's counsel cited a judgment by the Kerala High Court dated 12.09.2023 in W.P(C).No.29769 of 2023. In this judgment, the court emphasized that denial of input tax credit solely based on differences between GSTR-2A and GSTR-3B may not be justifiable. The court ruled that if the assessee can provide evidence that they have indeed paid the tax to the supplier/dealer, who failed to remit it to the government, the denial of the input tax credit would not be correct.

**7. Present Case Clarification:** In the present case, the petitioner contended that this was not a case of non-payment of tax by the supplier/dealer. They argued that the tax was collected from them by the supplier/dealer, and this claim for input tax credit was reflected in GSTR 2A.

**8. Court's Decision:** The court acknowledged the petitioner's argument that the tax for which they claimed input tax credit was reflected in GSTR 2A, albeit with some delay.

In light of this argument, the court held that the denial of input tax credit did not appear to be justified.

**9. Opportunity for the Petitioner:** The court granted the petitioner an opportunity to appear before the assessing authority with all relevant documents within seven days from the judgment. The assessing authority was directed to examine the documents, and if satisfied, to grant the petitioner the input tax credit that had been previously denied, issuing a revised order accordingly.

**Conclusion:** The Kerala High Court's judgment in Geetha Agencies vs. Deputy Commissioner of State Tax serves as a reminder of the importance of a fair and evidence-based approach to input tax credit disputes. The court's decision highlights that discrepancies between GSTR 2A and GSTR 3B should not automatically lead to denial of input tax credit. It is essential to consider the facts and evidence presented by the taxpayer. The court's decision provides an opportunity for businesses to rectify such situations when they can prove that the input tax credit is valid and supported by accurate documentation.

## **8. Unreasoned Order Cancelling GST Registration Quashed by Allahabad HC**

**Case Name : World Solution Vs Yashonidhi Shukla (Allahabad High Court)**

**Appeal Number : Writ Tax No. 931 of 2023**

**Date of Judgement/Order : 03/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Allahabad High Court (611)**

### **World Solution Vs Yashonidhi Shukla (Allahabad High Court)**

**Introduction:** In a significant ruling, the Allahabad High Court has addressed the issue of unreasoned orders in the context of GST registration cancellation. The Court emphasized the pivotal role of providing reasons in judicial and administrative decisions as it quashed an order that lacked proper justification. This judgment underscores the significance of adhering to the principles of justice and due process.

### **Detailed Analysis:**

1. **Background:** The case involves 'World Solution' and 'Yashonidhi Shukla,' with the former challenging an order issued by the Assistant Commissioner of Sector 25, State Tax, Kanpur Nagar. The order, dated February 3, 2023, canceled the petitioner's GST registration. The subsequent appeal filed by the petitioner was also dismissed on the grounds of delay.
2. **Reasons for Cancellation:** The petitioner argued that the GST registration cancellation was executed without adhering to the provisions of Section 29 of the UPGST Act. Furthermore, the petitioner contended that the cancellation order lacked proper reasoning and appeared to be mechanically passed without due consideration.
3. **Dismissal of Appeal:** The petitioner's appeal was rejected on the basis of being filed beyond the statutory limitation period specified under section 107(4) of the UPGST Act.
4. **Legal Arguments:** The petitioner's counsel asserted that the unreasoned order of registration cancellation adversely affected the petitioner's right to conduct business as guaranteed under Article 19 of the Indian Constitution. This arbitrary action, without due application of mind, contravenes both the intent of the Act and the constitutional mandate of Article 14.
5. **Judicial Precedents:** The petitioner's arguments were supported by reference to relevant judicial precedents. One such precedent cited was the case of Whirlpool Corporation vs. Registrar of Trademarks, Mumbai, and others (1998) 8 SCC 1, which stressed the importance of providing reasons in administrative and judicial orders.
6. **Court's Ruling:** The Court concurred with the petitioner's arguments and emphasized that reasons are the heart and soul of any judicial or administrative order. An order lacking proper reasoning cannot be justified in the eyes of the law. The Court found that the cancellation order of the petitioner's GST registration was devoid of any reasoning, contrary to established judicial principles.

7. **Doctrine of Merger:** Regarding the dismissal of the appeal due to delay, the Court pointed out that the doctrine of merger does not apply in this case, considering the circumstances. In this context, the Court quoted judgments from earlier cases.

8. **Legal Precedents:** The Court referred to previous cases to support its ruling, highlighting the importance of providing reasons for any administrative or quasi-judicial order. It emphasized that every administrative or quasi-judicial authority must indicate reasons, however brief, when issuing an order.

**9.Court's Decision:** In light of the lack of reasoning in the cancellation order, the Court quashed the order dated February 3, 2023. However, the Court directed the petitioner to respond to the show cause notice within three weeks. The Adjudicating Authority, the Assistant Commissioner of Kanpur, is required to pass a fresh order after providing an opportunity of hearing to the petitioner and considering the petitioner's defense.

**Conclusion:** The Allahabad High Court's judgment in the case of World Solution vs. Yashonidhi Shukla underscores the crucial role of providing reasons in judicial and administrative orders. Unreasoned orders are susceptible to legal challenges and may be set aside, as seen in this case. The ruling serves as a reminder of the importance of due process and adherence to legal principles in administrative and judicial decisions, ensuring fairness and justice in legal proceedings.



9. **HC directs GST Registration Restoration due to Unavoidable Circumstances**

**Case Name : Ennkay Timbers Vs State Of U.P. (Allahabad High Court)**

**Appeal Number : Writ Tax No. 1208 of 2022**

**Date of Judgement/Order : 11/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Allahabad High Court (611)**

**Ennkay Timbers Vs State Of U.P. (Allahabad High Court)**

**Introduction:** In a recent judgment, the Allahabad High Court addressed a crucial matter involving the cancellation of Goods and Services Tax (GST) registration. The case of Ennkay Timbers vs. State of U.P. revolved around the cancellation of GST registration due to the petitioner's inability to file returns for six consecutive months. The court's decision highlights the importance of considering unavoidable circumstances when dealing with such cases.

**Detailed Analysis:**

**1. Background:** The case stems from the cancellation of the petitioner's firm's GST registration. The petitioner, Ennkay Timbers, and its proprietor, petitioner no. 2, were granted a GSTIN under the GST Act. However, due to unavoidable and distressing circumstances, the petitioner no. 2 couldn't file GST returns for six consecutive months. This resulted in a show-cause notice proposing the cancellation of the GST registration.

**2. Case Overview:** The petitioner no. 2, the sole proprietor, failed to respond to the show-cause notice in a timely manner. The distressing circumstances cited by the petitioner no. 2 included the loss of family members. Subsequently, the registration was canceled on 18.09.2021, and the petitioner's appeal was rejected by an order dated 4.8.2022.

**3. Petitioner's Arguments:** The petitioner contended that the failure to file returns and pay taxes was due to unavoidable circumstances. They acknowledged their liability and expressed their willingness to clear all dues along with interest, albeit in installments. The

cancellation of the registration hindered the online payment of taxes, necessitating the restoration of the registration.

**4. Court's Observation:** The court acknowledged that the petitioner's inability to file returns was due to distressing personal circumstances. The petitioner's willingness to pay the dues demonstrated their commitment to fulfilling their tax obligations.

**5. Precedent Cases:** The court referred to cases from other High Courts, particularly the Kerala and Guwahati High Courts. These cases emphasized the importance of considering the financial hardships faced by taxpayers and allowing them to pay their dues in installments. While recognizing the statutory limits for installment payments, the courts exercised their discretion to accommodate genuine cases.

**6. Quashing the Order and Restoring Registration:** In view of the petitioner's circumstances and willingness to clear dues, the court directed the restoration of the registration within a week. The petitioner was required to deposit a specific sum, and the remaining outstanding amount along with interest would be paid in six equal monthly installments. Non-compliance with the payment schedule would result in the reinstatement of the registration cancellation order.

**Conclusion:** The judgment by the Allahabad High Court in the case of Ennkay Timbers vs. State of U.P. emphasizes the need to consider genuine and unavoidable circumstances when dealing with GST registration cancellations. The court's decision to allow installment payments takes into account the financial difficulties faced by taxpayers, ensuring they can meet their tax obligations without jeopardizing their businesses. This judgment sets a precedent for handling similar cases and promotes fairness in GST compliance.

10. **Burden of Proving Concession Shifts from Assessee to Department**

**in Reassessment Proceedings: Allahabad HC**

**Case Name : Amrit Steels Vs Commissioner Commercial Tax (Allahabad High Court)**

**Appeal Number : Sales/Trade Tax Revision No. 377 of 2022**

**Date of Judgement/Order : 04/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Allahabad High Court (611)**

**Amrit Steels Vs Commissioner Commercial Tax (Allahabad High Court)**

**Introduction:** The case of Amrit Steels vs. Commissioner of Commercial Tax, as determined by the Allahabad High Court, revolves around the allocation of the burden of proof in original proceedings as compared to reassessment proceedings. This article examines the court's ruling, emphasizing the role of the assessee and the department in justifying claimed concessions.

**Legal Background:** The case involves a dispute pertaining to the assessment year 2013-14 (Central Sales Tax Act). The revisionist claimed a concession rate on their central sale, which was supported by Form – C. The core issue revolves around whether the concession rate was rightfully applied, considering the discrepancy between the revisionist's claims and information received from the corresponding state authority.

**Assessee's Perspective:** The revisionist contended that they were justified in charging a 2% tax rate on their sales to M/s Yash Traders, Rajasthan, against 23 invoices. They argued that the use of Form – C, which was properly issued and without alterations, allowed them to apply the concession rate. The revisionist emphasized that they had no control over how the purchasing dealer maintained their records.

**Department's Response:** The Additional Chief Standing Counsel (ACSC) representing the department supported the impugned order, asserting that the revisionist had failed to substantiate their claims before the authorities. The ACSC highlighted that the matter had been resolved with concurrent findings against the revisionist, given that the sales were not adequately supported by Form – C.

**Original Proceedings:** The court clarified that the present proceedings were original in nature, where the onus lay on the dealer to prove their claim for a concession rate of tax. It was incumbent upon the revisionist to substantiate their case when asserting a concession rate in original proceedings.

**Burden of Proof:** The court affirmed that the burden of proof had not been adequately discharged by the revisionist in this case. They failed to provide convincing evidence to support their claim of a concession rate of tax when their assertions were questioned during the original proceedings.

**Reassessment Distinction:** The court made a crucial distinction between original proceedings and reassessment proceedings. In reassessment proceedings, the onus typically shifts to the revenue authorities to justify their position. However, in original proceedings, the burden remains with the dealer to substantiate their claims.

**Precedent:** The court cited the Supreme Court's decision in the case of M/s I.T.C. Ltd. v. Commissioner of Central Excise, New Delhi and another [2004 (7) SCC 591], which highlighted the authority of the Assessing Authority to verify the contents of certificates and ensure the accuracy of declarations before granting benefits.

**Conclusion:** The Allahabad High Court's ruling in the case of Amrit Steels vs. Commissioner of Commercial Tax underscores the critical role of the assessee in justifying claimed concessions in original proceedings. The burden of proof rests with the dealer to demonstrate the legitimacy of their claims for concession rates. In this case, the revisionist failed to meet this burden and, as a result, the revision was dismissed. The court's decision reaffirms the importance of substantiating claims in original proceedings before tax authorities.

11. **GST: Penalty leviable when tax collected is not deposited within 30 days**

**Case Name : Global Plasto Wares Vs Assistant State Tax Officer (Kerala High Court)**  
**Appeal Number : WP(C) No. 33787 of 2023**  
**Date of Judgement/Order : 17/10/2023**  
**Related Assessment Year :**  
**Courts : All High Courts (11617) Kerala High Court (624)**

Global Plasto Wares Vs Assistant State Tax Officer (Kerala High Court) Kerala High Court held that penalty leviable when the person chargeable to tax fails to deposit the tax collected by him within a period of 30 days from the due date of payment of such tax.

Facts- Vide the present writ petition, the petitioner has confined his grievance in respect of the penalty assessed in the impugned order in the extent of Rs. 40,000/- (Rupees Forty thousand only). It is submitted by the petitioner that he has paid all tax before thirty days from the date of the notice. The notice is dated 28.02.2022 and the petitioner has paid the tax on 10.03.2022.

Conclusion- Held that considering the provisions of Sub-sections 6, 8 and 9 of Section 73 of the GST Act, 2017 it is provided that if a person chargeable to tax fails to deposit the tax collected by him within a period of thirty days from the due date of the payment of the such tax, Sub-section 8 will not have any effect and such a person is liable to pay penalty.

12. **Imposition of penalty u/s. 129(3) of UPGST untenable in absence of intention to evade tax**

**Case Name : Vacmet India Ltd. Vs Additional Commissioner Grade -2 (Allahabad High Court)**

**Appeal Number : Writ Tax No. 687 of 2019**

**Date of Judgement/Order : 17/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Allahabad High Court (611)**

Vacmet India Ltd. Vs Additional Commissioner Grade -2 (Allahabad High Court)

Allahabad High Court held that imposition of penalty under section 129(3) of the UPGST untenable as no observation has been made with regard to intent to evade payment of tax.

Facts- The petitioner deals in production of polyester films, BOPP films, specialty coated films and metallized paper, etc. in India. On 14.05.2018, while the goods were transported from manufacturing unit of the petitioner at Agra to its unit at Kosi Kalan, Mathura, the vehicle was intercepted and detention order in Form GST MOV 06 u/s. 129(1) UPGST Act was passed on the ground that part – B of the e-way bill was not filled up. Thereafter, a show cause notice was issued on the same day, i.e., 14.05.2018, proposing to impose tax amounting to Rs. 1,82,000/- on the estimated value of Rs. 6,50,000/-, together with penalty of Rs. 1,82,000/-. On 16.05.2018, the respondent passed the penalty order u/s. 129(3) of the UPGST Act. Against the penalty order, the petitioner preferred an appeal before the respondent no. 1, which also dismissed. Hence, this writ petition.

Conclusion- Held that since the goods in question were stock transfer from one Unit to another within the State of Uttar Pradesh (Agra to Mathura) and in absence of any provision being pointed out by the learned ACSC or any authority below that the goods (stock transfer) in transit were liable for payment of tax, no evasion of tax could be attributed to the goods in question. Once there was no intention to evade payment of tax, the entire proceedings initiated against the petitioner are vitiated and are liable to be set aside.

### 13. Private Medical Colleges Liable for GST on Affiliation & Inspection

#### Fees: HC

**Case Name : Care College of Nursing and others Vs Kaloji Narayana Rao University of Health Sciences (Telangana High Court)**

**Appeal Number : Writ Petition Nos.34617 of 2022**

**Date of Judgement/Order : 17/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Telangana High Court (119)**

Care College of Nursing and others Vs Kaloji Narayana Rao University of Health Sciences (Telangana High Court) The Telangana High Court recently delivered a significant judgment in the case of “Care College of Nursing and others Vs Kaloji Narayana Rao University of Health Sciences (Telangana High Court),” ruling that private medical colleges are liable to pay Goods and Services Tax (GST) on affiliation and inspection fees. This article delves into the details of the case, the court’s analysis, and the potential consequences of this decision.

#### Detailed Analysis

In a batch of writ petitions, several educational institutions, primarily nursing colleges affiliated with Kaloji Narayana Rao University of Health Sciences (K.N.R.U.H.S.), challenged the demand notice issued by the university. The notice demanded the payment of 18% GST (9% SGST and 9% CGST) on affiliation and inspection fees from July 2017 onwards. The educational institutions contended that they should be exempt from GST based on certain provisions. The core argument put forth by the petitioners was centered on Notification No.12 of 2017 dated 28.06.2017, which grants exemptions to specific services provided by educational institutions. This notification covers services provided by educational institutions to their students, faculty, and staff. It also includes services such as transportation, catering, security, cleaning, and services related to admissions and examinations. However, the notification did not explicitly mention inspection and affiliation fees. The educational institutions contended that these fees should be exempted because they believed that the term “educational institution” included the university itself and that entrance examination fees, which were similar to

affiliation and inspection fees, were also exempt. The petitioners cited a judgment by the Karnataka High Court in support of their claims. The Karnataka High Court had previously ruled in favor of educational institutions regarding the GST liability on certain fees. ADVERTISEMENT In response, the government argued that the GST law made educational services taxable. It emphasized that the exemption under Notification No.12 of 2017 dated 28.06.2017 applied specifically to services rendered to students, faculty, and staff. Any services provided by educational institutions, such as inspection and affiliation services, were taxable unless explicitly exempted. The government referred to a meeting of the GST Council in which it was decided that only specific services, including those related to admission and examination, would be exempted under Notification No.12 of 2017 dated 28.06.2017. Inspection and affiliation fees were not explicitly covered by this exemption. The High Court ultimately concurred with the government's position. It noted that while Notification No.12 of 2017 dated 28.06.2017 exempted certain services provided by educational institutions, it did not encompass inspection and affiliation fees. The court emphasized that exemption notifications should be interpreted strictly and against the taxpayer if there is any ambiguity.

#### Conclusion

The Telangana High Court's judgment has clarified that private medical colleges are not exempt from paying GST on affiliation and inspection fees. The court's decision emphasized that GST exemption notifications should be interpreted strictly, and unless a specific exemption is granted, services provided by educational institutions are taxable. This judgment has significant implications for private educational institutions, especially those offering medical and nursing courses. It underscores the importance of clear and specific exemptions in GST laws and serves as a reminder to educational institutions to carefully assess their GST liabilities. In light of this decision, educational institutions, particularly those in the private sector, may need to review their financial and tax obligations and ensure compliance with GST regulations to avoid potential liabilities.



14. **No provision to Disclose Route of Transportation of Goods under GST**

**Case Name : Om Prakash Kuldeep Kumar Vs Additional Commissioner Grade-2 And Another (Allahabad High Court)**

**Appeal Number : Writ Tax No. 277 of 2022**

**Date of Judgement/Order : 03/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Allahabad High Court (611)**

**Om Prakash Kuldeep Kumar Vs Additional Commissioner Grade-2 And Another (Allahabad High Court)**

The recent judgment by the Allahabad High Court in the case of M/s. Om Prakash Kuldeep Kumar v. Additional Commissioner Grade-2 and Another sheds light on a crucial aspect of the Goods and Services Tax (GST) regime – the disclosure of the route of transportation of goods. This article delves into the details of the case, the court’s analysis, and its impact on the GST landscape.

Hon’ble Allahabad High Court set aside the seizure of goods transported and held that, unlike the Value Added Tax Act, 2008 (“**the VAT Act**”), there is no specific provision in the Goods and Services Tax Act, 2017 (“**the CGST Act**”) which requires assesses to declare the route of transportation/ transit of goods.

**Facts:**

M/s. Om Prakash Kuldeep Kumar (“**the Petitioner**”) is a registered dealer trading Bidi, Matchbox, Tobacco, etc.

The Petitioner prepared the Tax invoice as well as the E-way bill for the goods that were loaded on the Truck for transportation from Bewar Mainpuri to Karahal Mainpuri and Chhibramau, Kannauj.

During the onward journey, when the goods were in transit, the same was intercepted, and on the production of documents, i.e., tax invoices and e-way bills, Form GST MOV-01 was

prepared. On the driver's statement of the vehicle, the seizure/ detention order in Form GST MOV-06 was issued. After that, Form GST MOV-07 was passed, and the department, being not satisfied with the reply of the Petitioner, passed an order raising a demand of Rs. 2,36,304.68/- under Form GST MOV-09 under Section 129 (3) of the **Uttar Pradesh Goods and Services Tax Act, 2017** ("the UP GST Act").

The department seized the vehicle and thereafter, a penalty was imposed on the ground that the driver of the vehicle produced only one tax invoice and e-way bill, whereas the documents about other items were not produced. In this regard, the Petitioner submitted that the driver intended to unload the goods prematurely in Mainpuri, citing the driver's statement in Form GST MOV-01. The absence of a specified provision in the CGST Act regarding route disclosure during transportation makes the penalty unjust, whereas the VAT Act did contain such a provision.

**Issue:**

Whether there is any provision to disclose the route of transportation of Goods under the CGST Act?

**Held:**

The Hon'ble Allahabad High Court in ***WRIT TAX No. – 277 of 2022*** held as under:

- Observed that, the goods in question were sold by the registered dealer along with genuine documents, i.e., tax invoices and e-way bills. At the time of interception, it is alleged that the driver of the vehicle made statement that goods were to be unloaded at the place, which is not mentioned in the tax invoice but at Mainpuri itself.
- Opined that, Under the CGST Act, there is no specific provision that bounds the selling dealer to disclose the route to be taken during the transportation of goods or while goods are in transit however, there was a provision under the VAT Act to disclose the route during transportation of goods to reach its final destination. Once the legislature itself, in its wisdom, has chosen to delete the said provision, this Court opined that the authorities

were not correct in passing the seizure order even if the vehicle was not on a regular route or a different route.

- Held that, the writ petition is allowed with the cost of Rs. 5000/- which shall be paid to the petitioner by the State within 15 days from today. The State exchequer will be at liberty to recover the said cost from the erring officer. The amount already deposited by the petitioner shall be refunded to him in accordance with law within a period of one month from the date of production of a certified copy of this order.

### **Conclusion**

The judgment by the Allahabad High Court in the case of M/s. Om Prakash Kuldeep Kumar v. Additional Commissioner Grade-2 and Another underscores a significant point in the GST regime: the absence of a provision requiring the disclosure of the route of goods during transportation. This ruling offers valuable insights for businesses and assesses involved in the transportation of goods, clarifying that the absence of such a

provision under the GST Act prevents the authorities from seizing goods merely due to deviations from the usual route. The decision provides clarity on this specific issue and serves as a precedent for similar cases.

15. **Plea that is not put forward in pleading cannot be argued later for grant of relief**

**Case Name : Millennium Impex Pvt. Ltd. Vs Additional Commissioner Grade-2 (Appeal) - I State Tax (Allahabad High Court)**

**Appeal Number : Writ Tax No. 721 of 2020**

**Date of Judgement/Order : 18/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Allahabad High Court (611)**

Millennium Impex Pvt. Ltd. Vs Additional Commissioner Grade-2 (Appeal) – I

State Tax (Allahabad High Court) Allahabad High Court held that argument regarding no intention to avoid payment of tax not whispered in the writ petition. Hence, held that the petitioner cannot be permitted to argue the case without there being any pleading in support of his arguments.

Facts- The petitioner is a verified seller of supreme quality of metal seated zero leakage Ball Valves and purchaser of Ball Valve, Diaphragm Valves in bulk. In the normal course of business, the petitioner has made outward supply of Rotor Assembly Elmo and Complete Assy-CL 3001 to NTPC Ltd, Ramagundam Super Thermal Power Station, P.O. Jyotinagar, Distt. Pedapalli, Telangana and the said goods were being transported from New Delhi to Telangana. The same was intercepted by respondent no. 2 at Saiyan, Agra, U.P. on 16.8.2019 and after physical verification of the goods, it was found that part B of the e-way bill accompanying with the goods, was not filled on which notice was issued proposing to impose tax @ 18 % i.e. Rs. 14,63,063/- along with equal amount of penalty. Thereafter on deposit of impugned tax along with penalty, the goods in question were released and respondent no. 2 vide order dated 21.8.2019 passed the penalty order in Form GST MOV 09 u/s. 20 of IGST read with Section 129 (3) of CGST Act observing that part B of e-way bill was not filled, hence the seizure of the goods was valid. Feeling aggrieved to the said order, the petitioner has filed an appeal which was dismissed. Hence the present writ petition.

Conclusion- Held that the petitioner cannot be permitted to argue the case without there being any pleading in support of his arguments. Held that once the finding of fact, which

has been recorded against the assessee has not been assailed in the present writ petition, the petitioner cannot be permitted to argue the case beyond the pleadings. In view of the aforesaid facts, the case law as well as circular relied upon by the petitioner are of no help to him.

16. **Penalty u/s 129(3) of CGST Act unsustainable as no intention to evade payment of tax**

**Case Name : Balaji Traders And Another Vs State of U.P. (Allahabad High Court)**

**Appeal Number : Writ Tax No. 784 of 2023**

**Date of Judgement/Order : 06/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Allahabad High Court (611)**

Balaji Traders And Another Vs State of U.P. (Allahabad High Court)

Allahabad High Court held that for imposition of penalty under section 129(3) of the Central Goods and Services Tax Act, 2017 [CGST Act] intention to evade payment of tax is a pre-requisite. No penalty u/s 129(3) as there was no intent on part of petitioner to evade tax.

Facts- The petitioner – firm is engaged in the business of trading cigarette, pan-masala & food spices. In its normal course of business, the petitioner received an order of supply from one Vaishya Distributors, Nashik (Maharashtra). In pursuance thereof, invoice no. 1406 dated 18.11.2022 was generated. The goods were supposed to be sent through railway. The goods were intercepted on 18.11.2022 outside the railway station, which were loaded in e-rickshaw and confiscated by the GST officials. Thereafter, on 19.11.2022, a show cause notice was issued to the petitioner – firm imposing a penalty of Rs. 5,58,286/-. The petitioner submitted reply to the show cause notice and also deposited a penalty amount; whereupon, the goods were released. The Assistant Commissioner passed the impugned order dated 25.11.2022 confirming the penalty u/s. 129(1) of the SGST Act. Aggrieved by the said order, the petitioner preferred an appeal, which was also dismissed vide order dated 24.03.2023 confirming the order dated 25.11.2022. Hence, this writ petition.

Conclusion- This court in the case of M/s. Shyam Sel & Power Limited has held that for invoking the proceeding under section 129(3) of the CGST Act, section 130 of the CGST Act was required to be read together, where the intent to evade payment of tax is mandatory, but while issuing notice or while passing the order of detention, seizure or demand of penalty, tax, no such intent of the petitioner was observed. Once the authorities have not observed that there was intent to evade payment of tax, proceedings under section 129 of the CGST Act ought not to have been initiated, but it could be done under section 122 of the CGST Act in the facts & circumstances of the present case. It is also not in dispute that after release of the goods, the same were sold to P.L. Trading Company. In view of the facts & circumstances stated above as well as the law laid down by the Apex Court as well as this Court, as cited above, the impugned orders cannot be sustained in the eyes of law.

17. **Failure to Timely Notify Assessment Orders Renders Them Fatal:**

**Gauhati HC**

**Case Name : Vishal Udyog Vs State Of Assam And 3 Ors (Gauhati High Court)**

**Appeal Number : Case No. : WP(C)/5223/2021**

**Date of Judgement/Order : 16/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Guwahati High Court (101)**

Vishal Udyog Vs State Of Assam And 3 Ors (Gauhati High Court)

The Gauhati High Court's recent decision in the case of Vishal Udyog vs. State of Assam and Others sheds light on the critical issue of delayed notification of assessment orders under the Assam Value Added Tax Act 2005. In this article, we will delve into the key points of this ruling, which has significant implications for the validity of assessment orders and their potential impact on dealers and assesseees.

Detailed Analysis:

Justice Devasish Baruah of the Gauhati High Court addressed petitions challenging assessment orders issued by the prescribed authority under the Assam Value Added Tax Act 2005. The central question at hand was whether the failure to timely communicate

these assessment orders to dealers and assessees rendered the orders invalid, even if they were passed within the prescribed timeframe. The assessment orders in question were dated 21.12.2017 and related to the assessment years 2012-13 and 2013-14. According to the Act, the last date for completing the assessment for the 2012-13 assessment year was 31.03.2018, and for the 2013-14 assessment year, it was 31.03.2019. On the surface, these assessment orders fell within the period stipulated by Section 39 of the Act. However, the delay in issuing notices of demands became a pivotal issue in this case. These notices were issued in July and August of 2019, well after the statutory deadlines had passed. The court highlighted that there was no explanation provided, either through affidavits or records, regarding the substantial delay in issuing these notices, which exceeded two years. Taking into account the judgment of the Supreme Court, notably in the case of M. Ramakishtaiah and Company, the Gauhati High Court concluded that the assessment orders for the assessment years 2012-13 and 2013-14 could not be assumed to have been issued on 21.12.2017. Instead, they may have been made after the expiration of the prescribed period. As a result, the assessment orders for these periods were set aside.

**Conclusion:**

The ruling of the Gauhati High Court in the case of Vishal Udyog vs. State of Assam and Others emphasizes the critical importance of timely communication of assessment orders to dealers and assessees. Even if assessment orders appear to have been passed within the prescribed timeframes, delays in notification can render them invalid. This decision serves as a reminder of the need for government authorities to adhere to statutory deadlines and ensure the due process is followed, ultimately upholding the principles of fairness and justice in taxation matters.

18. **GST not chargeable on premium and lease rent on plots allotted to hospitals**

**Case Name : Ram Kamal Healthcare Pvt. Ltd Vs Union of India (Allahabad High Court)**  
**Appeal Number : Writ Tax No. 1435 of 2018**  
**Date of Judgement/Order : 05/10/2023**  
**Related Assessment Year :**  
**Courts : All High Courts (11617) Allahabad High Court (611)**

Ram Kamal Healthcare Pvt. Ltd Vs Union of India (Allahabad High Court)

Allahabad High Court held that GST is not chargeable on premium and lease rent on plots allotted to hospital against lease granted for more than 30 years. Accordingly, communication demanding deposit of GST liable to be quashed.

Facts- The present petition has been filed to quash the letter/communication dated 24.08.2018 issued by the Advisor to Yamuna Expressway Industrial Development Authority ('YEIDA') requiring the petitioner to deposit GST at the rate of 18% on the premium Rs. 3.80 crores charged by the YEIDA against Institutional Plot H-02, Sector 22-A, YEIDA admeasuring 4,000 square meters, allotted to the petitioner on 28.04.2015.

Conclusion- Held the exemption made available to the petitioner by virtue of the original Notification issued under Section 11 read with order of the Authority for Advance Ruling, is unconditional. Consequently, the letter dated 24.08.2018 issued on behalf of YEIDA is wholly unfounded in law and also in facts. Besides absence of conditions imposed by the legislature while granting exemption, no fact allegation has been made in the said communication of any specific condition having been violated by the petitioner. Consequently, the writ petition is allowed. The impugned communication dated 24.08.2018 is quashed.



19. **IGST Refund Approved for Telecommunication Services to FTOs**

**Case Name : Vodafone Idea Limited Vs Union of India & Ors. (Delhi High Court)**

**Appeal Number : W.P.(C) No. 2472/2023**

**Date of Judgement/Order : 09/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Delhi High Court (2713)**

Vodafone Idea Limited Vs Union of India & Ors. (Delhi High Court)

Delhi High Court held that refund of Integrated Goods and Services Tax (IGST) in respect of telecommunication services rendered to inbound subscribers of Foreign Telecom Operators (FTOs) granted.

Facts- The petitioner has filed the present petition impugning a common order passed by the Appellate Authority dismissing the appeals preferred by the petitioner u/s. 107 of the Central Goods and Services Tax Act, 2017 against orders passed by the Adjudicating Authority. The petitioner is, essentially, aggrieved by rejection of its claims for refund of Integrated Goods and Service Tax in respect of telecommunication services rendered by the petitioner pursuant to agreements with Foreign Telecom Operators (FTOs). The Adjudicating Authorities as well as the Appellate Authority rejected the refund claims on, essentially, two grounds. First, that the services provided by the petitioner in respect of which refund of IGST was claimed did not qualify as export of services. And second, that the claims preferred were beyond the period of two years from the relevant dates and therefore, were barred by limitation. The principal questions involved in the present petition are whether the telecom services provided by the petitioner to inbound subscribers of FTOs constitute export of services and whether its claims were within the period of limitation as specified u/s. 54(1) of the CGST Act.

Conclusion- The Central Board of Indirect Taxes and Customs (CBIC) had issued a notification (GST Notification 13/2022-Central Tax dated 05.07.2022) relaxing the period of limitation, inter alia, for filing a claim for refund u/s. 54(1) of the CGST Act. In terms of the said Notification, the period commencing from 01.03.2020 to 28.02.2022 is required to be excluded for computing the period of limitation. ADVERTISEMENT The provisions

for ascertaining the place of supply of services under Rule 6A of the ST Rules are similar to Section 2(6) of the IGST Act inasmuch as the services will be treated as export of services when (a) the provider of service is located in the taxable territory, (b) the recipient of the service is located outside India, and (d) the place of provision of the service is outside India.

20. **Resolving Ambiguity: HC Favors Taxpayers in GST Assessment Case**

**Case Name : New Morning Star Travels Vs Deputy Commissioner (ST) (Andhra Pradesh High Court)**

**Appeal Number : Writ Petition No.12850 of 2022**

**Date of Judgement/Order : 12/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Andhra Pradesh HC (186)**

New Morning Star Travels Vs Deputy Commissioner (ST) (Andhra Pradesh High Court)

The Andhra Pradesh High Court recently passed a judgment in the case of New Morning Star Travels vs. Deputy Commissioner (ST) concerning a GST assessment order. The judgment revolves around the issuance of a show cause notice without a prior tax intimation, which the petitioner argued was a violation of the relevant rules. This article provides a detailed analysis of the case and its implications.

**Background of the Case:** The petitioner, New Morning Star Travels, challenged an assessment order dated 31st March 2022, which encompassed tax, penalty, and interest for the assessment period spanning from 1st July 2017 to 31st March 2020. The crux of the petitioner's argument was the absence of a show cause notice in accordance with Rule 142(1A) of the **Central Goods and Services Tax (CGST) Rules, 2017**.

**Rule 142(1A) – Pre-Amendment vs. Post-Amendment:** Rule 142(1A) of the CGST Rules, 2017, played a pivotal role in this case. The critical distinction lies in its wording before and after an amendment that came into effect on 15th October 2020. The pre-amendment rule stated that the “proper officer shall” communicate tax details before issuing a notice. However, the

amendment replaced “shall” with “may,” making the issuance of such communication discretionary.

**The Contention:** The petitioner argued that since the show cause notice covered both the pre-amendment and post-amendment periods, a tax intimation should have preceded it, as per the pre-amended Rule 142(1A). The absence of this intimation, according to the petitioner, rendered the assessment order invalid.

**Ambiguity Resolution:** The court’s decision was rooted in a fundamental principle – when ambiguity surrounds a provision, the benefit should favor the taxpayer. In this case, the assessment period extended from 1st July 2017 to 31st March 2021, encompassing both pre and post-amendment periods of Rule 142(1A). The court concluded that, considering this ambiguity, the tax intimation should have been issued.

**Conclusion:** The Andhra Pradesh High Court’s judgment in the case of New Morning Star Travels vs. Deputy Commissioner (ST) reinforces the importance of adhering to procedural requirements in GST assessments. The court’s decision highlights the significance of issuing a tax intimation when ambiguity arises due to changes in the law, ultimately safeguarding the rights of taxpayers and upholding the principles of justice.

21. **Demand of sales tax sustained as discrepancies in sales figures and physical stock not explained**

**Case Name : Berger Paints India Ltd Vs Commissioner of Trade and Taxes Delhi (Delhi High Court)**

**Appeal Number : VAT Appeal 26/2022**

**Date of Judgement/Order : 09/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Delhi High Court (2713)**

Berger Paints India Ltd Vs Commissioner of Trade and Taxes Delhi (Delhi High Court)

Delhi High Court held that as discrepancies in sales figures as well as physical stock not explained, the assessing authority took a fair view in enhancing sales by 10% of net GTO after deducting the stock transfer figure of GTO. Accordingly, levy of tax with interest confirmed.

Facts- The appellant is engaged in the business of manufacturing and marketing of paints and allied products. It is having its headquarters at Kolkata and its network is spread throughout the entire length and breadth of the country. The appellant is having Sales Tax Registration under DST Act. It is claimed that appellant is having its factories outside Delhi and used to send goods for storage to Delhi unit from where sales were made. A team of enforcement officials conducted a survey at the premises of the appellant in Delhi and certain documents including diaries of sales persons and certain gate passes were seized. The Sales Tax Officer, Enforcement eventually passed an assessment order u/s. 23(3) of the DST Act directing the appellant to pay a sum of Rs. 59,49,503/-, comprising of tax component to the tune of Rs. 32,34,254/- plus interest amounting to Rs. 17,26,249/- and penalty for a sum of Rs. 10,00,000/-, primarily based on variations in physical stock in comparison to the stock in record. The demand of DST was computed by increasing the sales value of the goods. Further, it was also alleged that the goods were transferred from the Delhi branch to the Faridabad and Ghaziabad branches on receiving orders from certain dealers and accordingly, an assessment order was issued u/s. 9 of the Central Sales Tax Act, 1975 directing the appellant to pay Rs. 58,43,131/- and the demand

of Central Sales Tax was computed by treating 10% of the stock transfer as inter-State sale. The Special Commissioner, Sales Tax, dismissed the appeal and confirmed the demand on both counts.

Conclusion- As per Section 6 of the DST Act, the burden of proving that the sale was not effected and that no tax was liable to be paid, was upon the appellant. Accordingly, we find no flaw in the decision that the appellant did not make any request to the Assessing Authority to produce the party, namely M/s. Mahabir Prasad and Company, as regards the transaction of sale shown in the loose paper, coupled with the fact that no explanation was further submitted by the appellant with regard to the case of suppression of the sale of Rs. 11,63,867. It is also evident that no documents in the nature of stock reconciliation, certified by the Auditors of the company or for that matter by the Accountants concerned, was furnished either. Held that where the discrepancies in the sales figures as well as the physical stock were not explained by the appellant, we find that assessing authority took a fair, just, and reasonable view of the matter in proceeding to carry out a best judgment assessment thereby enhancing sales by 10% of the net GTO after deducting the stock transfer figure of GTO, and accordingly, the levy of tax with interest cannot be unpalatable or an unconscionable exercise of powers.

22. **GST Liability on Government Contract awarded in pre or post-GST regime**

**Case Name : Bimal Roy Vs State of West Bengal & Ors. (Calcutta High Court)**

**Appeal Number : WPA 2459 of 2023**

**Date of Judgement/Order : 19/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Calcutta High Court (712)**

**Bimal Roy Vs State of West Bengal & Ors. (Calcutta High Court)**

**Introduction:** The Calcutta High Court recently delivered a significant judgment on the issue of GST (Goods and Services Tax) liability concerning government contracts. In the case of Bimal Roy Vs State of West Bengal & Ors., the petitioner sought clarity on the responsibility for paying GST incurred on works contracts executed and completed after July 1, 2017, in situations where the contracts were awarded in the pre-GST regime or the post-GST regime. This article provides a detailed analysis of the case and its implications.

**Background:** The petitioner, engaged in the business of works contracting under the name “Bimal Roy,” had received multiple government work orders in both the pre-GST and post-GST periods. The estimation and tendering process for these contracts had begun before the GST regime came into effect, leading to complexities in applying GST to these projects.

**Voluntary GST Payment:** The petitioner voluntarily paid CGST and SGST in the amount of Rs. 45,61,502 on April 18, 2021, after initially receiving payment certificates from the government without the inclusion of GST tax.

**Show Cause Notices:** Subsequently, the GST authorities issued show cause notices and reminders, alleging suppression of taxable turnover. These notices and reminders triggered a series of responses and representations from the petitioner to the government contractees, requesting payment of GST tax and interest.

**Court's Observations:** The Calcutta High Court observed that government contractees had not updated the Schedule of Rates (SOR) to incorporate the applicable GST while preparing bills for payment, which resulted in the petitioner facing additional tax liability.

**Notification Clarity:** The court noted that relevant notifications and provisions clarified that post-GST contracts or ongoing projects were subject to GST if estimates had been approved before July 1, 2017. Therefore, the government contractees were obligated to pay the applicable GST tax and interest.

**Government's Stance:** In response, the government argued that the petitioner, being a registered entity under the GST Act, was responsible for collecting and paying the tax. The government contended that the writ petition had no merit.

**Court's Decision:** The court disposed of the case by allowing the petitioner to file representations before the Additional Chief Secretary, Finance Department, Government of West Bengal. These representations would state the facts and provisions of the case. The Additional Chief Secretary was required to make a final decision within four months of receiving the representations after consulting relevant departments.

**No Coercive Action:** The court ordered that no coercive action should be taken against the petitioner by the respondents until a final decision was reached. However, failure to file representations within the specified timeframe would render the court's order ineffective.

**Legal Compliance:** The court emphasized that the Additional Chief Secretary should follow the law and provide a reasoned and well-considered decision after hearing the petitioner or their authorized representatives. The court also noted that various Supreme Court and High Court judgments would be considered during this process.

**Conclusion:** The Calcutta High Court's judgment in the case of Bimal Roy Vs State of West Bengal & Ors. sheds light on the complexities surrounding GST liability in government contracts. The court's decision to allow the petitioner to file representations and the subsequent decision-making process underscores the importance of clarity and compliance in the GST regime. This

case serves as a significant reference point for individuals and entities dealing with similar GST-related issues in the realm of government contracts.

This article has provided a comprehensive analysis of the case and its implications, emphasizing the need for adherence to GST regulations and the importance of the court's decision in addressing disputes related to government contract GST liability.

## 23. **GST: Intent to Evade Tax a Prerequisite for Sections 129 & 130**

### **Proceedings**

**Case Name : Shyam Sel And Power Limited Vs State Of U.P. (High Court Allahabad)**

**Appeal Number : Writ Tax No. 603 of 2023**

**Date of Judgement/Order : 05/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Allahabad High Court (611)**

**Shyam Sel And Power Limited Vs State Of U.P. (High Court Allahabad)**

The case of *Shyam Sel And Power Limited vs. State of U.P.* before the Allahabad High Court has spotlighted the importance of “intent to evade tax” when invoking the provisions of Sections 129 and 130 of the **Central Goods and Services Tax (CGST) Act**. The judgment is notable due to the absence of a GST Tribunal in the State of Uttar Pradesh, necessitating the court's intervention. This article delves into the case's background, key arguments, and the court's findings.

### **Detailed Analysis:**

**1. Case Background:** The petitioner, Shyam Sel And Power Limited, contested two key orders issued by the respondents. The first order, dated 25.11.2021, confirmed a demand/penalty of Rs. 5,51,602. The second order, dated 18.06.2022, dismissed the petitioner's appeal.

**2. The Petitioner's Business:** The petitioner is a business engaged in the manufacture and sale of industrialgrade steel components, including channels and beams. The petitioner transported steel goods to a registered dealer, M/s Maa Ambey Steels, accompanied by relevant tax invoices, e-way bills, and GRs.



**3. Cancellation of E-way Bill:** The controversy arose when it was discovered during an interception that the e-way bill accompanying the goods had been canceled by the purchasing dealer. A Goods and Services Tax (GST) MOV 06 form was prepared, and the goods were seized.

**4. Response and Penalty:** The petitioner's response stated that all e-way bills were duly filled out, and the petitioner was unaware of the cancellation by the purchasing dealer. Nevertheless, an order was passed under section 129(3) of the CGST Act, imposing a penalty on the petitioner.

**5. Intent to Evade Tax:** The crux of the case centered on whether there was an "intent to evade payment of tax." The petitioner argued that there was no such intent and that the penalty should have been levied under a different section of the CGST Act.

**6. Court's Decision:** The court concluded that, while the proceedings had been initiated under section 129 of the CGST Act, intent to evade tax was not observed. The court referenced section 130 of the CGST Act, which requires the presence of such intent, and found that the penalty should have been levied under section 122(ix) of the CGST Act. Furthermore, the court noted that the petitioner had taken appropriate action, including informing the authorities, after discovering the canceled e-way bill.

**Conclusion:** The judgment in the case of *Shyam Sel And Power Limited vs. State of U.P.* reiterates the significance of establishing "intent to evade tax" when applying Sections 129 and 130 of the CGST Act. In this instance, the court found that there was no such intent and that proceedings should have been initiated under a

different section of the Act. This case underscores the importance of a fair and balanced interpretation of taxation statutes, ensuring that penalties are levied appropriately.

24. **Sikkim HC to Rule on Challenge to CGST Rule 31A**

**Case Name : Delta Corp Limited and Anr. Vs Union of India and Ors. (Sikkim High Court)**

**Appeal Number : W.P. (C) No. 41 of 2023**

**Date of Judgement/Order : 20/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Sikkim High Court (7)**

Delta Corp Limited and Anr. Vs Union of India and Ors. (Sikkim High Court)

In a recent legal development, the Sikkim High Court is gearing up to make a crucial decision regarding the challenge to Rule 31A of the Central Goods and Services Tax (CGST) Rules, 2017. This case has significant implications for businesses and taxpayers. The hearing, which took place on October 20, 2023, focused on the matter raised by Delta Corp Limited and Anr. against Union of India and others. Let's delve into the details of this case and its potential impact. The counsel for the Delta Corp Limited and Anr. ("Petitioners") have challenged, inter alia, Rule 31A of the Central Goods and Services Tax Rules, 2017 ("the CGST Rules") as ultra vires to the Constitution of India. The Petitioners have also challenged the Show Cause Notice ("SCN") dated September 27, 2023, issued against the Petitioners, Rate Notification dated June 28, 2017, Circular dated January 04, 2018, and FAQ clarification dated September 06, 2017. The counsel for the Petitioners further submitted that, the Petitioners have been corresponding with the concerned authorities as they were facing difficulty in determining the value of the supply made, particularly after the insertion of Rule 31A of the CGST Rules. However, the Petitioners were constrained to approach the Court challenging vires of Rule 31A of the CGST Rules. The Counsel for the Petitioners also submitted that, the need to respond to SCN would not arise if the Petitioners are successful in their challenge to Rule 31A of the CGST Rules. The Deputy Solicitor General of India submitted that, at this stage only SCN has been issued and further steps would be taken only after the receipt of reply from the Petitioners. The matter has been listed for filing of reply and further hearing on December 05, 2023.

## Conclusion

The Sikkim High Court's upcoming decision on the challenge to Rule 31A of the CGST Rules has the potential to impact the interpretation and application of this rule in the realm of Goods and Services Tax. The case, brought forward by Delta Corp Limited and Anr., highlights the complexities faced by businesses in complying with tax regulations. The outcome of this legal battle may have far-reaching consequences, providing clarity on the constitutional validity of Rule 31A and its related elements. The hearing on December 05, 2023, will be a significant moment for businesses, taxpayers, and legal experts closely monitoring this case.

## 25. Allahabad HC Upholds Input Tax Credit Denial Due to Lack of Evidence

**Case Name : Malik Traders Vs State of U.P. (Allahabad High Court)**

**Appeal Number : Writ Tax No. 1237 of 2021**

**Date of Judgement/Order : 18/10/2023**

**Related Assessment Year :**

**Courts : All High Courts (11617) Allahabad High Court (611)**

### **Malik Traders Vs State of U.P. (Allahabad High Court)**

**Introduction:** In a significant judgment, the Allahabad High Court addressed a case involving Malik Traders and the State of Uttar Pradesh (U.P.). The court ruled on the denial of input tax credit (ITC) and emphasized the importance of providing comprehensive evidence in GST (Goods and Services Tax) cases.

**Background of the Case:** Malik Traders, a registered dealer engaged in the purchase and sale of waste materials, plastic scrap, paper scrap, and metal scrap, found themselves entangled in a tax dispute. The company claimed input tax credit on its purchases, which is a crucial component of the GST system designed to avoid double taxation. However, their claim was disputed by the tax authorities, who alleged that the ITC had been wrongly availed.

The tax authorities initiated proceedings under Section 74 of the Uttar Pradesh GST Act, alleging that Malik Traders had wrongfully availed input tax credit amounting to INR 12,32,148. This claim was confirmed in an order dated March 6, 2021, by the Additional Commissioner of Grade-2 (Appeal) First, Commercial Tax, Meerut.

***Key Arguments and Legal Standpoint:***

**Malik Traders' Argument:** Malik Traders argued that they had purchased goods and scrap from various suppliers. They emphasized that they had tax invoices, e-way bills, GR (goods receipt) records, and had made payments through checks, RTGS, and NEFT. They contended that since the tax had been charged on these invoices and duly paid by them through legitimate banking channels, they were entitled to claim input tax credit. They insisted that if the suppliers failed to deposit the tax collected, the penalty should be imposed on the suppliers, not on them. Furthermore, they argued that disallowing their ITC claim would result in double taxation, which was contrary to the spirit of the GST regime.

**State of U.P.'s Argument:** The State of U.P., represented by the tax authorities, supported their actions and maintained that Section 16 of the UP GST Act clearly stipulated conditions for claiming input tax credit. They argued that merely producing tax invoices and proof of payment was insufficient to claim ITC. The State contended that Malik Traders needed to provide detailed evidence, including vehicle numbers used for transporting goods, payment of freight charges, acknowledgment of goods delivery, and other such specifics. They argued that Malik Traders had failed to establish the actual physical movement of goods and the genuineness of transactions.

***The High Court's Ruling:***

The Allahabad High Court carefully examined the arguments and the relevant legal provisions, ultimately affirming the denial of input tax credit in this case. The court highlighted that the burden of proof lay with the registered dealer (Malik Traders) to provide comprehensive evidence regarding the actual transaction, including the physical movement of goods and the genuineness of transactions.

The court held that producing tax invoices, e-way bills, GR records, and proof of payment, while important, was insufficient to establish the legitimacy of the transactions. Specific details such as vehicle numbers used for transportation, payment of freight charges, acknowledgment of goods delivery, and other particulars were deemed necessary to support their claim for input tax credit.

In conclusion, the Allahabad High Court's ruling in the case of Malik Traders vs. State of U.P. underscores the significance of providing robust evidence in GST cases, especially when claiming input tax credit. The judgment aligns with the legal principle that the burden of proof falls on the dealer to demonstrate the genuineness of transactions, the actual physical movement of goods, and adherence to the conditions specified under GST laws.