

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

GST UPDATE
(August 2023)

INDEX

Sr. No.	Subject	Page No.
I.	CONTENTS	3-5
II.	GIST of GST Notifications	6
III.	CENTRAL TAX NOTIFICATION	7-37
IV.	STATE TAX NOTIFICATION	38-52
V.	ADVANCE RULINGS	53-56
VI.	JUDGEMENTS	57-104

CONTENTS

Sr. No. ***Subject***

(I) CENTRE GST NOTIFICATION

1.	Notification No. 36/2023- Central Tax Dated: 04th August, 2023
2.	Notification No. 40/2023-Central Tax Dated: 17th August, 2023
3.	NOTIFICATION NO. 39/2023-CENTRAL TAX: AMENDMENTS TO NOTIFICATION NO. 02/2017
4.	Notification No. 38/2023- Central Tax Dated: 04th August, 2023
5.	Notification No. 41/2023- Central Tax Dated: 25th August, 2023
6.	Notification No. 44/2023- Central Tax Dated: 25th August, 2023
7.	Notification No. 42/2023- Central Tax Dated: 25th August, 2023
8.	Notification No. 37/2023- Central Tax, Dated: 04th August, 2023
9.	Notification No. 36/2023- Central Tax Dated: 04th August, 2023

(I) STATE GST NOTIFICATION

1.	12/2022-Central Tax dated 5th July,2022
2.	02/2023-Central Tax-dated 31-03-2023
3.	03/2023-Central Tax-dated 31-03-2023
4.	04/2023-Central Tax-dated 31-03-2023
5.	06/2023-Central Tax-dated 31-03-2023
6.	07/2023-Central Tax-dated 31-03-2023
7.	08/2023-Central Tax-dated 31-03-2023
8.	09/2023-Central Tax-dated 31-03-2023
9.	10/2023-Central Tax-dated 10-5-2023

(II) ADVANCE RULINGS

1	ITC not eligible on services received in the form of transfer of rights in leasehold land owned by GIDC
2	GST on amount employees portion of canteen charges & ITC on canteen facility
4	GST applicable on works contract service by land owner to prospective purchasers of apartments
5	GST Implications on Gold Coins & White Goods Incentives

(III) JUDGEMENTS

1.	GST: Calcutta HC stays Section 61 notice over jurisdiction issue
2.	Advocate's Failure to Inform Client Doesn't Justify Appeal Delay: Court Ruling
3.	Assessee is responsible to monitor GST Portal after cancellation of GST registration
4.	Notification no. 14/2022-Central Tax inserting explanation in rule 89 of CGST Rules has prospective effect

5.	Failure to Prove Physical Goods Movement: Registered Dealer Purchases May be Treated as Unregistered Dealer Purchases
6.	DGGI investigation cannot be stopped for investigation of any other entity
7.	Section 65 GST audit cannot be conducted after closure of business
8.	Jac Olivol Body Oil to Fall Under Heading 3304 of Customs Tariff Act
9.	BPO service provided to overseas client was not an intermediary service
10.	Notice issued to Revenue Department challenging arrest & summoning powers of GST officials
11.	Writ not maintainable if alternative remedy of appeal filing not availed: Patna HC
12.	Action against appellate authority order kept on hold till GSTAT is constituted
13.	Claim Refund in Form DVAT-21 If Not Claimed in Return: Delhi HC
14.	Limitation Act 1963 Doesn't Apply to GST Appeal Timeframes
15.	Order to cancel GST registration without specifying reason is not sustainable
16.	Appellant Isn't an Intermediary Without Facilitating Third-Party Services
17.	Goods exempted from e-way bill requirements can't be detained for lacking e-way bill
18.	Entire GST Refund Can't Be Denied Due to One Supplier's Irregularity
19.	Satellite derived 3D model services – OIDAR or Export of Services?
20.	Section 67(2) of CGST Act doesn't grant officers authority for cash seizures
21.	Writ Maintainable for Authority's Jurisdictional Error & Violation of Natural Justice
22.	Orissa HC Directs Payment of 20% of Disputed Tax in Absence of GSTAT
23.	Orissa HC: Deposit Full Tax in 15 Days Before Opting Writ Remedy for GSTAT Non-Constitution
24.	Adjudicating Authority must provide hearing opportunity before passing an adverse order
25.	Limitation Grounds Inapplicable for Timely & Properly Filed GST Refund Applications
26.	CCI Directs DGAP to Investigate 'Jaypee Greens Kalypso Court' Units for Profiteering
27.	Anti-Profiteering provisions not attracted to project 'Godrej Elements': CCI
28.	Dharampal Satyapal Ltd. Challenges Authority of GST Council to hike GST Rate
29.	Pre-deposit made through E-credit ledger is valid under GST: Orissa HC
30.	GST Registration Cannot Be Cancelled on Mere Fraud Allegation: Delhi HC

GIST of GST Notifications

Centre's Notification No.	Subject
Notification No. 36/2023- Central Tax Dated: 04th August, 2023	CBIC NOTIFIES NEW ECOMMERCE TAX RULES FOR COMPOSITION TAXPAYERS
Notification No. 40/2023-Central Tax Dated: 17th August, 2023	APPOINTMENT OF COMMON ADJUDICATING AUTHORITY FOR UNITED SPIRITS LTD
NOTIFICATION NO. 39/2023-CENTRAL TAX: AMENDMENTS TO NOTIFICATION NO. 02/2017	AMENDMENTS TO NOTIFICATION NO. 02/2017
Notification No. 38/2023- Central Tax Dated: 04th August, 2023	CENTRAL GOODS AND SERVICES TAX (SECOND AMENDMENT) RULES, 2023 Seeks to make amendments (Second Amendment , 2023) to the CGST Rules, 2017 vide Notification No. 38/2023- Central Tax, Dated: 04th August, 2023
Notification No. 41/2023- Central Tax Dated: 25th August, 2023	EXTENSION OF DUE DATE FOR FORM GSTR-1 FOR MANIPUR
Notification No. 44/2023- Central Tax Dated: 25th August, 2023	EXTENSION OF DUE DATE FOR GSTR-7 IN MANIPUR (APRJUL 2023)
Notification No. 42/2023- Central Tax Dated: 25th August, 2023	EXTENSION OF DUE DATE: GSTR-3B FOR APRIL-JULY 2023 IN MANIPUR
Notification No. 37/2023- Central Tax, Dated: 04th August, 2023	GST ECOMMERCE TAX GUIDELINES FOR SUPPLIES BY UNREGISTERED PERSONS
Notification No. 36/2023- Central Tax Dated: 04th August, 2023	GST: CBIC NOTIFIES NEW ECOMMERCE TAX RULES FOR COMPOSITION TAXPAYERS
12/2022-Central Tax dated 5th July,2022	Seeks to extend the waiver of late fee for delay in filing FORM GSTR-4 for FY 2021-22
02/2023-Central Tax-dated 31-03-2023	Amnesty to GSTR-4 non-filers
03/2023-Central Tax-dated 31-03-2023	Extension of time limit for application for revocation of cancellation of registration
04/2023-Central Tax-dated 31-03-2023	Amendment in CGST Rules
06/2023-Central Tax-dated 31-03-2023	Amnesty scheme for deemed withdrawal of assessment orders issued under Section 62
07/2023-Central Tax-dated 31-03-2023	Rationalisation of late fee for GSTR-9 and Amnesty to GSTR-9 non-filers

08/2023-Central Tax-dated 31-03-2023	Amnesty to GSTR-10 non-filers
09/2023-Central Tax-dated 31-03-2023	Extension of limitation under Section 168A of CGST Act
10/2023-Central Tax-dated 10-5-2023	Seeks to implement e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 5 Cr from 01 st August 2023.

(I) CENTRE GST NOTIFICATIONS

1. Notification No. 36/2023- Central Tax | Dated: 04th August, 2023

GST: CBIC NOTIFIES NEW ECOMMERCE TAX RULES FOR COMPOSITION TAXPAYERS

CBIC notifies special procedure to be followed by the electronic commerce operators in respect of supplies of goods through them by composition taxpayers vide Notification No. 36/2023- Central Tax | Dated: 04th August, 2023

Central Board of Indirect Taxes and Customs, has rolled out new regulations for eCommerce operators under the Central Goods and Services Tax Act (CGST), 2017. These amendments concern supplies of goods by composition taxpayers.

The notification No. 36/2023 outlines that eCommerce operators are now required to follow a unique procedure for goods supplied through them by composition taxpayers. Key aspects of this special procedure include barring inter-State supply of goods by the taxpayer, collection of tax at source by the eCommerce operator, and mandatory furnishing of supply details through FORM GSTR-8 on the common portal. This amendment is significant, as it tightens tax collection at source and ensures greater transparency in the eCommerce industry.

This new regulation, effective from October 1, 2023, introduces additional requirements for eCommerce operators regarding **supplies of goods through them by composition taxpayers**.

Ministry of Finance
(Department of Revenue)

Central Board of Indirect Taxes and Customs

Notification No. 36/2023- Central Tax | Dated: 04th August, 2023

G.S.R. 588(E).—In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies the electronic commerce operator who is required to collect tax at source under section 52 as the class of persons who shall follow the following special procedure in respect of supply of goods made through it by the persons paying tax under section 10 of the said Act (hereinafter referred to as the said person), namely: —

- (i) the electronic commerce operator shall not allow any inter-State supply of goods through it by the said person;
- (ii) the electronic commerce operator shall collect tax at source under sub-section (1) of section 52 of the said Act in respect of supply of goods made through it by the said person and pay to the Government as per provisions of sub-section (3) of section 52 of the said Act; and
- (iii) the electronic commerce operator shall furnish the details of supplies of goods made through it by the said person in the statement in **FORM GSTR-8** electronically on the common portal.

2. This notification shall come into force with effect from the 1st day of October, 2023.

[F. No. CBIC-20006/20/2023-GST] ALOK

KUMAR, Director

2. Notification No. 40/2023-Central Tax | Dated: 17th August, 2023

GST NOTIFICATION: APPOINTMENT OF COMMON

ADJUDICATING AUTHORITY FOR UNITED SPIRITS LTD

Introduction: The Ministry of Finance has taken a significant step by issuing Notification No. 40/2023-Central Tax, dated 17th August 2023, under the Central Goods and Services Tax Act, 2017 and the Integrated Goods and Services Tax Act, 2017. This notification aims to appoint a common adjudicating authority for a specific case involving M/s United Spirits Ltd. The appointment of such an authority streamlines the adjudication process and ensures effective resolution of the issue at hand.

Notification Highlights: Notification No. 40/2023-Central Tax focuses on the appointment of officers as the Authority to exercise powers and discharge duties conferred on officers mentioned in the notification. The appointed officers will be responsible for adjudicating a specific notice issued to M/s United Spirits Ltd.

Key Appointment Details: The notification provides details regarding the appointment of the common adjudicating authority for the mentioned notice and entity:

- **Noticee:** M/s United Spirits Ltd. (USL)
- **Address:** 26th floor, A Wing, Marathon Futurex, N.M. Joshi Marg, Lower Parel, Mumbai, Maharashtra 400013.
- **Notice Number and Date:** 37/ADC/CGST / MC/ Audit-II / 2022 dated 24.08.2022
- **Adjudicating Authority Mentioned in Notice:** Joint or Additional Commissioner, CGST and Central Excise, Mumbai Central Commissionerate.

Appointed Adjudicating Authority: Joint or Additional Commissioner of Central Tax, Kolkata North Central Excise and GST Commissionerate.

Conclusion: The issuance of Notification No. 40/2023-Central Tax signifies the government's commitment to efficient and effective tax administration. By

appointing a common adjudicating authority for the mentioned notice against M/s United Spirits Ltd, the government aims to expedite the adjudication process, ensure fairness, and provide timely resolutions to tax-

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS) New Delhi

Notification No. 40/2023-Central Tax | Dated: 17th August, 2023

S.O. 3683(E).—

In exercise of the powers conferred by section 5 of the [Central Goods and Services Tax Act, 2017](#) (12 of 2017) and section 3 of the [Integrated Goods and Services Tax Act, 2017](#) (13 of 2017), the Board, hereby appoint officers mentioned in column (5) of the Table below to act as the Authority to exercise the powers and discharge the duties conferred or imposed on officers mentioned in column (4) of the said Table in respect of noticee mentioned in column (2) of the said Table for the purpose of adjudication of notice mentioned in column (3) of the said Table, namely:-

Sl. No.	Name of Noticee and Address	Notice Number and Date	Name of Adjudicating Authority	Name of the Authority
1	M/s United Spirits Ltd. (USL), 26th floor, A Wing, Marathon Futurex, N.M. Joshi Marg, Lower Parel, Mumbai, Maharashtra-400013.	37/ADC/CGST / MC/ Audit-II / 2022 dated 24.08.2022 issued vide F. No. CGST-A2/MUM/F 22/GST/United Spirits/5307/5668/2021/5962.	Joint or Additional Commissioner, CGST and Central Excise, Mumbai Central Commissionerate.	Joint or Additional Commissioner of Central Tax, Kolkata North Central Excise and GST Commissionerate.

3. NOTIFICATION NO. 39/2023-CENTRAL TAX: AMENDMENTS TO NOTIFICATION NO.

02/2017

Introduction: The Ministry of Finance, through Notification No. 39/2023-Central Tax, dated 17th August 2023, has introduced amendments to the previously issued Notification No. 02/2017-Central Tax, dated 19th June 2017. This alteration holds significance in the context of the Central Goods and Services Tax Act, 2017 and the Integrated Goods and Services Tax Act, 2017. The notification aims to modify certain aspects within the existing framework to enhance its applicability and relevance.

Notification Highlights: The Notification No. 39/2023-Central Tax focuses on introducing amendments to the earlier notification, No. 02/2017-Central Tax. The amendments primarily affect the territorial jurisdiction and tax implications in specific regions. These alterations take effect from the 4th of April 2022.

Key Amendments: The notification provides a breakdown of specific amendments to be made in Table II of Notification No. 02/2017-Central Tax:

- 1. Serial Number 39:** The existing serial number 39, along with its entries, is replaced with new details regarding the Guntur district. The revised description encompasses districts from West Godavari to Tirupati in Andhra Pradesh. It also covers territorial waters and the seabed within the state.
- 2. Serial Number 101:** Serial number 101 is updated with information related to the Tirupati district. The revised description includes districts of Chittoor, YSR Kadapa, Anantpur, and others in Andhra Pradesh.
- 3. Serial Number 107:** This serial number is modified to account for the Visakhapatnam district. The revised entry comprises districts like Srikakulam, Vizianagaram, and more.

Conclusion: The issuance of Notification No. 39/2023-Central Tax marks a significant step by the Ministry of Finance to refine and update the existing taxation framework. By introducing amendments to Notification No. 02/2017-Central Tax, the government aims to align tax-related policies with changing circumstances and requirements. This step is in line with the continuous efforts to streamline the taxation system, enhance transparency, and facilitate efficient compliance for businesses and taxpayers.

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS)

New Delhi

Notification No. 39/2023-Central Tax | Dated: 17th August, 2023

G.S.R. 612(E).—In exercise of the powers under section 3 read with section 5 of the Central Goods and

Services Tax Act, 2017 (12 of 2017) and section 3 of the **Integrated Goods and Services Tax Act, 2017** (13 of 2017), the Central Government, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) **No. 02/2017-Central Tax, dated the 19th June, 2017** published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 609(E), dated the 19th June, 2017, namely: –

In the said notification, in Table II, with effect from the 4th April, 2022, –

- (i) for serial number 39 and the entries relating thereto, the following serial number and entries shall besubstituted and shall be deemed to have been substituted, namely:-

Districts of West Godavari, Krishna, NTR, Eluru, Guntur,
Bapa
Prakasam, SPS Nellore, mandals of Kovvur, Chagullu,
Tallapudi,
Undrajavaram, Peravali, Devarapalle, Gopalapuram
and Nallaj
Godavari District and mandals of Gudur, Chillakaur,
Kota, Vakad
Balayapalli, Venkatagiri, Dakkili, Ozili, Naidupet,
Pellakur, Do

“39	Guntur	Sullurpeta and Tada of Tirupati District in the state of Andhra Prades The territorial waters and the seabed and sub soil underlying such where the nearest point of the appropriate baseline is located in Andhra Pradesh.”;
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- (ii) for serial number 101 and the entries relating thereto, the following serial number and entries shall besubstituted and shall be deemed to have been substituted, namely:-

Districts of Chittoor, YSR Kadapa, Anantpur,
Annamayya, Sri Satya
Kurnool and mandals of Buchi Naidu Kandriga,
Varadaiahpalem Srikalahasti, Thottambedu,
Renigunta, yerpedu, Kumara Venkata Bh

“101	Tirupati	Nagalapuram, Pichatur, Narayanavanam, Tirupati Urban, Tir Chandragiri, Pakala, Ramachandrapuram, Vadamalapet, Puttur, Ye and Chinnagottigallu of Tirupati district in the State of Andhra Prade
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- (iii) for serial number 107 and the entries relating thereto, the following serial number and entries shall besubstituted and shall be deemed to have been substituted, namely:-

In the Districts of Srikakulam Vizianagaram,
Visakhapatnam, Anark

Sitaramaraju, Parvatipurammanyam, Dr. B.R.
Ambedkar Konaseem

“107 Visakhapatnam and mandals of Rajamahendravaram Urban, Rajamahendravaram Ru

Rajanagaram, Seethanagaram, Korukonda,
Gokavaram, Anaparthi, B Rangampeta of East Godavari
District in the State of Andhra Pradesh

[F. No. CBIC-20016/18/2023-GST]

RAGHAVENDRA PAL SINGH, Director

Note: The principal [notification No. 02/2017- Central Tax, dated the 19th June, 2017](#), was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 609(E), dated the 19th June, 2017, and subsequently amended *vide* [Notification No. 02/2021 – Central Tax , dated the 12th January, 2021](#) published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 18(E), dated the 12th January, 2021 and last amended *vide* [Notification No. 02/2022-Central Tax dated the 11th March, 2022](#) published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 193(E), dated the 11th March, 2022.

4. Notification No. 38/2023- Central Tax | Dated: 04th August, 2023

CENTRAL GOODS AND SERVICES TAX (SECOND AMENDMENT) RULES, 2023

Seeks to make amendments (Second Amendment , 2023) to the CGST Rules, 2017 vide Notification No. 38/2023- Central Tax, Dated: 04th August, 2023

On August 4, 2023, the Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs issued a pivotal notification, number 38/2023-Central Tax. This legal bulletin inaugurated the Central Goods and Services Tax (Second Amendment) Rules, 2023, which is a suite of amendments to the existing [Central Goods and Services Tax \(CGST\) Rules, 2017](#). The CGST Act, a critical component of India’s GST law, has undergone multiple modifications to streamline and strengthen the country’s tax framework.

Page Contents

- [1. Changes to Rule 10A](#)
- [2. Significant Changes in Rule 21A](#)
- [3. Extension in Rule 23](#)
- [4. Introduction of New Rule 25](#)
- [5. Modification in Rule 43](#)
- [6. Simplification in Rule 46](#)
- [7. New Clauses in Rule 59](#)

- [8. Inclusion in Rule 64](#)
- [9. Modification of Rule 67](#)
- [10. Introduction of New Rule 88D](#)

Key Amendments to Central Goods and Services Tax (Second Amendment) Rules, 2023

1. Amendment in Rule 9

Under this amendment, the phrase “in the presence of the said person” has been eliminated from Rule 9 of the CGST Rules. This change affects the procedure for verification of the registration of taxable persons under the Act, making the registration process more efficient and less reliant on physical presence.

2. Changes to Rule 10A

Rule 10A now prescribes a new deadline for submitting information related to bank account details. As per the amendment, this information must be furnished “within a period of thirty days from the date of grant of registration, or before furnishing the details of outward supplies of goods or services or both”.

3. Significant Changes in Rule 21A

Rule 21A underwent substantial modifications primarily designed to deal with violations of the Act or the rules. Such contraventions can lead to the potential cancellation or suspension of the registration of the concerned person.

4. Extension in Rule 23

The CGST (Second Amendment) Rules, 2023, extends the period permitted for filing an application for the revocation of the cancellation of registration under Rule 23. This change provides taxpayers with more flexibility and time to rectify any issues leading to cancellation of registration.

5. Introduction of New Rule 25

The Amendment introduces a new Rule 25, which clearly defines the procedures and timelines for the physical verification of business premises in specific scenarios.

6. Modification in Rule 43

The changes in Rule 43 relate to the valuation and processing of transactions. This alteration would impact the manner in which businesses calculate their tax liabilities and process transactions, making the process more streamlined.

7. Simplification in Rule 46

Rule 46 has been simplified. The changes concern the information that is regarded as “the address on record of the recipient”. By simplifying this rule, the tax authorities aim to facilitate more accessible and effective communication between taxpayers and authorities.

8. New Clauses in Rule 59

Rule 59 now contains two new clauses related to restrictions on providing the details of outward supplies under certain situations. This amendment ensures that businesses follow appropriate procedures when declaring outward supplies, thereby preventing misuse of the tax system.

9. Inclusion in Rule 64

A significant inclusion to Rule 64 is the term “non-taxable online recipient” as referred to in the Integrated Goods and Services Tax (IGST) Act, 2017. This change expands the scope of Rule 64 to cover more categories of recipients, thereby promoting greater tax compliance.

10. Modification of Rule 67

Rule 67 has been changed to modify the method in which tax collected at source (TCS) details are furnished by the operator. This amendment helps simplify the tax collection process, making it easier for operators to comply with tax laws.

11. Introduction of New Rule 88D

A new rule, 88D, has been introduced to deal with the difference in input tax credit as per the auto-generated statement and that availed in the return. This rule helps streamline the process of availing input tax credit, reducing discrepancies and promoting accurate reporting.

Many other rules have undergone changes and modifications as part of the Central Goods and Services Tax (Second Amendment) Rules, 2023, including Rules 108, 109, 138F, 142B, 162, and 163. Additionally, new forms have been introduced, like FORM GST DRC-01C and FORM GST DRC-01D. Several existing forms, such as FORM GSTR-3A, GSTR-5A, GSTR-8, GSTR-9, GSTR-9C, and GST RFD-01, have also seen notable changes.

These changes signify an ongoing commitment to evolve India’s tax system, making it more accessible, accurate, and transparent. By regularly reviewing and updating the tax laws, the government is ensuring that the country’s tax system keeps pace with the changing economic landscape.

The Central Goods and Services Tax (Second Amendment) Rules, 2023, is an essential step towards streamlining tax compliance, providing clarity on specific tax-related matters, and ensuring a robust, efficient, and fair tax system in India. Businesses, professionals, and tax practitioners should take note of these changes and their impact on their tax compliance and planning.

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

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

Central Board of Indirect Taxes and Customs

Notification

**No. 38/2023 –
Central Tax**

New Delhi, the 4th August, 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 (Second 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), in rule 9, in sub-rule (1), in the proviso, in the longline, the words “in the presence of the said person” shall be omitted.

3. In the said rules, in rule 10A, for the portion beginning with the words and figure “as soon as may be, but not later than forty-five days” and ending with the words “in order to comply with any other provision” the following shall be substituted, namely:-

“within a period of thirty days from the date of grant of registration, or before furnishing the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1** or using invoice furnishing facility, whichever is earlier, furnish information with respect to details of bank account on the common portal”.

4. In the said rules, in rule 21A, –

(i) for sub-rule (2A), the following sub-rule shall be substituted, namely:-

“(2A) Where,-

(a) a comparison of the returns furnished by a registered person under section 39 with the details of outward supplies furnished in FORM GSTR-1 or the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their FORM GSTR-1, or such other analysis, as may be carried out on the recommendations of the Council, show that there are significant differences or anomalies indicating contravention of the provisions of the Act or the rules made thereunder, leading to cancellation of registration of the said person, or

(b) there is a contravention of the provisions of rule 10A by the registered person,

the registration of such person shall be suspended and the said person shall be intimated in **FORM GST REG-31**, electronically, on the common portal, or by sending a communication to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said differences, anomalies or non-compliances and asking him to explain, within a period of thirty days, as to why his registration shall not be cancelled.”;

(ii) in sub-rule (4), after second proviso, the following proviso shall be inserted, namely: –

“Provided also that where the registration has been suspended under sub-rule (2A) for contravention of provisions of rule 10A and the registration has not already been cancelled by the proper officer under rule 22, the suspension of registration shall be deemed to be revoked upon compliance with the provisions of rule 10A.”.

5. In the said rules, in rule 23, in sub-rule (1), with effect from the 1st day of October, 2023,–

(a) for the part beginning with the words “within a period of thirty days” and ending with the words and figures “section 30”, the words “within a period of ninety days from the date of the service of the order of cancellation of registration” shall be substituted;

(b) in the first proviso, for the words “Provided that”, the following shall be substituted, namely: –

“Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended by the Commissioner or an officer authorised by him in this behalf, not below the rank of Additional Commissioner or Joint Commissioner, as the case may be, for a further period not exceeding one hundred and eighty days:

Provided further that”;

(c) in the second proviso, for the words “Provided further”, the words “ Provided also” shall be substituted.

6. In the said rules, for rule 25, the following rule shall be substituted, namely: –

“25. Physical verification of business premises in certain cases. –

(1) Where the proper officer is satisfied that the physical verification of the place of business of a person is required after the grant of registration, he may get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in **FORM GST REG-30** on the common portal within a period of fifteen working days following the date of such verification.

(2) Where the physical verification of the place of business of a person is required before the grant of registration in the circumstances specified in the proviso to sub-rule (1) of rule 9, the proper officer shall get such verification of the place of business done and the verification report along with the other documents, including photographs, shall be uploaded in **FORM GST REG-30** on the common portal at least five working days prior to the completion of the time period specified in the said proviso.”.

7. In the said rules, in rule 43, after sub-rule (5), –

(a) in *Explanation 1*, clause (c) shall be omitted;

(b) after *Explanation 2*, with effect from the 1st day of October, 2023, the following *Explanation* shall be inserted, namely: -

“*Explanation 3*:- For the purpose of rule 42 and this rule, the value of activities or transactions mentioned in sub-paragraph (a) of paragraph 8 of Schedule III of the Act which is required to be included in the value of exempt supplies under clause (b) of the *Explanation* to sub-section (3) of section 17 of the Act shall be the value of supply of goods from Duty Free Shops at arrival terminal in international airports to the incoming passengers.”.

8. In the said rules, in rule 46, in clause (f), in the proviso, for the words “name and address of the recipient along with its PIN code and the name of the State and the said address shall be deemed to be the address on record of the recipient”, the following words “name of the state of the recipient and the same shall be deemed to be the address

on record of the recipient” shall be substituted;

9. In the said rules, in rule 59, in sub-rule (6), after clause (d), the following clauses shall be inserted, namely:-

“(e) a registered person, to whom an intimation has been issued on the common portal under the provisions of sub-rule (1) of rule 88D in respect of a tax period or periods, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1** or using the invoice furnishing facility for a subsequent tax period, unless he has either paid the amount equal to the excess input tax credit as specified in the said intimation or has furnished a reply explaining the reasons in respect of the amount of excess input tax credit that still remains to be paid, as required under the provisions of sub-rule (2) of rule 88D;

(f) a registered person shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1** or using the invoice furnishing facility, if he has not furnished the details of the bank account as per the provisions of rule 10A.”.

10. In the said rules, in rule 64, with effect from the 1st day of October, 2023, for the words “person in India other than”, the words “non-taxable online recipient referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) or to” shall be substituted.

11. In the said rules, in rule 67, in sub-rule (2), with effect from the 1st day of October, 2023, for the portion beginning with the words “The details” and ending with the words “suppliers”, the words “The details of tax collected at source under sub-section (1) of section 52 furnished by the operator under sub-rule (1) shall be made available electronically to each of the registered suppliers” shall be substituted.

12. In the said rules, after rule 88C, the following rule shall be inserted, namely:-

“88D. Manner of dealing with difference in input tax credit available in auto-generated statement containing the details of input tax credit and that availed in return.-

(1) Where the amount of input tax credit availed by a registered person in the return for a tax period or periods furnished by him in FORM GSTR-3B exceeds the input tax credit available to such person in accordance with the auto-generated statement containing the details of input tax credit in FORM GSTR-2B in respect of the said tax period or periods, as the case may be, by such amount and such percentage, as may be recommended by the Council, the said registered person shall be intimated of such difference in Part A of FORM GST DRC-01C, electronically on the common portal, and a copy of such intimation shall also be sent to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said difference and directing him to—

(a) pay an amount equal to the excess input tax credit availed in the said FORM GSTR-3B, along with interest payable under section 50, through FORM GST DRC-03, or

(b) explain the reasons for the aforesaid difference in input tax credit on the common portal,

within a period of seven days.

(2) The registered person referred to sub-rule (1) shall, upon receipt of the intimation referred to in the said sub-rule, either,

(a) pay an amount equal to the excess input tax credit, as specified in Part A of FORM GST DRC-01C, fully or partially, along with interest payable under section 50, through FORM GST DRC-03 and furnish the details thereof in Part B of FORM GST DRC-01C, electronically on the common portal, or

(b) furnish a reply, electronically on the common portal, incorporating reasons in respect of the amount of excess input tax credit that has still remained to be paid, if any, in Part B of FORM GST DRC-01C,

within the period specified in the said sub-rule.

(3) Where any amount specified in the intimation referred to in sub-rule (1) remains to be paid within the period specified in the said sub-rule and where no explanation or reason is furnished by the registered person in default or where the explanation or

reason furnished by such person is not found to be acceptable by the proper officer, the said amount shall be liable to be demanded in accordance with the provisions of section 73 or section 74, as the case may be.”.

13. In the said rules, in rule 89,-

(a) in sub-rule (1), in third proviso, for the words “in the last return required to be furnished by him” the words “only after the last return required to be furnished by him has been so furnished” shall be substituted;

(b) in sub-rule (2), in clause (k), after the words “payment of tax” the words “and interest, if any, or any other amount paid” shall be inserted.

14. In the said rules, rule 94 shall, with effect from the 1st day of October, 2023, be renumbered as sub-rule (1) and after the sub-rule as so renumbered, the following sub-rule shall be inserted, namely:-

“(2) The following periods shall not be included in the period of delay under sub-rule (1), namely:-

(a) any period of time beyond fifteen days of receipt of notice in FORM GST RFD-08 under sub-rule (3) of rule 92, that the applicant takes to-

(i) furnish a reply in FORM GST RFD-09, or

(ii) submit additional documents or reply;

and

(b) any period of time taken either by the applicant for furnishing the correct details of the bank account to which the refund is to be credited or for validating the details of the bank account so furnished, where the amount of refund sanctioned could not be credited to the bank account furnished by the applicant.”.

15. In the said rules, in rule 96, in sub-rule (2), both the provisos shall be omitted.

16. In the said rules, in rule 108, in sub-rule (1), –

- (a) for the words “either electronically or otherwise as may be notified by the Commissioner”, the word “electronically” shall be substituted;
- (b) the following proviso shall be inserted, namely:-

“Provided that an appeal to the Appellate Authority may be filed manually in FORM GST APL-01, along with the relevant documents, only if-

- (i) the Commissioner has so notified, or
- (ii) the same cannot be filed electronically due to non-availability of the decision or order to be appealed against on the common portal,

and in such case, a provisional acknowledgement shall be issued to the appellant immediately.”.

17. In the said rules, in rule 109, in sub-rule (1), –

- (a) for the words “either electronically or otherwise as may be notified by the Commissioner”, the word “electronically” shall be substituted;
- (b) the following proviso shall be inserted, namely:-

“Provided that an appeal to the Appellate Authority may be filed manually in FORM GST APL-03, along with the relevant documents, only if-

- (i) the Commissioner has so notified, or
- (ii) the same cannot be filed electronically due to non-availability of the decision or order to be appealed against on the common portal,

and in such case, a provisional acknowledgement shall be issued to the appellant immediately.”.

18. In the said rules, after rule 138E, the following rule shall be inserted, namely:-

“138F. Information to be furnished in case of intra-State movement of gold, precious stones, etc. and generation of e-way bills thereof.-

(1) Where-

(a) a Commissioner of State tax or Union territory tax mandates furnishing of information regarding intra-State movement of goods specified against serial numbers 4 and 5 in the Annexure appended to sub-rule (14) of rule 138, in accordance with sub-rule (1) of rule 138F of the State or Union territory Goods and Services Tax Rules, and

(b) the consignment value of such goods exceeds such amount, not below rupees two lakhs, as may be notified by the Commissioner of State tax or Union territory tax, in consultation with the jurisdictional Principal Chief

Commissioner or Chief Commissioner of Central Tax, or any Commissioner of Central Tax authorised by him,

notwithstanding anything contained in Rule 138, every registered person who causes intra-State movement of such goods, -

- (i) in relation to a supply; or
- (ii) for reasons other than supply; or
- (iii) due to inward supply from an un-registered person,

shall, before the commencement of such movement within that State or Union territory, furnish information relating to such goods electronically, as specified in Part A of FORM GST EWB-01, against which a unique number shall be generated:

Provided that where the goods to be transported are supplied through an e-commerce operator or a courier agency, the information in Part A of FORM GST EWB-01 may be furnished by such e-commerce operator or courier agency.

(2) The information as specified in PART B of FORM GST EWB-01 shall not be required to be furnished in respect of movement of goods referred to in the sub-rule (1) and after furnishing information in Part-A of FORM GST EWB-01 as specified in sub-rule (1), the e-way bill shall be generated in FORM GST EWB-01, electronically on the common portal.

(3) The information furnished in Part A of FORM GST EWB-01 shall be made available to the registered supplier on the common portal who may utilize the same for furnishing the details in FORM GSTR-1.

(4) Where an e-way bill has been generated under this rule, but goods are either not transported or are not transported as per the details furnished in the e-waybill, the e-way bill may be cancelled, electronically on the common portal, within twenty-four hours of generation of the e-way bill:

Provided that an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B.

(5) Notwithstanding anything contained in this rule, no e-way bill is required to be generated-

(a) where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs;

(b) where the goods are being transported-

- (i) under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or
- (ii) under customs supervision or under customs seal.

(6) The provisions of sub-rule (10), sub-rule (11) and sub-rule (12) of rule 138, rule 138A, rule 138B, rule 138C, rule 138D and rule 138E shall, *mutatis mutandis*, apply to an e-way bill generated under this rule.

Explanation.- For the purposes of this rule, the consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes the central tax, State tax or Union territory tax charged in the document and shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.”.

19. in the said rules, after rule 142A, the following rule shall be inserted, namely:-

“142B. Intimation of certain amounts liable to be recovered under section 79 of the Act.-

(1) Where, in accordance with section 75 read with rule 88C, or otherwise, any amount of tax or interest has become recoverable under section 79 and the same has remained unpaid, the proper officer shall intimate, electronically on the common portal, the details of the said amount in **FORM GST DRC-01D**, directing the person in default to pay the said amount, along with applicable interest, or, as the case may be, the amount of interest, within seven days of the date of the said intimation and the said amount shall be posted in Part-II of Electronic Liability Register in **FORM GST PMT-01**.

(2) The intimation referred to in sub-rule (1) shall be treated as the notice for recovery.

(3) Where any amount of tax or interest specified in the intimation referred to in sub-rule (1) remains unpaid on the expiry of the period specified in the said intimation, the proper officer shall proceed to recover the amount that remains unpaid in accordance with the provisions of rule 143 or rule 144 or rule 145 or rule 146 or rule 147 or rule 155 or rule 156 or rule 157 or rule 160.”.

20. In the said rules, in rule 162, with effect from the 1st day of October, 2023, –

(a) in sub-rule (3), the words “has cooperated in the proceedings before him and” shall be omitted;

(b) after sub-rule (3), the following sub-rule shall be inserted, namely:-

“(3A) The Commissioner shall determine the compounding amount under sub-rule (3) as per the Table below:-

TABLE

S.No.	Offence	Compounding amount if offence is punishable under clause (i) of sub-section (1) of section 132	Compounding amount if offence is punishable under clause (ii) of sub-section (1) of section 132
(1)	(2)	(3)	(4)
1	Offence specified in clause (a) of sub-section (1) of section 132 of the Act	Up to seventy-five per cent of the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken, subject to minimum of fifty	Up to sixty per cent of the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken, subject to minimum of forty per cent
2	Offence specified in clause (c) of sub-section (1) of section 132 of the Act		

3	Offence specified in clause (d) of sub-section (1) of section 132 of the Act	per cent of such amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken.	of such amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken.
4	Offence specified in clause (e) of sub-section (1) of section 132 of the Act		
5	Offence specified in clause (f) of sub-section (1) of section 132 of the Act	Amount equivalent to twenty-five per cent of tax evaded.	Amount equivalent to twenty-five per cent of tax evaded.
6	Offence specified in clause (h) of sub-section (1) of section 132 of the Act		
7	Offence specified in clause (i) of sub-section (1) of section		

	132 of the Act		
8	Attempt to commit the offences or abets the commission of offences mentioned in clause (a), (c) to (f) and clauses (h) and (i) of sub-section (1) of section 132 of the Act	Amount equivalent to twenty-five per cent of such amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken.	Amount equivalent to twenty-five per cent of such amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken.

Provided that where the offence committed by the person falls under more than one category specified in the Table above, the compounding amount, in such case, shall be the amount determined for the offence for which higher compounding amount has been prescribed.”.

21. In the said Rules, after rule 162, with effect from the 1st day of October, 2023, the following rule, shall be inserted, namely:-

“163. Consent based sharing of information.- (1) Where a registered person opts to share the information furnished in—

- (a) FORM GST REG-01 as amended from time to time;
- (b) return in FORM GSTR-3B for certain tax periods;
- (c) FORM GSTR-1 for certain tax periods, pertaining to invoices, debit

notes and credit notes issued by him, as amended from time to time, with a system referred to in sub-section (1) of section 158A (hereinafter referred to as “requesting system”), the requesting system shall obtain the consent of the said registered person for sharing of such information and shall communicate the consent along with the details of the tax periods, where applicable, to the common portal.

(2) The registered person shall give his consent for sharing of information under clause (c) of sub-rule (1) only after he has obtained the consent of all the recipients, to whom he has issued the invoice, credit notes and debit notes during the said tax periods, for sharing such information with the requesting system and where he provides his consent, the consent of such recipients shall be deemed to have been obtained.

(3) The common portal shall communicate the information referred to in sub-rule (1) with the requesting system on receipt from the said system-

- (a) the consent of the said registered person, and
- (b) the details of the tax periods or the recipients, as the case may be, in respect of which the information is required.”.

22. In the said rules, in FORM GSTR-3A, the following shall be inserted at the end, namely:-“

Or

Notice to return defaulter u/s 46 for not filing annual return

Financial year-

Type of Return –GSTR-9/GSTR-9A

Being a registered taxpayer, you are required to furnish annual return for the supplies made or received and/or to include self-certified reconciliation statement for the aforesaid financial year by due date. The due date specified for filing annual return for the said financial year is over and it has been noticed that you have not filed the said return till date.

2. You are, therefore, requested to furnish the said return within 15 days failing which appropriate action including imposition of penalty as per law will be taken.

3. This notice shall be deemed to have been withdrawn in case the return referred above, is filed by you before issue of the show cause notice of penalty proceeding.

4. This is a system generated notice and does not require signature.”.

23. In the said rules, in FORM GSTR-5A, with effect from 1st day of October, 2023;—

(i) in the heading, for the words “persons in India”, the words, brackets and figure **“online recipient (as defined in Integrated Goods and Services Tax Act, 2017) and to registered persons in India”** shall be substituted;

(ii) for serial number 4 and the entries relating thereto, the following serial number and entries shall be substituted, namely:—

“4. Period: Month - _____ Year —

4(a) ARN:

4(b) Date of ARN:”;

(iii) in serial number 5, for the word “consumers”, the words “non-taxable online recipient” shall be substituted;

(iv) in serial number 5A, for the word “persons”, the words “online recipient” shall be substituted;

(v) after serial number 5A and the entries relating thereto, the following serial numbers and entries shall be inserted, namely:

“5B. Taxable outward supplies made to registered persons in India, other than non-taxable online recipient, on which tax is to be paid by the said registered persons on reverse charge basis

(Amount in Rupees)

<i>GSTIN</i>	<i>Taxable Value</i>
<i>1</i>	<i>2</i>

5C. Amendments to the taxable outward supplies made to registered persons in India, other than non-taxable online recipient, on which tax is to be paid by the said registered persons on reverse charge basis

(Amount in Rupees)

<i>Month</i>	<i>Original GSTIN</i>	<i>Revised GSTIN</i>	<i>Taxable value</i>
<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>

”;

24. In the said rules, in **FORM GSTR-8**, with effect from the 1st day of October, 2023,-

(a) after serial number 3 and the entries relating thereto, the following serial number and entries, shall be inserted, namely;-

12. “3.1. Details of supplies made through e-commerce operator by un-registered suppliers

Enrolment no. of supplier	Gross value of supplies made	Value of supplies returned	Net value of the supplies
1	2	3	4

”;

(b) after serial number 4 and the entries relating thereto, the following serial number and entries, shall be inserted, namely;-

13. “4.1. Amendments to details of supplies made through e-commerce operator by unregistered suppliers

Original details			Revised details		
Month	Enrolment no. of supplier	Enrolment no. of supplier	Gross value of supplies made	Value of supply returned	Net value of the supplies

1	2	3	4	5	6

”.

25. In the said rules, in **FORM GSTR-9**, under the heading ‘Instructions’, -

(a) in paragraph 4, -

(A) after the word, letters and figures “or FY 2021-22”, the word, letters and figures “or FY 2022-23” shall be inserted;

(B) in the Table, in second column, -

(I) against serial numbers 5D, 5E and 5F, the following entries shall be inserted at the end, namely: -

‘For FY 2022-23, the registered person shall report Non-GST supply (5F) separately and shall have an option to either separately report his supplies as exempted and nil rated supply or report consolidated information for these two heads in the “exempted” row only.’;

(II) against serial numbers 5H, 5-I and 5J & 5K, for the figures and word “2020-21 and 2021-22”, the figures and word “2020-21, 2021-22 and 2022-23” shall respectively be substituted;

(b) in paragraph 5, in the Table, in second column, -

(A) against serial numbers 6B, 6C, 6D and 6E, for the letters and figures “FY 2019-20, 2020-21 and 2021-22”, the letters, figures and word “FY 2019- 20, 2020-21, 2021-22 and 2022-23” shall respectively be substituted;

(B) against serial numbers 7A, 7B, 7C, 7D, 7E, 7F, 7G and 7H, for the figures and word “2020-21 and 2021-22”, the figures and word “2020-21, 2021-22 and 2022-23” shall be substituted;

(c) in paragraph 7, -

(A) after the words and figures “filed upto 30th November, 2022.”, the following words, figures and letters shall be inserted, namely: -

“For FY 2022-23, Part V consists of particulars of transactions for the previous financial year but paid in the **FORM GSTR-3B** of April, 2023 to October, 2023 filed upto 30th November, 2023.”;

(B) in the Table, in second column, -

(I) against serial numbers 10 & 11, the following shall be inserted at the end, namely: -

“For FY 2022-23, details of additions or amendments to any of the supplies already declared in the returns of the previous financial year but such amendments were furnished in Table 9A, Table 9B and Table 9C of **FORM GSTR-1** of April, 2023 to October, 2023 filed upto 30th November, 2023 shall be declared here.”;

(II) against serial number 12, -

(i) after the words, figures and brackets “upto 30th November, 2022 shall be declared here. Table 4(B) of **FORM GSTR-3B** may be used for filling up these details.”, the following shall be inserted, namely: -

“For FY 2022-23, aggregate value of reversal of ITC which was availed in the previous financial year but reversed in returns filed for the months of April, 2023 to October, 2023 filed upto 30th November, 2023 shall be declared here. Table 4(B) of **FORM GSTR-3B** may be used for filling up these details.”;

(ii) for the figures and word “2020-21 and 2021-22”, the figures and word “2020-21, 2021-22 and 2022-23” shall be substituted;

(III) against serial number 13, -

(i) after the words, letters and figures “reclaimed in FY 2022-23, the details of such ITC reclaimed shall be furnished in the annual return for FY 2022-23,”, the following shall be inserted, namely: -

“For FY 2022-23, details of ITC for goods or services received in the previous financial year but ITC for the same was availed in returns filed for the months of April, 2023 to October, 2023 filed upto 30th November, 2023 shall be declared here. Table 4(A) of **FORM GSTR-3B** may be used for filling up these details. However, any ITC which was reversed in the FY 2022-23 as per second proviso to sub-section (2) of section 16 but was reclaimed in FY 2023-24, the details of such ITC reclaimed shall be furnished in the annual return for FY 2023-24.”;

(ii) for the figures and word “2020-21 and 2021-22”, the figures and word “2020-21, 2021-22 and 2022-23” shall be substituted;

(d) in paragraph 8, in the Table, in second column, -

(A) against serial numbers, -

(I) 15A, 15B, 15C and 15D; and

(II) 15E, 15F and 15G,

for the figures and word “2020-21 and 2021-22”, the letters, figures and word “2020-21, 2021-22 and 2022-23” shall respectively be substituted.”;

(B) against serial numbers 16A, 16B and 16C, for the figures and word “2020-21 and 2021-22”, the figures and word “2020-21, 2021-22 and 2022-23” shall respectively be substituted.”;

(C) against serial number 17 & 18, for the word, letter and figures “For FY 2021-22”, the words, letter and figures “For FY 2021-22 and 2022-23” shall be substituted.”.

26. In the said rules, in **FORM GSTR-9C,**

(i) in Part A, in the table -

(a) in Sl no. 9, after B and the entries relating thereto, the following shall be inserted, namely: -

“B-1	6%					.”;
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(b) in Sl no. 11, after description “5%”, the following shall be inserted, namely: -

“6%					.”;
-----	--	--	--	--	-----

(c) in Pt. V, after description “5%”, the following shall be inserted, namely: -

“6%					.”;
-----	--	--	--	--	-----

(ii) under the heading ‘Instructions’, -

(a) in paragraph 4, in the Table, in second column, against serial no. 5B, for the figures and word “2020-21 and 2021-22”, the figures and word “2020-21, 2021-22 and 2022-23” shall be substituted;

(b) in paragraph 6, in the Table, in second column, against serial number 14, for the figures and word “2020-21 and 2021-22”, the figures and word “2020-21, 2021-22 and 2022-23” shall be substituted.

27. In the said rules, in **FORM GST RFD-01**, in Annexure-1, under Statement-7, for the Table, the following Table shall be substituted, namely:-
“

S l. N o.	Document/Inv oice Details			Details of amount paid						Details of refund claimed					
	Type of docu ment	A R N o.	D a t e	Integ rated Tax	Ce ntr al Ta x	St ate / U T Ta x	C e s	Inte rest	An y oth er (ple ase spe cify)	Integ rated Tax	Ce ntr al Ta x	St ate / U T Ta x	C e s 1 4	Inte rest	An y oth er (ple ase spe cify)
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16

28. In the said rules, after FORM GST DRC-01B, the following forms shall be inserted, namely: -

“FORM GST DRC-01C

[See rule 88D]

PART-A (System Generated)

Intimation of difference in input tax credit available in auto-generated statement containing the details of input tax credit and that availed in return

Ref No:

Date:

GSTIN:

Legal Name:

1. It is noticed that the input tax credit availed by you in the return furnished in **FORM GSTR-3B** exceeds the amount of input tax credit available to you in accordance with the auto-generated statement containing the details of input tax credit made available to you in **FORM GSTR-2B** for the period <from><to> by an amount of Rs.....The details thereof are as follows:

Form Type	Input tax credit available / availed (in Rs.)				
	IGST	CGST	SGST/UTGST	Cess	Total
FORM GSTR-2B					
FORM GSTR-3B					
Excess input tax credit availed					

2. In accordance with sub-rule (1) of rule 88D, you are hereby requested to either pay an amount equal to the said excess input tax credit, along with interest payable under section 50, through **FORM GST DRC-03** and furnish the details thereof in **Part-B** of **FORM GST DRC-01C**, and/or furnish the reply in **Part-B** of **FORM GST DRC-01C** incorporating reasons in respect of that part of the excess input tax credit that has remained to be paid, within a period of seven days.

3. It may be noted that where any amount of the excess input tax credit remains to be paid after completion of a period of seven days and where no explanation or reason for the same is furnished by you or where the explanation or reason furnished by you is not found to be acceptable by the proper officer, the said amount shall be liable to be demanded in accordance with the provisions of section 73 or section 74, as the case may be, of the Act.

4. This is a system generated notice and does not require signature.

PART-B

Reply by Taxpayer in respect of the intimation of difference in input tax credit

Reference No. of Intimation:

Date:

A. I have paid the amount equal to the excess input tax credit, as specified in **Part A** of **FORM GST DRC-01C**, fully or partially, along with interest payable under section 50, through **FORM GST DRC-03**, and the details thereof are as below:

ARN of FORM GST DRC-03	Paid Under Head	Tax Period	IGST	CGST	SGST/UTGST	CESS	Interest
1	2	3	4	5	6	7	8

AND/OR

B. The reasons in respect of that part of the excess input tax credit that has remained to be paid are as under:

S. No	Brief Reasons for Difference	Details (Mandatory)
1	Input tax credit not availed in earlier tax period(s) due to non-receipt of inward supplies of goods or services in the said tax period (including in case of receipt of goods in instalments).	
2	Input tax credit not availed in earlier tax period(s) inadvertently or due to mistake or omission	
3	ITC availed in respect of import of goods, which is not reflected in FORM GSTR-2B	
4	ITC availed in respect of inward supplies from SEZ, which are not reflected in FORM GSTR- 2B	
5	Excess reversal of ITC in previous tax periods which is being reclaimed in the current tax period	
6	Recredit of ITC on payment made to supplier, in respect of ITC reversed as per rule 37 in earlier tax period.	
7	Recredit of ITC on filing of return by the supplier, in respect of ITC reversed as per rule 37A in earlier tax period.	
8	FORM GSTR-3B filed with incorrect details and will be amended in next tax period (including typographical errors, wrong tax rates, etc.)	
9	Any other reasons (Please specify)	

Verification

I _____ hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

Signature of Authorised Signatory

N

ame:

Designa

tion/Stat

us:

Place:

Date:

FORM GST DRC -01D

[See rule 142B]

Intimation for amount recoverable under section 79

Reference No. -

Date-

1. Details of intimation:

(a) Financial year:

(b) Tax period: From --- To -----

2. Section(s) of the Act or rule (s) under which intimation is issued: <

Drop down or check box for section 75 (12) r/w 79 may be provided>

3. Details of tax, interest or any amount payable:(Amount in Rs.)

[illegible]

You are hereby directed to make the payment within seven days failing which proceedings shall be initiated against you to recover the outstanding dues as per the provisions of section 79 of the Act.

Signature:

Name:

Designation:

:

To,

GSTIN/ID

Name

Address

1. Only applicable fields may be filled up.”

[F. No. CBIC-20006/20/2023-GST]

(Alok Kumar)

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 19th June, 2017, published *vide* number G.S.R. 610(E), dated the 19th June, 2017 and were last amended *vide* notification No. 04/2023 - Central Tax, dated the 31st March, 2023 *vide* number G.S.R. 247(E), dated the 31st March, 2023.

5. Notification No. 41/2023- Central Tax | Dated: 25th August, 2023

EXTENSION OF DUE DATE FOR FORM GSTR-1 FOR MANIPUR

Notification No. 41/2023-Central Tax extends the deadline for filing FORM GSTR-1 for April to July 2023 in Manipur. CBIC issued this notification on 25th August 2023.

The changes introduced are amendments to the notification issued on 10th November 2020, specifically No. 83/2020 – Central Tax. This amendment addresses the pressing need to extend the due date for the submission of FORM GSTR-1 for several months in 2023.

Specific Changes:

- The tax periods that have been impacted are **April, May, June, and July 2023**. Earlier, the notification covered only April, May, and June 2023.

The final date for submission, previously set at the “**thirty-first day of July, 2023**”, has now been extended to the “**twenty-fifth day of August, 2023.**”

Effectiveness: It’s vital to note that the introduced amendment is retrospective. It’s deemed to have been in effect from the 31st day of July, 2023.

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

Notification No. 41/2023- Central Tax | Dated: 25th August, 2023

G.S.R. 624(E).—In exercise of the powers conferred by the proviso to sub-section (1) of section 37 read with section 168 of the **Central Goods and Services Tax Act, 2017** (12 of 2017), the Commissioner, on the recommendations of the Council, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), **No. 83/2020 – Central Tax, dated the 10th November, 2020**, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 699(E), dated the 10th November, 2020, namely: —

In the said notification, in the fourth proviso:-

- (i) for the words, letter and figure “tax periods April 2023, May 2023 and June 2023”, the words, letter and figure “tax periods April 2023, May 2023, June 2023 and July 2023” shall be substituted;
- (ii) for the words, letters and figure “thirty-first day of July, 2023”, the words, letter and figure “twentyfifth day of August, 2023” shall be substituted.

2. This notification shall be deemed to have come into force with effect from the 31st day of July, 2023.

[F. No. CBIC-20006/10/2023-GST]

ALOK KUMAR, Director

Note : The principal [notification No. 83/2020 –Central Tax, dated the 10th November, 2020](#) was published in the Gazette of India, Extraordinary vide number G.S.R. 699(E), dated the 10th November, 2020 and was last amended by [notification No. 18/2023 –Central Tax, dated the 17th July, 2023](#), published in the Gazette of India, Extraordinary vide number G.S.R. 506(E), dated the 17th July, 2023.

6. Notification No. 44/2023- Central Tax | Dated: 25th August, 2023

EXTENSION OF DUE DATE FOR GSTR-7 IN MANIPUR (APR/JUL 2023)

Notification No. 44/2023-Central Tax, dated 25th August 2023, prolongs the deadline for submitting FORM GSTR-7 for the months of April, May, June, and July 2023. This extension is applicable to individuals or entities registered in the State of Manipur as their primary business location, with the new due date being the 25th of August, 2023.

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

Notification No. 44/2023- Central Tax | Dated: 25th August, 2023

G.S.R. 627(E).—In exercise of the powers conferred by sub-section (6) of section 39 read with section 168 of the [Central Goods and Services Tax Act, 2017](#) (12 of 2017), the Commissioner hereby makes the following further amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), [No. 26/2019 –Central Tax, dated the 28th June, 2019](#), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.452(E), dated the 28th June, 2019, namely:—

In the said notification, in the first paragraph, in the fifth proviso:—

- (i) for the words, letter and figure “months of April 2023, May 2023 and June 2023” the words, letter and figure “months of April 2023, May 2023, June 2023 and July 2023” shall be substituted;
- (ii) for the words, letters and figure “thirty-first day of July, 2023”, the words, letter and figure “twentyfifth day of August, 2023” shall be substituted.

2. This notification shall be deemed to have come into force with effect from the 31st day of July, 2023.

[F. No. CBIC-20006/10/2023-GST]

ALOK KUMAR, Director

Note : The principal notification No. 26/2019 –Central Tax, dated the 28th June, 2019 was published in the Gazette of India, Extraordinary vide number G.S.R. 452(E), dated the 28th June, 2019 and was last amended by notification No. 21/2023 –Central Tax, dated the 17th July, 2023, published in the Gazette of India, Extraordinary vide number G.S.R. 509(E), dated the 17th July, 2023.

7. Notification No. 42/2023- Central Tax | Dated: 25th August, 2023

EXTENSION OF DUE DATE: GSTR-3B FOR APRIL-JULY 2023 IN

MANIPUR

Notification No. 42/2023-Central Tax, dated 25th August 2023, grants an extension to the deadline for submitting FORM GSTR-3B for the months of April, May, June, and July 2023 to twenty-fifth day of August, 2023. This extension applies to individuals or entities registered in the State of Manipur as their primary place of business.

Ministry of Finance

(Department of Revenue)

Central Board of Indirect Taxes and Customs

Notification No. 42/2023- Central Tax | Dated: 25th August, 2023

G.S.R. 625(E).—In exercise of the powers conferred by sub-section (6) of section 39 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Commissioner, on the recommendations of the Council, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 12/2023 – Central Tax, dated the 24th May, 2023, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 385(E), dated the 24th May, 2023, namely: —

- (i) for the words, letter and figure “months of April, 2023, May, 2023 and June, 2023” the words, letter and figure “months of April, 2023, May, 2023, June, 2023 and July, 2023” shall be substituted;

(ii) for the words, letters and figure “thirty-first day of July, 2023”, the words, letter and figure “twentyfifth day of August, 2023” shall be substituted.

2. This notification shall be deemed to have come into force with effect from the 31st day of July, 2023.

[F. No. CBIC-20006/10/2023-GST]

ALOK KUMAR, Director

Note : The principal [notification No. 12/2023 –Central Tax, dated the 24th May, 2023](#) was published in the Gazette of India, Extraordinary vide number G.S.R. 385(E), dated the 24th May, 2023 and was last amended by [notification No. 19/2023 –Central Tax, dated the 17th July, 2023](#), published in the Gazette of India, Extraordinary vide number G.S.R. 507(E), dated the 17th July, 2023.

8. Notification No. 37/2023- Central Tax, Dated: 04th August, 2023

GST ECOMMERCE TAX GUIDELINES FOR SUPPLIES BY UNREGISTERED PERSONS

CBIC notifies special procedure to be followed by the electronic commerce operators in respect of supplies of goods through them by unregistered persons vide Notification No. 37/2023- Central Tax, Dated: 04th August, 2023.

Ministry of Finance, through the Central Board of Indirect Taxes and Customs, has issued Notification No. 37/2023 detailing special procedures that eCommerce operators need to adhere to concerning supplies of goods by unregistered persons.

As per the notification, eCommerce operators must follow specific procedures for goods supplied through them by unregistered persons. Operators can only allow supplies if the person has an enrolment number on the common portal. They cannot permit inter-State supply of goods and are not required to collect tax at source for such supplies. Operators must also furnish supply details in FORM GSTR-8 on the common portal. When multiple operators are involved in a single supply, the operator releasing the final payment is considered responsible.

This new regulation, effective from October 1, 2023, introduces additional requirements for eCommerce operators regarding supplies by unregistered persons

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

Notification No. 37/2023- Central Tax, Dated: 04th August, 2023

G.S.R. 589(E).— In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies the electronic commerce operator who is required to collect tax at source under section 52 as the class of persons who shall follow the following special procedure in respect of supply of goods made through it by the persons exempted from obtaining registration (hereinafter referred to as the said person) in accordance with the notification issued under sub-section (2) of section 23 vide notification number 34/2023- Central Tax, dated the 31st July, 2023, published in the Gazette of India, Extraordinary,

Part II, Section 3, Sub-section (i) vide number G.S.R. 577(E), dated the 31st July, 2023, namely: —

- (i) the electronic commerce operator shall allow the supply of goods through it by the said person only if enrolment number has been allotted on the common portal to the said person;
- (ii) the electronic commerce operator shall not allow any inter-State supply of goods through it by the said person;
- (iii) the electronic commerce operator shall not collect tax at source under sub-section (1) of section 52 in respect of supply of goods made through it by the said person; and
- (iv) the electronic commerce operator shall furnish the details of supplies of goods made through it by the said person in the statement in **FORM GSTR-8** electronically on the common portal.

2. Where multiple electronic commerce operators are involved in a single supply of goods through electronic commerce operator platform, “the electronic commerce operator” shall mean the electronic commerce operator who finally releases the payment to the said person for the said supply made by the said person through him.

3. This notification shall come into force with effect from the 1st day of October, 2023.

[F. No. CBIC-20006/20/2023-GST]

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9. Notification No. 43/2023- Central Tax | Dated: 25th August, 2023

CBIC EXTENDS DUE DATE FOR GSTR-3B FOR QUARTER ENDING JUNE, 2023 FOR MANIPUR

Notification No. 43/2023-Central Tax, dated 25th August 2023, postpones the deadline for filing FORM GSTR3B for the quarter ending June 2023. This extension applies to registered individuals or entities whose primary business location is in the State of Manipur, with the new due date set to the 25th of August, 2023

Ministry of Finance

(Department of Revenue)

Central Board of Indirect Taxes and Customs

Notification No. 43/2023- Central Tax | Dated: 25th August, 2023

G.S.R. 626(E).—In exercise of the powers conferred by sub-section (6) of section 39 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Commissioner, on the recommendations of the Council, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 20/2023 – Central Tax, dated the 17th July, 2023, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 508(E), dated the 17th July, 2023, namely: for the words, letters and figure “thirty-first day of July, 2023”, the words, letter and figure “twenty-fifth day of August, 2023” shall be substituted.

2. This notification shall be deemed to have come into force with effect from the 31st day of July, 2023

[F. No. CBIC-20006/10/2023-GST]

ALOK KUMAR, Director

Note : The principal notification No. 20/2023 –Central Tax, dated the 17th July, 2023 was published in the Gazette of India, Extraordinary vide number G.S.R. 508(E), dated the 17th July, 2023

(II) **State GST Notification**. (EXTRA), AUGUST 25, 2023

(BHADRA 3, 1945 SAKA)



Punjab Government Gazette

EXTRAORDINARY

Published by Authority

CHANDIGARH, FRIDAY, AUGUST 25, 2023

(BHADRA 3, 1945 SAKA)

LEGISLATIVE SUPPLEMENT

	Contents	Pages
14.	Part - I Acts	
	<i>Nil</i>	
15.	Part - II Ordinances	
	<i>Nil</i>	
16.	Part - III Delegated Legislation	
	1. Notification No. S.O. 65/P.A.5/2017/S.128/ 2023, dated the 23rd August, 2023, containing amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.7/P.A.5/2017/S.128/ 2018, dated the 7th February, 2018.	.. 1207
	2. Notification No. S.O. 66/P.A.5/2017/S.128/2023, dated the 23rd August 2023, containing amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.7/P.A.5/ 2017/S.128/2018, dated the 7th February, 2018.	.. 1209

(PUNJAB GOVT. GAZ. (EXTRA), AUGUST 25, 2023)

-
3. Notification No. S.O. 67/P.A.5/2017/S.148/2023, dated the 23rd August, 2023, specifying the special procedure in respect of registered persons whose registration has been cancelled or who has failed to apply for revocation of cancellation under Sections 29 and 30 of the Punjab Goods and Services Tax Act, 2017.
4. Notification No. S.O. 68/P.A.5/2017/S.148/2023, dated the 23rd August, 2023, notifying that the registered persons who failed to furnish a valid return within a period of thirty days from the service of the assessment order issued on or before the 28th day of February, 2023 under sub-section (1) of section 62 of the Punjab Goods and Services Tax Act, 2017, as the classes of registered persons, in respect of whom said assessment order shall be deemed to have been withdrawn. .. 1211
5. Notification No. S.O. 69/P.A.5/2017/S.128/2023, dated the 23rd August, 2023, waiving the amount of late fee referred to in section 47 of the Punjab Goods and Services Tax Act, 2017, in respect of the return to be furnished under section 44 of the said Act for the financial year 2022-23 onwards. .. 1213
6. Notification No. S.O. 70/P.A.5/2017/S.128/2023, dated the 23rd August, 2023, waiving the amount of late fee referred to in section 47 of the Act, which is in excess of five hundred rupees for the registered persons who fail to furnish the final return in **FORM GSTR-10** by the due date. .. 1215-1216

(PUNJAB GOVT. GAZ. (EXTRA), AUGUST 25, 2023)

7. Notification No. S.O. 71/P.A.5/2017/
S.168A/ 2023, dated the 23rd August, 2023,
extending the time limit specified under sub-
section (10) of section 73 for issuance of
order under sub-section (9) of section 73
of the Punjab Goods and Services Tax Act,
2017, for recovery of tax not paid or short
paid or of input tax credit wrongly availed or
utilised. .. 1219
8. Notification No. S.O. 72/PGSTR/R.48/
2023, dated the 23rd August, 2023,
containing amendment in the Government
of Punjab, Department of Excise and
Taxation, Notification No. S.O.19/PGSTR/
R.48/2021, dated, the 28th January, 2021. .. 1221
9. Notification No. G.S.R. 81/P.A.5/2017/
S.164/Amd(66)/2023, dated the 23rd
August, 2023, containing amendment in the
Punjab Goods and Services Tax Rules,
2017. .. 1223-1224

Part - IV**Correction Slips, Republications and
Replacements***Nil*

~~(BHDR 3, 1945 SAKA)~~

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

17. NOTIFICATION

The 23rd August, 2023

No. S.O. 65/P.A.5/2017/S.128/2023.— In exercise of the powers conferred by section 128 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, the Governor of Punjab, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.7/P.A.5/2017/S.128/2018, dated the 7th February, 2018, published in the Punjab Government Gazette (Extraordinary), Part-III, dated the 7th February, 2018, namely:—

18. AMENDMENT

In the said notification, in the sixth proviso, for the figures, letters and words "30th day of June, 2022", the figures, letters and words "28th day of July, 2022" shall be substituted.

2. This notification shall be deemed to have come into force on and with effect from the 5th Day of July, 2022.

**19. VIKAS
PRATAP,**

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

(BHDR 3, 1945 SAKA)

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

20. NOTIFICATION

The 23rd August, 2023

No. S.O. 66/P.A.5/2017/S.128/2023.— In exercise of the powers conferred by section 128 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, the Governor of Punjab, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.7/P.A.5/2017/S.128/2018, dated the 7th February, 2018, published in the Punjab Government Gazette (Extraordinary), Part-III, dated the 7th February, 2018, namely:—

21. AMENDMENT

In the said notification, after the sixth proviso, the following proviso shall be inserted, namely: —

“Provided also that the amount of late fee payable under section 47 of the said Act shall stand waived which is in excess of two hundred and fifty rupees and shall stand fully waived where the total amount of state tax payable in the said return is nil, for the registered persons who fail to furnish the return in **FORM GSTR-4** for the quarters from July, 2017 to March 2019 or for the Financial years from 2019-20 to 2021-22 by the due date but furnish the said return between the period from the 1st day of April, 2023 to the 30th day of June, 2023.”.

2. This notification shall be deemed to have come into force on and with effect from the 31st day of March, 2023.

**22. VIKAS
PRATAP,**

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

(BHDR 3, 1945 SAKA)

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

23. NOTIFICATION

The 23rd August, 2023

No. S.O. 67/P.A.5/2017/S.148/2023.—In exercise of the powers conferred by section 148 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, the Governor of Punjab, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, is pleased to notify that the registered person, whose registration has been cancelled under clause (b) or clause (c) of sub-section (2) of section 29 of the said Act on or before the 31st day of December, 2022, and who has failed to apply for revocation of cancellation of such registration within the time period specified in section 30 of the said Act as the class of registered persons who shall follow the following special procedure in respect of revocation of cancellation of such registration, namely:—

(a) the registered person may apply for revocation of cancellation of such registration upto the 30th day of June, 2023;

(b) the application for revocation shall be filed only after furnishing the returns due upto the effective date of cancellation of registration and after payment of any amount due as tax, in terms of such returns, along with any amount payable towards interest, penalty and late fee in respect of the such returns;

(c) no further extension of time period for filing application for revocation of cancellation of registration shall be available in such cases.

Explanation: For the purposes of this notification, the person who has failed to apply for revocation of cancellation of registration within the time period specified in section 30 of the said Act includes a person whose appeal against the order of cancellation of registration or the order rejecting application for revocation of cancellation of registration under section 107 of the said Act has been rejected on the ground of failure to adhere to the time limit specified under sub-section

(1) of section 30 of the said Act.

2. This notification shall be deemed to have come into force on and with effect from the 31st day of March, 2023.

**24. VIKAS
PRATAP,**

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

(BHDR 3, 1945 SAKA)

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

25. NOTIFICATION

The 23rd August, 2023

No. S.O. 68/P.A.5/2017/S.148/2023.— In exercise of the powers conferred by section 148 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, the Governor of Punjab, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, is pleased to notify that the registered persons who failed to furnish a valid return within a period of thirty days from the service of the assessment order issued on or before the 28th day of February, 2023 under sub-section (1) of section 62 of the said Act, as the classes of registered persons, in respect of whom said assessment order shall be deemed to have been withdrawn, if such registered persons follow the special procedures as specified below, namely,-

(i) the registered persons shall furnish the said return on or before the 30th day of June 2023;

(ii) the return shall be accompanied by payment of interest due under sub-section (1) of section 50 of the said Act and the late fee payable under section 47 of the said Act, irrespective of whether or not an appeal had been filed against such assessment order under section 107 of the said Act or whether or not the appeal, if any, filed against the said assessment order has been decided.

2. This notification shall be deemed to have come into force on and with effect from the **31st day of March, 2023.**

**26. VIKAS
PRATAP,**

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

(BHDR 3, 1945 SAKA)

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

27. NOTIFICATION

The 23rd August, 2023

No. S.O. 69/P.A.5/2017/S.128/2023.— In exercise of the powers conferred by section 128 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, the Governor of Punjab, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, is pleased to waive the amount of late fee referred to in section 47 of the said Act in respect of the return to be furnished under section 44 of the said Act for the financial year 2022-23 onwards, which is in excess of amount as specified in Column (3) of the Table below, for the classes of registered persons mentioned in the corresponding entry in Column (2) of the Table below, who fails to furnish the return by the due date, namely:—

28. Table

Serial Number	Class of registered persons	Amount
(1)	(2)	(3)
1.	Registered persons having an aggregate turnover of up to five crore rupees in the relevant financial year.	Twenty-five rupees per day, subject to a maximum of an amount calculated at 0.02 per cent. of turnover in the State.
2.	Registered persons having an aggregate turnover of more than five crores in the relevant financial year.	Fifty rupees per day, subject to a maximum of an amount calculated at 0.02 per cent. rupees and up to twenty crore rupees of turnover in the State.

Provided that for the registered persons who fail to furnish the return under section 44 of the said Act by the due date for any of the financial years 2017-18, 2018-19, 2019-20, 2020-21 or 2021-22, but furnish the said return between the period from the 1st day of April, 2023 to the 30th day of June, 2023, the total amount of late fee under section 47 of the said Act payable in respect of the

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said return, shall stand waived which is in excess of ten thousand rupees.

2. This notification shall be deemed to have come into effect from the **31st day of March, 2023.**

**29. VIKAS
PRATAP,**

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

2911/8-2023/Pb. Govt. Press, S.A.S. Nagar

~~(BHDR 3, 1945 SAKA)~~

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

30. NOTIFICATION

The 23rd August, 2023

No. S.O. 70/P.A.5/2017/S.128/2023.- In exercise of the powers conferred by section 128 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, the Governor of Punjab, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, is pleased to waive the amount of late fee referred to in section 47 of the Act, which is in excess of five hundred rupees for the registered persons who fail to furnish the final return in **FORM GSTR-10** by the due date but furnish the said return between the period from the 1st day of April, 2023 to the 30th day of June, 2023.

2. This notification shall be deemed to have come into effect from the 31st Day of March, 2023.

**31. VIKAS
PRATAP,**

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

2911/8-2023/Pb. Govt. Press, S.A.S. Nagar

(BHDR 3, 1945 SAKA)

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

32. NOTIFICATION

The 23rd August, 2023

No. S.O. 71/P.A.5/2017/S. 168A/2023.— In exercise of the powers conferred by section 168A of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017) and in partial modification of the notifications of the Government of Punjab, Department of Excise and Taxation, No. S.O. 41/ P.A.5/2017/S.168A/2017, dated the 22nd March, 2021, published in the Punjab Government Gazette (Extraordinary), Part-III, dated the 22nd March, 2021 and No. S.O. 77/P.A.5/2017/S.168A/2021, dated the 7th July, 2021, published in the Punjab Government Gazette (Extraordinary), Part-III, dated the 7th July, 2021 and No. S.O. 20/P.A.5/2017/S.168A/2023, dated the 6th February, 2023, published in the Punjab Government Gazette (Extraordinary), Part-III, dated, the 6th February, 2023, the Governor of Punjab, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, is pleased to extend the time limit specified under sub-section (10) of section 73 for issuance of order under sub-section (9) of section 73 of the said Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilised, relating to the period as specified below, namely:—

- (i) for the financial year 2017-18, up to the 31st day of December, 2023;
- (ii) for the financial year 2018-19, up to the 31st day of March, 2024; and
- (iii) for the financial year 2019-20, up to the 30th day of June, 2024.

2. This notification shall be deemed to have come into force on and with effect from the 31st day of March, 2023.

**33. VIKAS
PRATAP,**

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

~~(BHDR 3, 1945 SAKA)~~

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

34. NOTIFICATION

The 23rd August, 2023

No. S.O. 72/PGSTR/R.48/2023.- In exercise of the powers conferred by sub-rule (4) of rule 48 of the Punjab Goods and Services Tax Rules, 2017, and all other powers enabling him in this behalf, the Governor of Punjab, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.19/PGSTR/R.48/2021, dated, the 28th January, 2021 published in the Punjab Government Gazette (Extraordinary), Part-III, dated, the 28th January, 2021, namely:-

35. AMENDMENT

In the said notification, in the first paragraph, with effect from the 1st day of August, 2023, for the words “ten crore rupees”, the words “five crore rupees” shall be substituted.

**36. VIKAS
PRATAP,**

Financial Commissioner (Taxation) to
Government of Punjab, Department of
Excise and Taxation.

(BHDR 3, 1945 SAKA)

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

37. NOTIFICATION

The 23rd August, 2023

No. G.S.R. 81/P.A.5/2017/S.164/Amd.(66)/2023.—In exercise of the powers conferred by section 164 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act 5 of 2017), and all other powers enabling him in this behalf, the Governor of Punjab, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, is pleased to make the following rules further to amend the Punjab Goods and Services Tax Rules, 2017, namely: —

1. Short title and commencement.— (1) These rules may be called the Punjab Goods and Services Tax (Seventh Amendment) Rules, 2023.

(2) They shall be deemed to have come into force from the 26th day of December, 2022.

2. In the Punjab Goods and Services Tax Rules, 2017, in rule 8,-

(i) for sub-rule (4A), the following sub-rule shall be substituted, namely:-

“(4A) Where an applicant, other than a person notified under sub-section (6D) of section 25, opts for authentication of Aadhaar number, he shall, while submitting the application under sub-rule (4), undergo authentication of Aadhaar number and the date of submission of the application in such cases shall be the date of authentication of the Aadhaar number, or fifteen days from the submission of the application in Part B of FORM GST REG-01 under sub-rule (4), whichever is earlier:

Provided that every application made under sub-rule (4) by a person, other than a person notified under sub-section (6D) of section 25, who has opted for authentication of Aadhaar number and is identified on the common portal, based on data analysis and risk parameters, shall be followed by

biometric-based Aadhaar authentication and taking photograph of the applicant where the applicant is an individual or of such individuals in relation to the applicant as notified under sub-section (6C) of section 25 where the applicant

is not an individual, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 at one of the Facilitation Centres notified by the Commissioner for the purpose of this sub-rule and the application shall be deemed to be complete only after completion of the process laid down under this proviso.”;

(ii) in sub-rule (4B), for and words, “provisions of”, the words “proviso to”, shall be substituted.

2. This notification shall be deemed to have come into force on and with effect from the 31st day of March, 2023.

38. VIKAS PRATAP,

Financial Commissioner (Taxation) to
Government of Punjab, Department of Excise
and Taxation.

2911/8-2023/Pb. Govt. Press, S.A.S. Nagar

(III) Advance Ruling

1. ITC not eligible on services received in the form of transfer of rights in leasehold land owned by GIDC

Case Name : In re Bayer Vapi P. Ltd. (GST AAR Gujarat)

Appeal Number : Advance Ruling No. Guj/Gaar/R/2023/29

Date of Judgement/Order : 24/08/2023

Courts : AAR Gujarat (377) Advance Rulings (3317)

In re Bayer Vapi P. Ltd. (GST AAR Gujarat)

Q. Whether the applicant is entitled to take ITC of the CGST & SGST paid by them on the services received from Vapi Enterprise Ltd in the form of transfer of its rights in the leasehold land owned by GIDC in favour of the applicant which is to be used by the applicant in the course or furtherance of its business in terms of the provisions prescribed under the CGST & SGST Act.

A. The applicant is not entitled to take ITC of the CGST & SGST paid by them on the services received from Vapi Enterprise Ltd in the form of transfer of its rights in the leasehold land owned by GIDC in terms of Section 17(5)(d) of the CGST Act, 2017.

2. GST on amount employees portion of canteen charges & ITC on canteen facility

Case Name : In re Eimco Elecon India Limited (GST AAR Gujarat)

Appeal Number : Advance Ruling No. Guj/Gaar/R/2023/28

Date of Judgement/Order : 24/08/2023

AAR Gujarat (377) Advance Rulings (3317)

In re Eimco Elecon India Limited (GST AAR Gujarat)

1. GST, at the hands of the applicant, is not leviable on the amount representing the employees portion of canteen charges, which is collected by the applicant and paid to the CSP.

2. GST, at the hands of the applicant, is leviable on the amount representing the contractual worker portion of canteen charges, which is collected by the applicant and paid to the CSP.

3. Input Tax Credit (ITC) will be available to the applicant on GST charged by the CSP in respect of canteen facility provided to its direct employees working in their factory and the corporate office, in view of the provisions of Section 17(5)(b) as amended effective from 1.2.2019 and clarification issued by CBIC vide circular No. 172/04/2022-GST dated 6.7.2022 read with provisions of section 46 of the factories Act, 1948. ITC on the above is restricted to the extent of the cost borne by the applicant for providing canteen services to its direct employees, but disallowing proportionate credit to the extent embedded in the cost of goods recovered from such employees.

4. ITC on GST paid on canteen facility is not admissible to the applicant under Section 17(5)(b) of CGST Act, 2017, on the food supplied to contractual worker supplied by labour contractor.

3. **GST applicable on works contract service by land owner to prospective purchasers of apartments**

Case Name : In re Vinod Kumari Goyal (GST AAR Karnataka)

Appeal Number : Advance Ruling No. KAR ADRG 28/2023

Date of Judgement/Order : 24/08/2023

Courts : AAR Karnataka (446) Advance Rulings (3317)

In re Vinod Kumari Goyal (GST AAR Karnataka)

The GST landscape is continually evolving, with new rulings and interpretations emerging to provide clarity on ambiguous topics. A pivotal decision by the GST Authority for Advance Ruling (AAR) Karnataka in the case of Vinod Kumari Goyal has shed light on the applicability of GST on works contract services by landowners for prospective apartment buyers.

1. Applicability of GST on Landowners:

The central issue is whether a landowner, who isn't executing construction but enters into agreements with buyers for selling apartments before the issuance of a completion certificate, is liable for GST. The ruling emphasized that the landowner, by entering into such agreements, acts as a supplier of works contract services to buyers. As a result, they fall under Section 7(1) of the CGST Act, 2017, making them liable to pay tax under Section 9(1) of the same Act.

2. Tax Rate Determination:

If the landowner is liable for tax, the rate is derived from entries 3(i) to 3(id) of the **Notification No. 11/2017 – Central Tax (Rate) dated 28.06.2017**, as modified by **Notification No.3/2019, dated 29.03.2019**. Factors influencing the tax rate include the apartment's nature (residential or commercial) and its categorization (affordable or otherwise).

3. Credit Claiming Conditions for Landowners:

A key point was whether a landowner could claim credit for the tax charged by the developer under the old scheme. The authority clarified that credit can be claimed provided:

- The landowner was a registered dealer at the time the construction service supply
- occurred.

The tax payable by the landowner for their apartment supply exceeds the tax charged by the developer.

4. Eligibility to Claim Input Tax Credit on Other Expenses:

When it comes to claiming input tax credit on other expenses, the ruling stated that the landowner cannot claim input tax credit on expenses other than the tax levied by the developer for construction services. This is in line with the provisions of entries 3(i) to 3(id).

Conclusion: The ruling of the GST AAR Karnataka in the case of Vinod Kumari Goyal plays a pivotal role in clarifying the GST implications for landowners. Landowners acting as suppliers to prospective buyers are within the GST ambit, and their ability to claim credits is subject to certain conditions. This decision helps in creating a clearer GST framework for real estate transactions, ensuring compliance and transparency.

4. GST Implications on Gold Coins & White Goods Incentives

Case Name : In re Orient Cement Limited (GST AAR Karnataka)

Appeal Number : Advance Ruling No. KAR ADRG 27/2023

Date of Judgement/Order : 24/08/2023

Courts : AAR Karnataka (446) Advance Rulings (3317)

39. In re Orient Cement Limited (GST AAR Karnataka)

ITC available on gold coin distributed to dealers as incentive under the scheme

The AAR, Karnataka, in *M/s. Orient Cement Limited [Advance Ruling No. KAR ADRG 27 of 2023 dated August 24, 2023]* ruled that, ITC on gold coins is not restricted under section 17(5)(h) of the Central Goods and Services Tax Act, 2017 (“the CGST Act”), since the gold coin is not given as gifts but as the achievement of marketing targets set by the assessee.

Facts:

M/s. Orient Cement Limited (“the Applicant”) is engaged in manufacturing and supply of Cement.

The Applicant offers various sales promotional scheme to the dealers which helps to achieve the sale targets. One such scheme is “Monthly / Quarterly Discount Scheme”, wherein the dealer from has to purchases specified quantity of material in order to avail the discount which is as per the Applicant is INR 13.00 per bag. The said discount will be credited to the dealers account. The Applicant instead of adjusting the amount in account of dealer, the Applicant provides gold coins.

Higher the quantity of cement purchased by the dealer, higher will be the discount earned by dealer resulting into higher eligibility of gold coins.

The Applicant contended that gold coins supplied to the dealers are in the nature of incentive for achieving the sales targets and the same is knowledge of the dealers in advance. Thus, cannot be termed as gift.

Accordingly, the Applicant is eligible to avail input tax credit (“ITC”) on purchase of such gold coins.

Issue:

Whether the Applicant is eligible to avail ITC on gold coins given to dealers on achieving sales target?

Held:

The AAR, Karnataka, in ***Advance Ruling No. KAR ADRG 27 of 2023*** held as under:

- Observed that, the Applicant has issued gold coins as incentives as per the agreement between the Applicant and the dealers. It is only issued subject to the fulfilment of certain conditions and stipulations.

Further observed that, the gold coins is for achievement of marketing targets set by the Applicant.

- Opined that, Gift is something which is given without any conditions and stipulations and the same cannot be covered under the scope of “gift”.
- Noted that, section 17 (5) (h) of the CGST Act states that ITC is not available on “goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples”. Since the gold coin is not given as gifts, thus this clause is not applicable to the present transaction.
- Held that, ITC is not restricted under any of the provisions of Section 17 more so under section 17(5)(h) of the CGST Act.

(IV) JUDGEMENTS

1. GST: Calcutta HC stays Section 61 notice over jurisdiction issue

Case Name : Gopeshwar Iron And Steel Works Private Limited And Anr. Vs Superintendent (Calcutta High Court)

Appeal Number : MAT/1236/2023

Date of Judgement/Order : 18/08/2023

Courts : All High Courts (11232) Calcutta High Court (682)

Gopeshwar Iron And Steel Works Private Limited And Anr. Vs Superintendent (Calcutta High Court)

A recent ruling by the Calcutta High Court in the case of Gopeshwar Iron and Steel Works Private Limited Vs Superintendent has put a spotlight on jurisdictional issues related to the Central Goods and Services Tax (CGST) Act, 2017. The court stayed a notice purported to have been issued under Section 61 of the CGST Act, thereby allowing Gopeshwar Iron and Steel Works' appeal. This article offers an in-depth look into the facts of the case, the arguments presented, and the final decision.

Background of the Case: Gopeshwar Iron and Steel Works filed an intra-court appeal against an order that denied any interim relief to them. The crux of the issue was whether the respondent authority could proceed further based on a notice dated April 17, 2023, issued under Section 61 of the CGST Act, 2017.

Appellant's Grounds for Appeal

Gopeshwar Iron argued that:

For the same period under scrutiny, the Audit Department had already issued a notice, requested documents, and upon satisfaction, had closed the case on March 25, 2022. The Directorate General of Goods and Services Tax Intelligence (DGGI) had also issued summons for the same

period, and the matter was pending before them. The notice dated April 17, 2023, issued by the Superintendent was without jurisdiction as the Audit Department had already settled the case.

Respondent's Argument: The standing counsel for the respondents contended that new directions were received from the Analytical Wing of the Department, which necessitated the issue of the new notice.

The Legal Issue: The court had to decide whether a fresh notice could be issued by the Range Officer after the Audit Department had conducted an audit, resulting in an order under Section 65 of the Act.

Court's Ruling: Considering this to be a jurisdictional issue, the Calcutta High Court allowed the appeal. The court stayed the notice dated April 17, 2023, until the disposal of the writ petition. It directed the respondent to file an affidavit-in-opposition, after which the writ petition will be heard and disposed of on merits.

Conclusion: The ruling highlights the complexities involved in jurisdictional matters under the CGST Act. It serves as a precedent for businesses and authorities, emphasizing the need for clear jurisdictional lines in tax matters. Importantly, it reaffirms the value of following due processes and not issuing overlapping or conflicting notices, which can result in legal tangles and disrupt businesses. The Calcutta High Court's decision to stay the notice brings temporary relief to Gopeshwar Iron and Steel Works but sets the stage for a deeper legal discourse on jurisdiction in CGST cases.

2. Advocate's Failure to Inform Client Doesn't Justify Appeal Delay: Court Ruling

Case Name : Manoj Steel Traders Vs State Of U.P. And 2 Others (Allahabad High Court)

Appeal Number : Writ Tax No. 391 of 2021

Date of Judgement/Order : 23/08/2023

Courts : All High Courts (11232) Allahabad High Court (583)

Manoj Steel Traders Vs State Of U.P. And 2 Others (Allahabad High Court)

Introduction: The Allahabad High Court, in the case of Manoj Steel Traders Vs State of U.P. And 2 Others, ruled on an issue involving GST law, limitations for filing appeals, and the role of counsel in communication. The case provides insights into the legal responsibilities of both the state and the petitioner in tax matters.

Background of the Case: Manoj Steel Traders, a registered dealer in iron and steel, filed a writ petition challenging an order that dismissed its appeal on the ground of limitation. The company's legal representative did not inform the client about the order, leading to a delay in filing an appeal.

Interplay Between Section 107 and Section 169 of UP GST Act: Section 107 specifies the limitation period for filing an appeal as three months from the date of communication of the order. Section 169 outlines methods for communicating orders, including through the petitioner's advocate. According to the court, an order communicated to an advocate constitutes service upon the petitioner, as per Section 169.

The Argument of 'Non-Communication' by Counsel: Manoj Steel Traders argued that they were unaware of the original order due to their advocate's failure to communicate it. They contended that a 'bona fide mistake' on the part of the advocate should be considered a good ground for condoning the delay in filing an appeal.

Court's Ruling: No Ground for Condoning Delay: The court observed that the petitioner's original advocate did receive the order in due time. However, the petitioner failed to explain how they only became aware of the order much later. The court emphasized that service upon the advocate is sufficient and constitutes service upon the petitioner. Consequently, non-communication of an order by an advocate or a tax practitioner is not a valid reason for condoning the delay in filing an appeal.

Conclusion: The judgment makes it clear that the legal responsibility lies with the petitioner to be aware of orders communicated to their advocate. The court upheld the stringent application

of limitation periods and clarified that a failure on the advocate's part to communicate an order to the client does not offer grounds for condonation of delay. Thus, businesses and legal practitioners should exercise caution and due diligence to avoid such pitfalls.

3. Assessee is responsible to monitor GST Portal after cancellation of GST registration

Case Name : Koduvayur Constructions Vs Assistant Commissioner-Works Contract (Kerala High Court)

Appeal Number : WP(C) No. 21212 of 2023

Date of Judgement/Order : 07/08/2023

Courts : All High Courts (11232) Kerala High Court (563)

Koduvayur Constructions Vs Assistant Commissioner-Works Contract (Kerala High Court) The Hon'ble Kerala High Court in Koduvayur Constructions v. Assistant Commissioner-Works Contract [WP(C) No. 21212 of 2023 dated August 07, 2023] held that, it is assessee's responsibility to check the GST portal for any notice or order that had been served on it the assessment order was not served in a valid manner was untenable.

Facts: M/s. Koduvayur Constructions ("the Petitioner") a registered dealer under the Central Goods and Services Tax Act, 2017 ("the CGST Act") whose GST registration was cancelled by the order dated October 21, 2021 w.e.f. September 01, 2021. The Petitioner was under the impression that it had no liability to pay the taxes under the GST law.

However, the Assistant Commissioner ("the Respondent") issued an assessment order on the common portal dated October 14, 2022 ("the assessment Order") demanding payment of INR 19,22,566/-.

The petitioner alleges that it was not served with proper notice as provided under the CGST Act. Hence, the entire proceedings leading to cancellation of GST registration and the same is liable to be quashed.

Issue:

Whether service of an assessment order on common GST portal after cancellation of GST registration can be considered an effective mode of service of order under GST law?

Held:

- The Hon'ble Kerala High Court in WP(C) NO. 21212 of 2023 held as under: –
- Observed that, a plain reading of Section 169(1) (a) to (f) of the CGST Act, makes it clear that any decision, order, summons, notice, or communication under the CGST Act and its rules can be served on the taxpayer through any one of the methods listed.
- Further observed that, section 169(1)(d) of the CGST Act recognizes availability of order on common GST portal as an effective manner of delivery of order.
- Noted that, in the present case the Assessment order was made available on common portal which is a valid mode of service as provided under section 169(1) of CGST Act.
- Held that, it is Petitioner's duty to check and verify the common GST portal for any communication from Revenue Department and it was Petitioner's fault to have failed to do so.
- Dismissed the writ filed by the Petitioner.

4. Notification no. 14/2022-Central Tax inserting explanation in rule 89 of CGST Rules has prospective effect

Case Name : Tata Steel Limited Vs Union of India (Jharkhand High Court)

Appeal Number : W.P.(T) No. 1719 of 2022

Date of Judgement/Order : 21/08/2023

Courts : All High Courts (11232) Jharkhand High Court (120)

Tata Steel Limited Vs Union of India (Jharkhand High Court)

Jharkhand High Court held that the explanation inserted in Rule 89 (4) of CGST Rules, 2017 vide Notification No. 14/2022-Central Tax dated 05.07.2022 is not clarificatory in nature and thus will have a prospective effect.

Facts- The petitioner requires coal for manufacturing iron and steel. The petitioner avails Input Tax Credit (“ITC”) of the said compensation cess charged on supply of coal. Since the Petitioner undertakes export of goods under Bond/ Letter of Undertaking without payment of tax, it results in accumulation of balance of ITC of Compensation Cess.

Petitioner filed its application for refund of unutilized ITC of Compensation Cess in respect of zero-rated supplies, claiming refund of Rs. 4,95,64,373/-. Refund was claimed as per the formula prescribed in 89(4). The component “Turnover of zero-rated supply of goods” is defined as the ‘value of zero-rated supply of goods ...’. Therefore, the Petitioner reflected the actual value of exports (reflected I GSTR- 1 of September 2019).

An amount of Rs. 3,32,08,130/- was provisionally refunded to the Petitioner in terms of Section 54(6) of the CGST Act read with Rule 91(2) of the CGST Rules. Thereafter, a show cause notice was issued to the Petitioner in RFD-08. It was indicated that value of “Turnover of zero rated supply of goods” indicated in the refund application could not be ascertained with certainty. Thereafter, Impugned Order in Original was passed in RFD-06 denying refund to the tune of Rs. 1,12,49,220/-.

Conclusion- The 2022 Amendment Rules inserts a new stipulation for comparison between the two values. Such an exercise was not contemplated prior to the amendment as what was taken into account was the actual transaction value. Therefore, by way of the amendment a substantive change has been brought about in law and therefore, that amendment will operate prospectively.

Held that the amendment in Rule 89 (4) of CGST Rules, 2017 which came into effect vide Notification No. 14/2022-Central Tax dated 05.07.2022 is not clarificatory in nature and thus will have a prospective effect.

5. Failure to Prove Physical Goods Movement: Registered Dealer Purchases May be Treated as Unregistered Dealer Purchases

Case Name : Commissioner, Commercial Tax Vs Ramway Foods Ltd (Allahabad High Court)

Appeal Number : Sales/Trade Tax Revision No. 26

Date of Judgement/Order : 23/08/2023

Related Assessment Year : 2016-17

Courts : All High Courts (11232) Allahabad High Court (583)

Commissioner, Commercial Tax Vs Ramway Foods Ltd (Allahabad High Court)

Introduction: The Allahabad High Court recently delivered a crucial judgment on tax liability concerning purchases from unregistered dealers. In this case, the burden of proving the tax liability shifted to the dealer due to insufficient proof of the actual physical movement of goods. This article provides a detailed analysis of the case and its implications.

Detailed Analysis:

1. Background: The case in question involves Sales/Trade Tax Revision No. 26 and 27 of 2023 for the Assessment Year 2016-17. The primary issue revolves around the burden of proving tax liability on purchases made by a dealer from unregistered dealers. The Commercial Tax Tribunal had partly allowed the dealer's appeals, shifting the burden of proof onto the tax department. This decision led to the formulation of specific legal questions, which this judgment addresses.
2. Legal Questions: The following legal questions were framed for consideration: Whether the Commercial Tax Tribunal was justified in deleting the assessed tax amount when the assessing authority had rejected the dealer's books of account and shifted the burden to the department? Whether the Commercial Tax Tribunal was justified in deleting the tax amounts of Rs. 72,50,000 and Rs. 12,50,000, as well as Rs. 25,000 confirmed by the 1st Appellate Authority?
3. Department's Argument: The department argued that the dealer, a limited company involved in purchasing wheat and manufacturing atta, maida, and other products, had its books of account rejected during a survey on August 19, 2016. The assessing authority subsequently made a best judgment assessment due to incomplete and improperly recorded transactions. The dealer claimed that purchases were made from outside the state, presenting supporting documents. However, upon scrutiny of vehicle registration numbers used for goods transport, it was discovered that some registrations were untraceable, and some belonged to non-

commercial vehicles. Based on this, the department increased the turnover, treating the goods as purchased from unregistered dealers.

4. Dealer's Response: The dealer countered by providing invoices, evidence of payments through banking channels, and forms issued by the Mandi Parishad to demonstrate that goods were purchased from outside the state. They also furnished vehicle details used for transportation, along with registration numbers. However, several of these registrations were found to be fictitious or belonged to non-commercial vehicles, casting doubt on the actual physical movement of goods.

5. Section 16 of the UP VAT Act: The key legal provision at play is Section 16 of the UP VAT Act, which places the burden of proof on the dealer to establish facts within their knowledge, particularly regarding exemptions, exceptions, or reliefs. In the case of ITC claims, the burden falls squarely on the dealer to demonstrate the genuineness of the transactions and the actual physical movement of goods.

6. Court's Analysis: The Allahabad High Court observed that the burden of proof rested with the dealer to establish the actual physical movement of goods, especially when claiming purchases from unregistered dealers. The court emphasized that mere production of invoices or payments through banking channels was insufficient to prove the genuineness of transactions. The dealer had to provide comprehensive evidence, including seller details, vehicle information, freight charges, delivery acknowledgments, tax invoices, and payment particulars. The court noted that the genuineness of the transaction must be beyond doubt.

7. Decision's Implication: The court's decision highlights the significance of proving the actual physical movement of goods when claiming exemptions or deductions. Mere documentation is insufficient; dealers must provide comprehensive evidence to support their claims. The burden of proof remains with the dealer, as per Section 16 of the UP VAT Act.

Conclusion: The Allahabad High Court's judgment underscores the dealer's responsibility to prove the actual physical movement of goods and the genuineness of transactions when claiming exemptions or deductions. This decision is crucial for tax-related cases where the burden of proof is a critical factor.

6. DGGI investigation cannot be stopped for investigation of any other entity

Case Name : Hanuman Enterprises (OPC) Pvt Ltd Vs Additional Director General Directorate General of GST (Delhi High Court)

Appeal Number : W.P.(C) 2900/2023

Date of Judgement/Order : 14/08/2023

Courts : All High Courts (11238) Delhi High Court (2606)

Hanuman Enterprises (OPC) Pvt Ltd Vs Additional Director General Directorate General of GST (Delhi High Court)

The Hanuman Enterprises (OPC) Pvt Ltd Vs Additional Director General Directorate General of GST case in the Delhi High Court has garnered considerable attention within the legal community. The petitioner, Hanuman Enterprises, sought the court's intervention to halt an ongoing investigation by the Directorate General of Goods and Services Tax Intelligence (DGGI). The court's decision to allow DGGI to continue its investigation has several legal implications. This article offers an in-depth analysis of the judgment and what it means for businesses and taxation authorities in India.

The Plea by Hanuman Enterprises: The primary contention from Hanuman Enterprises was that the DGGI shouldn't be allowed to conduct its investigation as a separate probe was already underway by another tax authority. Hanuman Enterprises relied on Section 6(2)(b) of the Central Goods and Services Tax Act, 2017 (CGST Act) and a circular dated 05.10.2018 to support their argument. **Court's Stance on Overlapping**

Investigations: The Delhi High Court clarified that no investigation had been undertaken by Delhi State Authority. Therefore, the provisions of Section 6(2)(b) of the CGST Act were not attracted. The circular, likewise, did not provide grounds to prevent the DGGI from conducting an investigation.

The DGGI's Jurisdiction: The court noted that the DGGI had not conducted any investigation into Hanuman Enterprises specifically but was concerned with another entity, M/s Balaji Enterprises, which shared a common principal place of business and was also controlled by the same director. However, this was not enough to halt the DGGI's investigation.

Precedent for Future Cases: The judgment sets an important precedent. It clarifies that an ongoing investigation by one tax authority does not automatically nullify or inhibit another body's power to initiate and conduct a separate investigation.

Conclusion: The Delhi High Court's ruling in Hanuman Enterprises Vs Additional Director General DGGI provides valuable insights into the jurisdiction and interplay between different tax authorities. The court clarified that just because one authority has initiated an investigation doesn't mean that another cannot carry out a separate probe, especially when no overlapping investigations are actually taking place. This case serves as a reminder for businesses to be prepared for scrutiny from multiple tax authorities and emphasizes the autonomous authority of these agencies to conduct independent investigations.

7. Section 65 GST audit cannot be conducted after closure of business

Case Name : Tvl. Raja Stores Vs Assistant Commissioner (ST) (High Court Madras)

Appeal Number : W.P. (MD). No. 15291 of 2023

Date of Judgement/Order : 11/08/2023

Courts : All High Courts (11232) Madras High Court (1255)

Tvl. Raja Stores Vs Assistant Commissioner (ST) (High Court Madras)

Introduction:

The case of Tvl. Raja Stores Vs Assistant Commissioner (ST) before the High Court of Madras brings up the critical question of whether an audit under the Goods and Services Tax Act (GST) can be conducted after a business has been permitted to close. The judgment sheds light on the legality and jurisdictional issues concerning GST audits for closed businesses.

Detailed Analysis Background of the Case: The petitioner, a partnership firm called Raja Stores, had received permission to close its business. However, an impugned show-cause notice was issued for conducting a GST audit, prompting the filing of a Writ Petition to quash the notice.

The Petitioner's Stance: Raja Stores argued that under Section 65 of the CGST Act, audits are meant for registered businesses. Since their business was closed and registration cancelled, the

authorities have no jurisdiction to conduct an audit. The Respondent's Counter-Argument: The authorities countered that the business was registered during the period for which the audit was intended, hence they were within their rights to conduct the audit. The Role of Section 65 in the CGST Act: Section 65 clearly specifies that audits can only be conducted on registered businesses. The court had to determine whether this rule applies only to currently registered businesses or also to businesses that were registered during the period in question.

The Court's Verdict: The High Court observed that Section 65 refers to audits for registered businesses "for such period," "at such frequency," and "in such manner." It concluded that if the authorities had failed to conduct an audit while the business was operational, they could not do so after it had closed.

Implications for Future Cases: This ruling clarifies that businesses that have officially closed are not subject to GST audits, though the court leaves room for assessment proceedings under Sections 73 and 74 of the CGST Act.

Conclusion: The Madras High Court's decision in *Tvl. Raja Stores Vs Assistant Commissioner (ST)* sets a precedent that audits under GST cannot be conducted on businesses that have officially closed. The judgment underscores the importance of jurisdictional limits in tax audits, thus providing crucial guidance for both businesses and tax authorities.

8. Jac Olivol Body Oil to Fall Under Heading 3304 of Customs Tariff Act

Case Name : In re Indranil Chatterjee (GST AAR West Bengal)

Appeal Number : Advance Ruling 19/WBAAR/2023-24

Date of Judgement/Order : 10/08/2023

Courts : AAR West Bangal (220) Advance Rulings (3317)

In re Indranil Chatterjee (GST AAR West Bengal)

Introduction: In a recent decision by the Goods and Services Tax Appellate Authority for Advance Ruling (GST AAR) in West Bengal, the classification of Jac Olivol Body Oil under Indian customs law has come into focus. The central question revolves around whether the product should be

categorized as a 'medicament' or a 'cosmetic,' thereby affecting its tax liability and regulatory requirements.

Core Issue: Medicament or Cosmetic?: The applicant, represented by their legal advocate, argued that Jac Olivol Body Oil primarily aims to cure dry skin, relieve body aches, and prevent blisters among other therapeutic uses. They claim that all the ingredients used meet the criteria set by the Ayurvedic pharmacopoeia and are approved by the Drug Controller.

Customs Tariff Act Classifications: Under the Central Excise Tariff Act, a product is classified as a medicament under Chapter 30 if it has therapeutic or prophylactic uses. On the other hand, cosmetics fall under Chapter 33 and cover preparations for skin care rather than treatment of ailments. The distinction hinges on the 'use' of the product and not its inherent properties.

Legal Precedents and Judgments: The applicant referenced various judgments, most notably a recent Supreme Court case where a product, Aswani Homeo Arnica Hair Oil, was classified as a 'medicament.' The court applied the 'common parlance test'—how a product is generally understood by the public—to make its determination.

Inconsistency in Product Labeling: The authority found inconsistencies in the description of Jac Olivol Body Oil across various platforms. While some descriptions emphasize its therapeutic properties, others focus more on its cosmetic benefits like promoting soft, smooth, and glowing skin.

Online Portrayal: Further diluting the applicant's case, the product descriptions on online marketplaces like Amazon and Big Basket highlight the cosmetic properties of Jac Olivol Body Oil, emphasizing its ability to make the skin soft, smooth, and radiant.

Conclusion: Based on the above analysis, the GSTAAR in West Bengal determined that Jac Olivol Body Oil primarily serves as a 'preparation for the care of skin' and should thus be classified as a cosmetic under Chapter 33 of the Central Excise Tariff Act. Despite the applicant's claims and legal precedents, the primary use and marketing of the product point towards its cosmetic nature.

This case serves as a landmark ruling, providing insights into how a product's classification can impact its regulatory requirements and taxation. As the line between medicaments and

cosmetics continues to blur, more comprehensive guidelines may be needed to clear such ambiguities in the future.

9. BPO service provided to overseas client was not an intermediary service

Case Name : Genpact India Pvt. Ltd. Vs Principal Commissioner of GST And Cx (Punjab and Haryana High Court)

Appeal Number : CWP-14151-2021 (O&M)

Date of Judgement/Order : 09/08/2023

40. Genpact India Pvt. Ltd. Vs Principal Commissioner of GST And Cx (Punjab and Haryana High Court)

The Hon'ble Punjab and Haryana High Court in *Genpact India Pvt. Ltd. v. Principal Commissioner of GST And Cx [C.W.P. No. 14151 of 2021 dated August 09, 2023]* set aside the show cause notice and held that assessee was not 'intermediary' and therefore, the refund claim of unutilized Input Tax Credit (ITC) used in making zero rated supplies of services without payment of IGST was allowed.

Facts:

M/s. Genpact India Pvt. Ltd. ("**the Petitioner**") was providing services to foreign entity and has invoiced the said services under LUT model and therefore, filed refund application for claiming of unutilized ITC of such services. The Revenue Department ("**the Respondent**") allowed the refund.

Subsequently, issued a Show cause Notice 47/GST/GGM/2020-21 dated March 30, 2021 ("**the Impugned SCN**") raised the demand of service tax of INR 16,73,74,91,090/- on the ground that the services provided by the Petitioner are in the nature of "Intermediary Services" as per Section 2(13) of the Integrated Goods Services Tax Act, 2017 ("**the IGST Act**") and do not qualify as "export of services". The Impugned SCN also alleged to show cause why the extended period of limitation in terms of proviso to Section 73(1) of the Finance Act, 1994 read with Section 174 of the Central Goods & Services Tax Act, 2017 ("**the CGST Act**") should not be invoked.

The Petitioner relied upon the Judgement of *Genpact India Pvt. Ltd v. Union of India and others, [2022] 1 Centax 226 (P&H) dated November 11, 2022* wherein the Hon'ble Punjab and Haryana High Court held that the Petitioner was not "intermediary" and, therefore, the refund claim of unutilized ITC used in making zero rated supplies of services without payment of IGST was allowed.

Issue:

Whether the BPO Services provided by the assessee to overseas clients is an intermediary service?

Held:

The Hon'ble Punjab and Haryana High Court in *C.W.P. No. 14151 of 2021* held as under:

- Relied upon the Judgement of *Genpact India Pvt. Ltd v. Union of India and others, [2023 (68) G.S.T.L. 3 (P & H)]* wherein the Hon'ble Punjab and Haryana High Court held that the Petitioner was not "intermediary" and, therefore, the refund claim of unutilized ITC used in making zero rated supplies of services without payment of IGST was allowed.

- Held that, the ratio of Genpact India Pvt. Ltd. case (supra) is directly applicable in this case.

Set aside the Impugned SCN.

10. Notice issued to Revenue Department challenging arrest & summoning powers of GST officials

Case Name : Gagandeep Singh Vs Union of India & Ors. (Supreme Court of India)

Appeal Number : Writ Petition(s)(Criminal) No(s). 339/2023

Date of Judgement/Order : 25/08/2023

Courts : Supreme Court of India (2173)

Gagandeep Singh Vs Union of India & Ors. (Supreme Court of India)

The Hon'ble Supreme Court in *Gagandeep Singh v. Union of India & Ors. [W.P. (Crl) No. 339 of 2023 dated August 25, 2023]* admitted the Writ filed by the Gagandeep Singh ("the Petitioner")

and issued notice to the Revenue Department, challenging GST provisions pertaining to power to arrest and power to summon. The Petition have been filed writ before the Hon'ble Supreme Court under Article 32 of the Constitution of India, contesting the constitutional validity Section 69 (i.e., power to arrest), and Section 70 (i.e., power to summon individuals to furnish proofs and produce documents) of the Central Goods and Services Tax Act, 2017 ("the CGST Act"). The Petitioner contended that the above provisions are of criminal in nature, they could not have been enacted under Article 246A of the Constitution of India. The power to arrest and prosecute is not ancillary and incidental to the power to levy and collect goods and services tax. The Petitioners submitted that Entry 93 of List 1 of the Seventh Schedule of the Constitution of India confers jurisdiction upon the Parliament to make criminal laws only concerning matters in List 1, not CGST. Therefore, Sections 69 and 70 of the CGST Act are beyond the legislative competence of the Parliament. It is worth noting that even though CGST officers possess the powers of both police officers and civil court officials during their investigations, the proceedings are consistently referred to as 'inquiries,' and the individuals summoned are not regarded as 'accused.' It has been emphasized that these officers are not officially recognized as police officers, resulting in the summoned individuals being denied the safeguards specified in Article 20(3) of the Indian Constitution. The cases assert that this scenario is leading to substantial unfairness for the Petitioners. The Petitioners have filed the present petitions, suspecting coercive action by the Respondents, and have asked that the proceedings against them under the CGST Act, in connection with an alleged non-cognizable offence, be quashed without adhering to the legal process as set forth in Chapter XII of the CrPC, specifically Sections 154 to 157 and Section 172 thereof. The Supreme Court after hearing the case on August 25, 2023 tagged the present matter with the Gagan Kakkar vs. Union of India [WP (Cr.) 357/2023] and held that no coercive steps will be taken against the Petitioner.

11. Writ not maintainable if alternative remedy of appeal filing not availed:
Patna HC

Case Name : Narayani Industry Vs State of Bihar (Patna High Court)

Appeal Number : Civil Writ Jurisdiction Case No.11333 of 2023

Date of Judgement/Order : 11/08/2023

Courts : All High Courts (11238) Patna High Court (98)

Narayani Industry Vs State of Bihar (Patna High Court)

The esteemed Patna High Court, in the case of M/s. Narayani Industry v. State of Bihar [Civil Writ Jurisdiction No. 11333 of 2023 dated August 11, 2023], ruled that in instances where a statute prescribes a definite timeframe for the condonation of delay, the Appellate Authority under Article 226 of the Indian Constitution does not possess the authority to extend this stipulated period.

Facts: An Inspection was conducted on the Premises of M/s. Narayani Industry ("the Petitioner") basis such inspection the Revenue Department ("the Respondent") issued three orders dated March 04, 2023, March 10, 2023 and March 18, 2023 and all these orders were appealable under section 107 of the Bihar Goods and Services Tax Act, 2017 ("the BGST Act"). However, the Petitioner did not appealed such orders.

Aggrieved by the Orders the Petitioner filed writ before the Hon'ble Patna High Court. The Respondent contended that the Petitioner has not availed the appeal remedy and has chosen to approach writ Court under Article 226 of the Constitution of India without exercising appeal.

Issue: ADVERTISEMENT Whether the Petitioner can approach writ Court directly without filing appeal before the Appellate Authority?

Held: The Hon'ble Patna High Court Civil Writ Jurisdiction No.11333 of 2023 held as under:

- Noted that, in the present case there is no jurisdictional error or violation of principles of natural justice or abuse of process of law averred or argued by the Petitioner in the above writ petition.
- Relied upon the Judgement of State of H.P & Ors. v. Gujarat Ambuja Cement Limited & Anr [(2005) 6 SCC 499] wherein the Hon'ble Supreme Court held that if an assessee approaches the High Court without availing the alternate remedy, assessee should ensured that it has made out a strong case or that there exists good grounds to invoke the extraordinary jurisdiction.

- Opined that, there is no ground stated in the writ petition which would enable invocation of the extraordinary remedy under Article 226 of Indian Constitution.
- Held that, when there is a specific period for delay condonation provided, there cannot be any extension of the said period by the Appellate Authority or by this Court under Article 226 of the Indian Constitution.

12. Action against appellate authority order kept on hold till GSTAT is constituted

Case Name : Vardhman Ispat Udyog Vs State of Himachal Pradesh and Ors. (Himachal Pradesh High Court)

Appeal Number : CMPMO No. 447 of 2023

Date of Judgement/Order : 18/08/2023

Courts : All High Courts (11238) Himachal Pradesh HC (70)

Vardhman Ispat Udyog Vs State of Himachal Pradesh and Ors. (Himachal Pradesh High Court)
Himachal Pradesh High Court allowed the writ petition and directed department not to act in furtherance of order passed by appellate authority till the time appellate tribunal in term of Section 109 of the Himachal Pradesh Goods and Services Tax Act, 2017 is constituted.

Facts- The respondent No.1 issued a show cause notice titled “intimation of tax as being payable under Section 73 (5)/74(5)” thereby intimating the petitioner with regard to its liability to pay the tax. After receipt of the show cause notice, petitioner filed representation but vide order dated 30.8.2022, respondent No.1 directed the petitioner to deposit the due amount of tax, interest and penalty within three weeks of passing of the order. Against the aforesaid order dated 30.8.2022, petitioner filed an appeal u/s. 107 (1) of the Act before the appellate authority i.e. respondent No.2, but same came to be dismissed vide order dated 19.5.2023. Though provisions contained u/s. 112 (1) of the Act give right of further appeal to the petitioner to approach the GST appellate Tribunal (GSTAT), otherwise required to be constituted u/s. 109 of the Act, but

since same is yet to be constituted or formed, petitioner is compelled to approach this Court in the instant proceedings filed u/s. 227 of the Constitution of India.

Conclusion- Held that this court is of the definite view that in given facts and circumstances of the case, petitioner had no option, but to approach this Court by way of petition filed under Article 227 of the Constitution of India, which otherwise empowers this Court to exercise supervisory powers over all the courts subordinates to it including the authorities exercising quasi judicial powers. Held that this Court finds merit in the present petition and accordingly, same is allowed with direction to respondent No.1 to not to act in furtherance of the order dated 19.5.2023, passed by the appellate tribunal in Appeal Nos. 247 and 248 of 2022 till the time appellate tribunal in terms of Section 109 of the Act is constituted by the State of Himachal Pradesh and thereafter appeal within prescribed period of limitation as detailed in circular dated 3.12.2019 issued by the Ministry of Finance, Government of India, is filed by the petitioner in the appellate Tribunal.

13. **Claim Refund in Form DVAT-21 If Not Claimed in Return: Delhi HC**

Case Name : Flipkart India Private Limited Vs Value Added Tax Officer (Delhi High Court)

Appeal Number : W.P.(C) 6430/2022

Date of Judgement/Order : 21/08/2023

Courts : All High Courts (11238) Delhi High Court (2606)

Flipkart India Private Limited Vs Value Added Tax Officer (Delhi High Court)

Delhi High Court held that as per Rule 34 of the Delhi Value Added Tax Rules, 2005, a claim for refund of tax is liable to be made in Form DVAT-21 only if such a refund is not claimed in the return itself.

Facts- On 09 May 2014, the petitioner submitted a return for the quarter ending 31 March 2014. The self assessment return claimed a refund of Rs.11,40,96,384/- on account of excess Input Tax Credit. On 15 May 2014 and 07 June 2014, the respondents proceeded to issue notices for default assessment of tax referable to Section 32 of the DVAT Act for the period commencing from April

2012 to March 2013. The default assessment notices raised a demand of Rs.3,10,97,964/- inclusive of interest and penalty. The petitioner is stated to have filed objections in respect of the aforesaid notices before the OHA in terms of Section 74 of the DVAT Act. On 15 June 2015, the respondents proceeded to issue default assessment notices for the period between April 2013 to December 2013. In terms of those notices, a tax demand in the sum of Rs. 62,61,80,251/- inclusive of interest and penalty came to be raised against the petitioner. These default assessment demands were also assailed by the petitioner by filing objections before the OHA on 15 July 2014. On 16 November 2015, the petitioner made a pre-deposit of Rs.1,00,00,000/- in terms of the statutory mandate of Section 73(1) of the DVAT Act. The aforesaid pre-deposit was made in respect of the objections which had been preferred before the OHA pertaining to the default assessment notices for the F.Y. 2012-2013 and April 2013 to December 2013. On 08 November 2016, the OHA proceeded to dispose of the aforesaid objections and remanded the matter to the file of the first respondent.

Conclusion- This clearly emerges from Rule 34(1) which uses the expression “except claimed in the return”. The aforesaid position is again reiterated in sub-rule (2) and which stipulates that only such claim for refunds may be made in Form DVAT-21 which have not been claimed in any previous return. It is thus manifest that once a claim for refund stands embodied in the return itself, there is no additional obligation placed upon the assessee to file Form DVAT-21.

Held that the respondents clearly appear to have acted arbitrarily in making numerous adjustments post 31 May 2015 and thus illegally depriving the petitioner of the refund as claimed. The various adjustments clearly appear to have been made even though objections before the OHA had been duly lodged online by the petitioner. The respondents thus clearly appear to have acted contrary to the clear mandate of Section 38 of the DVAT Act.

14. Limitation Act 1963 Doesn't Apply to GST Appeal Timeframes

Case Name : Sanjib Kumar Pal Vs Union of India (Tripura High Court)

Appeal Number : WP(C) No.338 of 2023

Date of Judgement/Order : 01/08/2023

Courts : All High Courts (11238) Tripura High Court (48)

41. Sanjib Kumar Pal Vs Union of India (Tripura High Court)

Introduction: The Tripura High Court's judgment in the case of "Sanjib Kumar Pal Vs Union of India" revolves around the applicability of the Limitation Act 1963 to the appeals filed under the Goods and Services Tax (GST) Act, a special statute.

Two Writ Petitions with Common Grounds: Both WP(C) No.338 of 2023 and WP(C) No.345 of 2023 were consolidated due to their shared grievances. These writ petitions contested the rejection of appeals by the petitioner on the grounds of delay by the appellate authority, even after considering medical and COVID-19 related reasons.

Backdrop and Central Issue: The central bone of contention is the dismissal of the petitioner's appeals for being grossly barred by limitation, as prescribed under Section 107(4) of the Tripura State Goods and Services Tax Act, 2017. While the adjudication orders date back to June 2020, the appeals were not preferred until March 2023.

The Apex Court's Stand on Limitation Period: To navigate the complexities arising from the Covid-19 pandemic, the Apex Court, in *Suo Moto Writ Petition (C) No.3 of 2020*, extended the period of limitation for all judicial or quasi-judicial proceedings. This order outlined that the period from 15th March 2020 to 28th February 2022 should be excluded when computing limitations. However, for cases with expired limitations during this timeframe, a 90-day window was provided from 1st March 2022.

Respondents' Argument and The Special Statute: The respondents upheld the appellate order, emphasizing that the appeals should fall under the purview of the Tripura State Goods and Services Tax Act, 2017. As this act is a special statute, it stands exclusive, and the general provisions of the Limitation Act, 1963, can't be employed to condone delays beyond what's specified in the GST Act.

High Court's Verdict: Upon examining the case details and the arguments presented, the Tripura High Court ruled in favor of the respondents. The court observed that, given the Tripura State Goods and Services Tax Act, 2017, being a special statute, it should govern the appeals. Consequently, pleas for condonation of delay based on the Limitation Act, 1963, were deemed inadmissible.

Conclusion: The verdict underscores the supremacy of special statutes over general laws, ensuring that the specific provisions of the Tripura State Goods and Services Tax Act, 2017, remain untainted by the general tenets of the Limitation Act, 1963. This decision serves as a precedent for future cases, emphasizing the importance of adhering to the stipulated guidelines of the special statutes.

15. Order to cancel GST registration without specifying reason is not sustainable

Case Name : Singla Exports Vs Central Board of Indirect Taxes And Customs & Ors. (Delhi High Court)

Appeal Number : W.P.(C) 2732/2023

Date of Judgement/Order : 09/08/2023

Courts : All High Courts (11238) Delhi High Court (2606)

42. Singla Exports Vs Central Board of Indirect Taxes And Customs & Ors. (Delhi High Court)

In a significant judgment, the Delhi High Court in *Singla Exports v. Central Board of Indirect Taxes and Customs & Ors [W.P.(C) 2732 of 2023 dated August 09, 2023]* has set aside an automated order which led to the cancellation of GST registration. This case revolved around the principle that reasons must be specified when taking administrative actions, a fundamental principle of justice.

Facts:

M/s. Singla Exports (**“the Petitioner”**) decided to discontinue the business operations. Accordingly, the Petitioner filed an application for cancellation of its GST Registration with effect from April 30, 2022.

The Revenue Department issued a SCN dated May 05, 2022 (**“the Impugned SCN”**) to the Petitioner seeking documents and details from the Petitioner.

The Revenue Department did not process the Petitioner’s application on the ground that the Petitioner had not responded to the Impugned SCN seeking further documents and details.

Thereafter the Revenue Department vide the Order dated June 10, 2022 (**“the Impugned Order”**) cancelled the GST Registration of the Petitioner w.e.f. July 02, 2017.

Aggrieved by the Impugned Order the Petitioner filed writ before the Hon’ble Delhi High Court.

Issue:

Whether the GST registration can be cancelled without mentioning proper reason in Registration cancellation Order?

Held:

The Hon’ble Delhi High Court in ***W.P.(C) 2732 of 2023*** held as under:

- **Need for Clear Reasons in SCNs:** The court emphasized the established legal precedent
 - that a Show Cause Notice must clearly state reasons for any proposed action.

Deficiencies in the Issued SCN: The court found the issued SCN lacking in clarity and specifics, making it impossible for the Petitioner to present a meaningful response.

- **Absence of Stated Statutory Violations:** The order didn’t specify the exact violations
 - committed by the Petitioner, which led to the cancellation of its GST registration.

- **Lack of Communication:** The Petitioner, contrary to the order’s assertions, had neither been informed about a personal hearing nor been given clear reasons to respond to the SCN.

Remanded the matter to the Revenue Department to consider afresh and directed, the Petitioner to file documents in response to the SCN dated May 17, 2022 within a period of two weeks.

Conclusion: Upholding the principle of fairness, the Delhi High Court decided that any administrative order, especially one as impactful as the cancellation of GST registration, must be accompanied by clear, articulated reasons. The case serves as a reminder of the importance of due process in administrative actions. The matter was sent back to the Revenue Department for fresh consideration, emphasizing clarity and adherence to the principles of natural justice.

16. Appellant Isn't an Intermediary Without Facilitating Third-Party Services

Case Name : Boks Business Services Pvt Ltd Vs Commissioner of Central Goods And Services Tax Delhi South And Anr (Delhi High Court)

Appeal Number : W.P.(C) 1255/2023

Date of Judgement/Order : 22/08/2023

Courts : All High Courts (11238) Delhi High Court (2606)

Boks Business Services Pvt Ltd Vs Commissioner of Central Goods And Services Tax Delhi South And Anr (Delhi High Court)

Appellant is not intermediary if **is neither facilitating provision of services by a third entity nor acting as a middleman for procuring such services for its affiliate**

Introduction: In a pivotal judgment, the Delhi High Court recently delved into the definition of an “intermediary” under the [Integrated Goods and Services Tax Act, 2017](#) (IGST Act). This decision has notable implications for businesses engaged in providing services to foreign affiliates.

Defining the Issue: Boks Business Services Pvt Ltd challenged the denial of their refund claim for unutilized input tax credit concerning zero-rated supplies. The crux of the contention was whether Boks Business acted as an “intermediary” while providing services to its UK affiliate.

Nature of Services Rendered: Boks Business provides bookkeeping, payroll, and accounting services using cloud technology to its affiliated UK entity, TC Outsourcing Limited. For this, they filed for a refund of unutilized input tax credit from April 2018 to December 2019.

Rejection on ‘Intermediary’ Grounds: Authorities initially declined the refund, proposing the services appeared to be “intermediary services”. This would mean the place of supply was within India, making the services non-exportable under the IGST Act.

Appellate Authority’s Viewpoint: On appeal, it was noted that an agreement labeled Boks Business as an “agent” to its foreign affiliate. The Appellate Authority thus inferred that Boks wasn’t providing principal services to its foreign clients.

Court’s Observation: The High Court delved into the core of the agreement between the entities. It concluded that while Boks Business might be termed an “agent”, it wasn’t facilitating a third party’s services or acting as a broker. Instead, Boks Business was directly providing the main services of bookkeeping, payroll, and accounting using cloud technology.

Citing Precedents: The court supported its conclusion by referencing two previous judgments that addressed similar issues, further solidifying its stance.

Conclusion: The Delhi High Court’s judgment clarifies the role and definition of an “intermediary” under the IGST Act. Boks Business, in this case, was not acting as an intermediary but as the principal service provider.

The decision underscores the importance of assessing the nature of services rather than mere terminologies in contracts or agreements. The Court’s directive to expedite the refund claim within four weeks reaffirms the significance of justice being both fair and swift.

17. Goods exempted from e-way bill requirements can’t be detained for lacking e-way bill

Case Name : J.K. Cement Ltd. Vs State Of U.P. (Allahabad High Court)

Appeal Number : Writ Tax No. 44 of 2023

Date of Judgement/Order : 28/08/2023

Courts : All High Courts (11238) Allahabad High Court (583)

43. J.K. Cement Ltd. Vs State Of U.P. (Allahabad High Court)

Introduction: The case of J.K. Cement Ltd. versus the State Of U.P. brings forth the debate surrounding the mandatory requirements of e-way bills during the transportation of goods. The pivotal question is whether goods can be detained for not carrying an e-way bill if they were exempted at the relevant point of time.

Detailed Analysis:

Background of the Case: The petitioner, J.K. Cement Ltd., a company registered under the Companies Act, 1956, is involved in the manufacture and sale of cements, wall putty, adhesives, and more. During their usual business operations, they dispatched certain consignments from Gwalior to Panna, Madhya Pradesh. These goods were intercepted in the State of UP for not accompanying an e-way bill, leading to a penalty.

The Legal Standpoint: The legal counsel for J.K. Cement highlighted a specific notification from Madhya Pradesh dated 14.8.2018. According to this notification, the goods in transit within the State of Madhya Pradesh weren't required to have an e-way bill. Additionally, all essential documents, such as tax invoices and G.R., were accompanying the goods, with no discrepancies found.

The counter-argument by the State was that the e-way bill is a necessity during transport, and the said notification is specific to Madhya Pradesh and not U.P.

Court's Observation: Upon careful consideration, the court acknowledged that:

- The origin and destination of the goods were within Madhya Pradesh.
-
- The tax invoices and G.R. were genuine.

A specific notification exempted certain goods from the e-way bill requirement in Madhya Pradesh.

The respondent authorities accepted that the detained goods were not intended for unloading in the State of UP. Therefore, solely because the goods lacked an e-way bill, the seizure was deemed unjustified.

Conclusion: The Allahabad High Court's judgment in the case of J.K. Cement Ltd. versus the State Of U.P. sheds light on the intricacies of the e-way bill system. By acknowledging the specific exemptions of the State of Madhya Pradesh and considering the origin and destination of goods, the court sets a precedent for similar cases. The verdict underscores the importance of understanding regional nuances in the implementation of the GST framework.

18. Entire GST Refund Can't Be Denied Due to One Supplier's Irregularity

Case Name : Solidum And Stars Guild LLP Vs Commissioner, Central Tax, Appeals-II, Delhi, & Anr. (Delhi High Court)

Appeal Number : W.P.(C) 8182/2023

Date of Judgement/Order : 24/08/2023

Courts : All High Courts (11238) Delhi High Court (2606)

**Solidum And Stars Guild LLP Vs Commissioner, Central Tax,
Appeals-II, Delhi, & Anr. (Delhi High Court)**

Introduction: The realm of GST (Goods and Services Tax) in India is evolving with each case that is brought before the judiciary. One such significant case, Solidum And Stars Guild LLP Vs Commissioner, Central Tax, Delhi, brings forth pertinent issues concerning the denial of GST refund based on irregularities by a single supplier.

The Impugned Orders: Solidum And Stars Guild LLP filed a petition against an order from August 5, 2021, whereby its application for a GST refund of INR 76,76,106 was rejected. This rejection was subsequently upheld by the Order-in-Appeal in May 2022, which further agitated the petitioner.

Backdrop of the Case: The crux of the dispute revolved around the petitioner's claim for a GST refund, attributed to ITC on goods exported from November 2020 to March 2021. The Adjudicating Authority cited two primary reasons for the denial: the non-existence of one of the suppliers and discrepancies between the invoice and FOB values.

Siddhi Impex Controversy: The Adjudicating Authority's investigations revealed that one of the suppliers, M/s Siddhi Impex, was non-existent at its registered place of business. This discovery played a pivotal role in the rejection of the petitioner's refund claim. Moreover, the registration of M/s Siddhi Impex was later cancelled.

Appeal & Narrowing of Claim: While the petitioner accepted the findings concerning M/s Siddhi Impex and voluntarily deposited the refund amount claimed in this regard, it continued to seek a refund on ITC concerning inputs from other suppliers. The total amount in question was ₹54,99,846. Crucially, no allegations or doubts were raised concerning the other suppliers, yet the entire refund was denied based on the irregularity from one supplier.

Delhi High Court's Verdict: Delhi HC observed that neither the Adjudicating Authority nor the Appellate Authority raised concerns about the supplies from the other suppliers. As such, it found no justifiable reason to deny the refund for ITC from suppliers other than M/s Siddhi Impex. The Court allowed the petition, directing the Adjudicating Authority to expediently process the petitioner's claim of ₹54,99,846, including interest.

Conclusion: The verdict underscores the principle that irregularities from a single entity shouldn't jeopardize the rightful claims of taxpayers. By ensuring that the entire GST refund isn't denied due to an irregularity by one supplier, the Court has offered relief to many businesses that may face similar challenges in the future.

19. Satellite derived 3D model services – OIDAR or Export of Services?

Case Name : Globolive 3D Private Limited Vs Union of India (Bombay High Court)

Appeal Number : Writ Petition No. 39 of 2023

Date of Judgement/Order : 24/08/2023

Courts : All High Courts (11238) Bombay High Court (1682)

44. Globolive 3D Private Limited Vs Union of India (Bombay High Court)

Introduction: The Bombay High Court recently delved into a significant issue concerning the nature of Satellite derived 3D model services. The core matter revolved around whether such services should be categorized as Online Information Database Access or Retrieval (OIDAR) services or considered as an export of services under the IGST Act.

Background: Globolive 3D Private Limited approached the Bombay High Court challenging an order from the appellate authority. This order had declined their refund application for the tax they had previously paid.

Key Question: The principal question was whether the services provided by Globolive 3D – specifically, Satellite derived 3D model services – fall within the “export of services” as described under Section 2(6) of the IGST Act or are they to be classified as OIDAR as per Section 2(17) of the IGST Act.

Detailed Analysis:

1. *Nature of the Agreement:* The agreement with M/s Emirates Defence Industries Co. PJSC revealed that Globolive 3D was engaged in delivering Satellite derived 3D model services. The services were to be offered to “EDIC and any of its Affiliates” as appointed by Emirates Defence Industries Co. PJSC.

2. *Location of Service Provision:* The service was distinctly for M/s. Emirates Defence Industries Co., which isn’t based in India. The place of the service supply was agreed to be outside India. Moreover, the payment for these services was received by Globolive 3D in convertible foreign exchange.

3. *OIDAR Definition:* The court pondered upon how such specialized services could be equated to OIDAR, as defined under Section 2(17) of the IGST Act. While the services were transferred electronically, the court noted that this alone doesn’t categorize them as OIDAR.

4. *The Agreement's Interpretation:* If the interpretation favored by the respondents was accepted, any service or information communicated through electronic means could be misconstrued as OIDAR, which deviates from its intended definition.

5. *Nature of Work:* The specialized task was the creation of 3D city models of specific locations like Abudhabi. Such work isn't freely available on the internet nor does it fit the type of material OIDAR would typically entail.

6. *Consideration for Services:* The petitioner received payment in convertible foreign exchange for the services rendered, reinforcing their stance as exporters of service.

7. *Appellate Authority's Decision:* The appellate authority's understanding and interpretation of the agreement were called into question. The court believed that the authority had misconstrued the intent and essence of the agreement.

Conclusion: In light of the presented analysis, the Bombay High Court leaned in favor of Globolive 3D, emphasizing that their services should not be categorized as OIDAR. The court stressed the importance of understanding the substance of an agreement rather than its form, ultimately upholding Globolive 3D's contention regarding the export of services.

The matter was argued by Ld. Counsel Bharat Raichandani

20. Section 67(2) of CGST Act doesn't grant officers authority for cash seizures

Case Name : Rajeev Chhatwal Vs Commissioner of Goods And Services Tax (East) (Delhi High Court)

Appeal Number : W.P.(C)5880/2021

Date of Judgement/Order : 24/08/2023

Courts : All High Courts (11238) Delhi High Court (2606)

Rajeev Chhatwal Vs Commissioner of Goods And Services Tax (East) (Delhi High Court)

Introduction: In the recent case of Rajeev Chhatwal vs Commissioner of Goods And Services Tax (East), the Delhi High Court addressed the contentious issue of whether officers have the authority under Section 67(2) of the CGST Act to seize cash. The case throws light on the limits and scope of this section.

Background of the Case: A search was conducted under Section 67 of the CGST Act at the residence of the petitioner, Mr. Rajeev Chhatwal, where Indian currency amounting to ₹15,92,000/- was seized. Interestingly, Mr. Chhatwal claimed he was not a 'taxpayer' under the Act, hence questioning the necessity of the search at his premises.

Events During the Search: During the search, various documents and the mentioned currency kept in a locker were confiscated. The family argued against this seizure, asserting the cash was stored for safety reasons due to ongoing house renovations. The petitioner, along with Asif Khan and Arjun Sharma, was arrested but later released on bail.

Allegations Against the Petitioner: The respondents alleged that Mr. Chhatwal had confessed involvement in a fake invoice scheme. This scheme resulted in an Income Tax Credit (ITC) fraud of approximately ₹11 crores. Despite multiple summonses, Chhatwal allegedly evaded the investigation initially but later cooperated.

Petitioner's Claims: Mr. Chhatwal refuted the allegations, stating he signed documents under duress. Emphasizing his non-involvement in the fraudulent activities, he challenged the cash seizure on the grounds that Section 67(2) of the CGST Act doesn't empower such actions.

Court's Verdict: The Delhi High Court, referencing the recent judgment in Deepak Khandelwal Proprietor M/s Shri Shyam Metal v. Commissioner of CGST, confirmed that Section 67(2) does not grant officers the power to seize cash. Consequently, the court ordered the return of the seized amount to Mr. Chhatwal, along with the applicable interest.

21. Writ Maintainable for Authority's Jurisdictional Error & Violation of Natural Justice

Case Name : Kalpataru Power Transmission Ltd Vs State of Maharashtra (Bombay High Court)

Appeal Number : Writ Petition No. 4505 of 2022

Date of Judgement/Order : 03/08/2023

Courts : All High Courts (11238) Bombay High Court (1682)

Kalpataru Power Transmission Ltd Vs State of Maharashtra (Bombay High Court)

Conclusion: In present facts of the case, the Hon'ble High Court observed that writ under Article 226 would be maintainable if the Order has been passed beyond the Show Cause Notice as the action of an authority is wholly without jurisdiction and contrary to the principles of natural justice and in such case the Petitioners should not be relegated to an alternative remedy.

Facts: In present facts of the case, the petition under Article 226 was filed challenging review order dated 8th March 2021, passed by Respondent No.3 under Section 25 of the Maharashtra Value Added Tax Act, 2002 and order dated 6th July 2021, passed by Respondent No.3 on rectification application filed by the Petitioner, to rectify review order, under Section 24 of the MVAT Act for the financial year 2006-07.

During the FY 2006-07, the Petitioner executed two projects of electricity distribution line. With respect to it, the Petitioner claimed deduction from the contract price @ 25% as per Table prescribed in Rule 58 of the MVAT Rules for arriving at value of transfer of property in goods.

On 18.2.2013, a Notice was issued to the Petitioner for verification of books of accounts to examine discrepancies found in the course of the business audit conducted by the revenue. The said notice records discrepancies found by the revenue after verification of the books of accounts. The Reply was filed on 18.2.2013 and 18.3.2013. On 11.12.2015, an assessment order under S. 23(3) came to be passed by the Assistant Commissioner of Sales Tax, wherein it was observed that the Petitioner has claimed deduction under section 58 of the MVAT Act on actual basis aggregating to Rs.30,59,93,405/-. The assessment order records that the deduction is

allowed after verification of books of accounts i.e., trial balance, expenses, ledger copies, contract copies, sample copies, etc. The assessment order, however, raises a demand of Rs.8,27,465/- on some other issue. On 22.10.2018, Respondent No.3 issued a notice u/s 25 of the MVAT Act to review the assessment order passed under Section 23(3) of the Act. The Petitioner replied on 02.11.2018, wherein Petitioner filed detailed submissions objecting to the notice issued under Section 25 of the MVAT Act. The Petitioner submitted that the issue raised in the show cause notice was also raised by Sales Tax Revenue Audit Team, which was duly replied by the Petitioner. The Petitioner further submitted that for a turnkey projects, there cannot be two separate agreements, one for sale of the goods and another for supply of labour and services. On 23.11.2020, the successor of Respondent No.3 issued a similar show cause notice to review the assessment order on the ground that deduction under Rule 58 amounting to Rs.9,41,22,626/- on profit of supply of labour and services has been wrongly allowed. On 26.11.2020, the Petitioner replied to the aforesaid notice and reiterated its detailed submissions made on earlier occasions.

On 8.3.2021, Respondent No.3 passed an order in review under Section 25 of the MVAT Act rejecting the submissions made by the Petitioner. Respondent No.3 in the said order held that since the Petitioner has failed to submit correct amount of deduction of profit, they are not eligible to get the deductions provided under Rule 58(1)(a) to (h) and, therefore, the Petitioner will be allowed to claim deduction only as per Table under Rule 58(1) of the MVAT Rules. On 18th May 2021, the Petitioner made an application in form 307 for rectification of mistakes in the order in review dated 8th March 2021. On 6th July 2021, Respondent No.3 rejected the rectification application. In the said order, the Respondents justified the review order by placing reliance on proviso to Rule 58(1).

The Petitioner submitted that show cause notice was issued only to disallow a sum of Rs.9,41,22,626/- under Rule 58(1)(h) of the MVAT Rules whereas in the impugned order, the Respondents have disallowed all deductions claimed under Rule 58(1)(a) to (h), amounting to Rs.30,59,93,405/- and therefore, the impugned order has travelled beyond the show cause notice.

The Hon'ble High Court observed that the show cause notice was issued only to deny deduction on account of profit on supply of labour and service, amounting to Rs.9,41,22,626/- which would only fall under Rule 58(1)(h) and therefore, the reference to Rule 58 in the show cause notice although not specifying the sub-rule, should be read to mean that the show cause was only for disallowance of the item under Rule 58(1)(h) of the MVAT Rules and not all the deductions under Rule 58(1)(a) to (h). This is further fortified by the second show cause notice dated 23rd November 2020 which specifically refers to Rule 58(1) (h) only to deny the deduction of Rs.9,41,22,626/-. The figure of Rs.9,41,22,626/- in the show cause notice is only under Rule 58(1)(h). Therefore, the show cause notice was only for item to be disallowed under Rule 58(1)(h) and not all the items under Rule 58(1)(a) to (h). Reliance was placed upon ***Commissioner of Customs, Mumbai vs M/s. Toyo Engineering India Limited, 2006 (7) SCC 592***, wherein it was observed that the Department cannot be allowed travel beyond the show cause notice and it would be against the principles of natural justice that a person who has not been confronted with any ground is saddled with liability thereof and since the issue did not form the basis of the show cause notice and was not even confronted to the order passed beyond show cause notice is to be quashed.

Further, it was observed that it is a settled position in law that if the action of an authority is wholly without jurisdiction or contrary to the principles of natural justice, a writ petition would be required to be maintainable and the Petitioners should not be relegated to an alternative remedy.

On basis of the above, the impugned orders dated 8th March 2021 and 6th July 2021 were quashed and aside.

22. Orissa HC Directs Payment of 20% of Disputed Tax in Absence of GSTAT

Case Name : Sekh Aminur Islam Vs Commissioner of CT & GST (Orissa High Court)

Appeal Number : W.P (C) No. 24245 of 2023

Date of Judgement/Order : 10/08/2023

Courts : All High Courts (11238) Orissa High Court (224)

Sekh Aminur Islam Vs Commissioner of CT & GST (Orissa High Court)

Introduction: The Orissa High Court recently delved into the complexities of the Goods and Services Tax (GST) through the case of Sekh Aminur Islam Vs Commissioner of CT & GST. The pivotal concern was the GST recovery in the absence of a Second Appellate Tribunal.

1. Background and Nature of the Writ Petition: The writ petition was initiated due to the non-existence of the Second Appellate Tribunal. Sekh Aminur Islam challenged the 1st appellate order dated 31.05.2023, wherein the Joint Commissioner of State Tax (Appeal) did not admit the petitioner's appeal. This rejection was based on contraventions to subsections (1) & (4) of Section 107 of the GST Act and the appeal filed under sub-Section (1) of Section 107 of the Odisha Goods and Services Tax Act, 2017.

2. Contentions by the Petitioner: The counsel for Sekh Aminur Islam posited that the petitioner was not obligated to pay the disputed tax and penalty. Given that the 2nd appellate tribunal is yet to be formed and an appeal against the order from the 1st appellate authority is in line, the High Court should consider this writ petition. Emphasizing on the 10% tax amount already deposited by the petitioner, the counsel pushed for the Court's intervention due to the absence of a second appellate forum.

3. Arguments from the Addl. Standing Counsel: Diganta Dash, representing the department, highlighted the delay in filing the appeal. He stressed that the court might not be in a position to pardon the delay beyond four months, especially when the appellate authority lacks discretion post a lapse of three months from the order's communication date. Dash further argued that the case stands uniquely, holding the petitioner responsible for the tax payment. If the petitioner seeks remedy through a future 2nd appellate tribunal appeal, he would be obligated to pay an additional 20% of the disputed tax.

4. Immediate Proceedings and Further Directions: The court issued notices to the opposite parties, with Mr. Diganta Dash accepting it on their behalf. Following protocol, the High Court

ordered that copies of the writ petition be served to Dash within three working days, expecting a reply in two weeks and subsequent rejoinders before the next scheduled date.

Conclusion: The case of Sekh Aminur Islam Vs Commissioner of CT & GST is emblematic of the challenges in India's GST framework, especially in scenarios where institutional mechanisms like the 2nd appellate tribunal are absent. With significant tax implications at stake and time-sensitive elements in play, the Orissa High Court's forthcoming decisions in this matter will be keenly observed by legal and financial stakeholders.

23. Orissa HC: Deposit Full Tax in 15 Days Before Opting Writ Remedy for GSTAT Non-Constitution

Case Name : Krushna Mohan Dutta Vs Commissioner of CT & GST (Orissa High Court)

Appeal Number : W.P (C) No. 25096 of 2023

Date of Judgement/Order : 09/08/2023

Courts : All High Courts (11238) Orissa High Court (224)

45. Krushna Mohan Dutta Vs Commissioner of CT & GST (Orissa High Court)

Introduction: The Orissa High Court recently adjudicated a crucial case involving the non-constitution of the Second Appellate Tribunal (GSTAT) and GST tax demands. The case, *Krushna Mohan Dutta v. Commissioner of CT & GST, Odisha & Others [W.P (C) No. 25096 of 2023 dated August 09, 2023]*, is of significance for its implications on GST tax appeals. Hon'ble Orissa High Court held that, the assessee is required to deposit entire disputed demand within 15 days if the assessee intends to seek remedy through writ court in case on nonconstitution of GSTAT.

Facts:

Krushna Mohan Dutta ("**the Petitioner**") preferred and appeal before the Joint Commissioner of State Tax, CT & GST ("**the first Appellate Authority**") who vide Order dated June 02, 2023 ("**the**

Impugned Order”) has not admitted the appeal preferred by the Petitioner, as the same is in contravention to 107(1) & (4) of the Central Goods and Services Tax Act, 2017 (“the CGST Act”). Due to non-constitution of the Appellate Tribunal the Petitioner filed the present writ before the Hon’ble Orissa High Court.

Issue:

Whether the Petitioner is liable to deposit the tax demand if the tax was entirely paid and the Appellate Tribunal is not yet constituted?

Held:

The Hon’ble Orissa High Court in ***W.P (C) No. 25096 of 2023*** held as under:

- Observed that, the Petitioner wanted to avail the remedy under the provisions of law by
- approaching the Appellate Tribunal which is not yet constituted.
- Directed, the Petitioner to deposit the entire tax demand within the period of fifteen days.
- Opined that, subject to the Petitioner depositing entire tax demand, the rest of the demand shall remain stayed.

Listed the matter along with W.P.(C) No.6684 of 2023 for the next date.

Conclusion: The Orissa High Court’s judgment sheds light on the complexities businesses face due to the nonconstitution of the Second Appellate Tribunal. By setting the interim measures and demanding a complete tax deposit, the court attempts to strike a balance between legal compliance and a taxpayer’s rights. As the landscape of GST and its appeals continues to evolve, this case serves as a precedent for many others to come.

24. Adjudicating Authority must provide hearing opportunity before passing an adverse order

Case Name : B L Pahariya Medical Store Vs State of U.P. (Allahabad High Court)

Appeal Number : Writ Tax No. 981 of 2023

Date of Judgement/Order : 22/08/2023

Courts : All High Courts (11238) Allahabad High Court (583)

46. B L Pahariya Medical Store Vs State of U.P. (Allahabad High Court)

The recent case of ***B.L. Pahariya Medical Store v. State of U.P [Writ Tax No. 981 of 2023 dated August 22, 2023]*** has cast light on a pivotal issue in the realm of judicial proceedings: the significance of the opportunity for a personal hearing before passing an adverse order. The Hon'ble Allahabad High Court's determination brings clarity to the expectations of the Adjudicating Authority.

Hon'ble Allahabad High Court set aside the demand order passed by the Adjudicating Authority and held that, the assessee is not required to request for opportunity of personal hearing, and it remained mandatory upon Adjudicating Authority to afford such opportunity before passing an adverse order.

Facts:

B.L. Pahariya Medical Store ("**the Petitioner**") was served a Show Cause Notice on July 12, 2022 ("**the SCN**") by the Revenue Department ("**the Respondent**") seeking his reply within 15 days.

The Petitioner filed the reply to the SCN on December 30, 2022.

The Adjudicating Authority passed an order dated March 21, 2022 ("**the Impugned order**"), whereby demand and penalty of INR 26 crores has been confirmed against the Petitioner.

The Petitioner relied upon the Judgement of ***Bharat Mint & Allied Chemicals v. Commissioner Commercial Tax & 2 Ors. [(2022) 48 VJ 325]*** and on Section 75(4) of the Central Goods and Services Tax Act ("**the CGST Act**") and contended the Adjudicating Authority was bound to afford opportunity of personal hearing to the Petitioner before he may have passed an adverse assessment order.

The Petitioner relied upon the Judgement of *M/s Hitech Sweet Water Technologies Pvt. Ltd. v. State of Gujarat, [2022 UPTC (Vol. 112) 1760]* wherein the Hon'ble Gujarat High Court set aside the Impugned Order on the ground that the lower authority was non-compliant of principles of natural justice in form of not giving opportunity of personal hearing.

Issue:

Whether the Adjudicating Authority can pass order without offering opportunity of being heard?

Held:

The Hon'ble Allahabad High Court in *Writ Tax No. 981 of 2023* held as under:

- Noted that, the stand of the Petitioner may remain unclear unless minimal opportunity of hearing is first granted.
- Directed to issue a fresh SCN to the Petitioner within a period of two weeks.

Relied upon the Judgement of *Bharat Mint & Allied Chemicals v. Commissioner Commercial Tax & 2*

Ors. [(2022) 48 VJ 325] wherein the Hon'ble Allahabad High Court held that, the Adjudicating Authority was bound to afford opportunity of personal hearing to the Petitioner before he may have passed an adverse assessment order.

- Held that, a principle of law is laid down that the Petitioner is not required to request for "opportunity of personal hearing" and it remained mandatory upon Adjudicating Authority to afford such opportunity before passing an adverse order.
- Set aside the Impugned Order and remanded back the matter to Adjudicating Authority.

Our Comments:

Similarly, in the case of *Mohini Traders v. State of U.P. [WRIT TAX No. 551 of 2023 dated May 3, 2023]* the Allahabad High Court held that, it is mandatory to provide opportunity of personal hearing even if the assessee has opted 'No' on the against column description "Date of personal hearing" on the common portal.

Conclusion: The B.L. Pahariya Medical Store v. State of U.P. case serves as a watershed moment, accentuating the necessity of adhering to principles of natural justice in the judicial realm. By ensuring the right to a personal hearing is upheld, not only are the principles of justice served, but it also paves the way for more comprehensive, well-reasoned judgments that reflect the true spirit of the law.

25. Limitation Grounds Inapplicable for Timely & Properly Filed GST Refund Applications

Case Name : National Internet Exchange of India Vs Union of India & Ors. (Delhi High Court)

Appeal Number : W.P.(C) 871/2022

Date of Judgement/Order : 09/08/2023

Courts : All High Courts (11238) Delhi High Court (2606)

National Internet Exchange of India Vs Union of India & Ors. (Delhi High Court)

Introduction: The Delhi High Court recently delivered a landmark judgment in the case of the National Internet Exchange of India vs. Union of India & Ors. This case delves into the nuances of the GST refund mechanism and the implications of deficiencies in the application process.

The Background: The National Internet Exchange of India, the petitioner, had its claim for the refund of Integrated Goods and Services Tax (IGST) rejected. The Department of Trade and Taxes argued that the petitioner's application was submitted beyond the stipulated period under Section 54(1) of the CGST Act, 2017.

Main Contention: Despite the rejection, the petitioner emphasized that its initial refund application was submitted within the prescribed timeframe. The subsequent applications were just clarifications regarding deficiencies and should not be counted as a new application.

Impugned Circular and its implications: As per Circular No. 125/44/2019-GST, once a deficiency memo is issued, the refund application stops processing. The taxpayer needs to file a fresh application, and this should also be done within the stipulated two-year period. If a fresh

application, post a deficiency memo, is submitted after the stipulated time, the claim gets rejected.

Factual Context: The petitioner, a non-profit firm registered in Delhi, mainly focuses on internet service exports and domain management. They filed a refund claim for ₹51,28,263/- being the IGST paid on zero-rated supplies.

However, multiple deficiency memos were issued, requiring the petitioner to reapply.

Legal Analysis:

- Provisions for refunds are captured under Chapter 11 of the CGST Act.
- Application for refund has to be made before two years from the relevant date.
- The application should be complete, accompanied by necessary documents.

Applications can only be rejected if they are deficient.

The crux of the issue is whether the application filed by the petitioner was complete, as per Rule 89 of the CGST Rules.

Reasons and Conclusion: The main issue was whether the petitioner's application was complete, as per Rule 89 of the CGST Rules. The application by the petitioner on 31.10.2019 was neither ignored nor disregarded. They had adhered to the CGST Act and CGST Rules by filing their refund application timely.

In the precedent, the court had already established that if an application is complete in material terms, it shouldn't be treated as void. Any further clarifications or document requests should not invalidate the original application.

Final Verdict: The Delhi High Court, considering all aspects, concluded that GST refund cannot be denied on the limitation ground if the application for refund is filed within time and in the prescribed manner, even if there are deficiencies in the submission.

Conclusion: This judgment has set a precedent for all GST refund claims, emphasizing the importance of timely and proper filing, and ensuring that taxpayers are not unfairly penalized for

deficiencies that can be rectified. It underscores the need for a just and streamlined process in the implementation of tax laws.

26. CCI Directs DGAP to Investigate 'Jaypee Greens Kalypso Court' Units for Profiteering

Case Name : Shri Vinay Sheel Bansal & Shri Chander Sheel Bansal Vs Jaiprakash Associated Limited (Competition Commission of India)

Appeal Number : I.O. No. 10/2023 Date of Judgement/Order : 22/08/2023

Courts : Competition Commission of India (143) National Anti-Profiteering Authority (381)

Shri Vinay Sheel Bansal & Shri Chander Sheel Bansal Vs Jaiprakash Associated Limited (Competition Commission of India)

Introduction: The Competition Commission of India (CCI) recently took up a case against Jaiprakash Associated Limited, concerning its residential project, Jaypee Greens Kalypso Court. The main contention revolves around the alleged non-passing of Input Tax Credit (ITC) benefits to consumers, post the introduction of GST.

Background of the Case: Shri Vinay Sheel Bansal & Shri Chander Sheel Bansal initiated proceedings against Jaiprakash Associated Limited. They alleged that the company did not pass on the benefit of ITC during their purchase of a flat post the GST's introduction in 2017.

Investigations by the DGAP:

- The Director-General of Anti-Profiteering (DGAP) was directed to look into the matter. Post investigations, certain findings were noted:

The ○ respondent did not offer ITC benefits to consumers upon GST's introduction.
An ○ official notice was issued to the respondent in 2022, questioning their compliance
with ○ GST rules.

The investigation spanned from July 2017 to September 2022.

Response by Jaiprakash Associated Limited:

- The company has diversified business interests ranging from cement manufacturing to real estate.
- Post GST, the company registered under state-wise GST, making their UP registration a common one for varied projects, including the Jaypee Greens Kalypso Court.

They detailed the timeline of the project's development, particularly highlighting the completion dates of various towers.

DGAP's Findings:

- Main concerns: Identifying any benefits from reduced tax rates or ITC post-GST and ensuring these benefits were passed to consumers.

The project had a total of 1107 units, out of which 1086 were sold. Discrepancies were noted in the unit details provided by the respondent.

- The DGAP noted contraventions in Section 171(1) of the [CGST Act, 2017](#). They identified profiteering amounts due from the respondent to the applicants and other recipients.

CCI's Observations and Directions:

- The CCI reviewed the DGAP's report and confirmed the profiteering amounts.
- The Commission, however, noted incomplete data for 46 units in the DGAP's report and thus, directed a thorough re-investigation.

The DGAP has been ordered to present a comprehensive report, encompassing all units of the Jaypee Greens Kalypso Court.

Conclusion: This case shines a spotlight on the importance of adherence to tax regulations, particularly after landmark tax reforms like the GST. The Competition Commission of India stands firm in ensuring that businesses don't profit unfairly at the expense of consumers. As we await further details on the investigation, the case sets a precedent for real estate developers and the broader business community.

27. Anti-Profiteering provisions not attracted to project ‘Godrej Elements’: CCI

Case Name : Sparsh Chowdhary Vs Pearlite Real Properties Private Limited (Competition Commission of India)

Appeal Number : Order No. 15/2023

Date of Judgement/Order : 22/08/2023

Courts : Competition Commission of India (143) National Anti-Profiteering Authority (381)

Sparsh Chowdhary Vs Pearlite Real Properties Private Limited (Competition Commission of India)

Introduction: The case between Sparsh Chowdhary and Pearlite Real Properties Private Limited, as presented before the Competition Commission of India, revolves around the anti-profiteering provisions of Section 171(1) of CGST Act, 2017 and its applicability to the “Godrej Elements” project.

Background and Allegations: On 28.03.2022, a report was submitted to the erstwhile National Antiprofitteering Authority (NAA) by the Director General of Anti-Profiteering (DGAP). Sparsh Chowdhary, the applicant, alleged that Pearlite Real Properties did not extend the Input Tax Credit (ITC) benefit to him as mandated by the CGST Act, specifically for the “Godrej Elements” project.

Key Findings from the DGAP Investigation

- 1. Project Timeline:** The project “Godrej Elements” was initiated post-GST in June 2018, making the anti-profiteering provisions arguably irrelevant.
- 2. Evidence Produced:** The Respondent showcased documents like the Commencement Certificate, RERA Certificate, and initial booking details for the project, all indicating a post-GST initiation.
- 3. Charges and Taxation:** All homebuyers had their units booked post-GST, with the project charging GST at an effective rate of 12%.

4. **Comparative Analysis Absence:** The DGAP concluded that, since there were no pre-GST sales or allotments for comparison, there was no potential profiteering.

Erstwhile NAA's Consideration

Despite multiple opportunities given to Sparsh Chowdhary to file a reply against the DGAP's report, there was no response or presence from his side during hearings.

Competition Commission of India's Verdict

1. **Issues Addressed:** The main considerations were whether the benefit of additional ITC was available to Pearlite Real Properties and if there was a breach of the provisions of Section 171 (1) of the CGST Act, 2017.

2. **Project Chronology:** Crucial milestones, from RERA Certification to project initiation and first bookings, were exclusively in the post-GST period.

3. **Final Judgment:** The Commission deduced that Section 171 of the CGST Act, 2017 wasn't applicable to "Godrej Elements", leading to the dropping of the proceedings against Pearlite Real Properties.

Conclusion: The Competition Commission of India, after thoroughly evaluating all evidences and timelines, concluded that the anti-profiteering provisions of the CGST Act were not applicable to the "Godrej Elements" project. With no breach identified, the allegations by Sparsh Chowdhary were deemed inaccurate, resulting in the termination of proceedings.

28. Dharampal Satyapal Ltd. Challenges Authority of GST Council to hike GST Rate

Case Name : Dharampal Satyapal Limited Vs Union Of India And 6 Others (Allahabad High Court)

Appeal Number : Writ Tax No. - 979 Of 2023

Date of Judgement/Order : 21/08/2023

Courts : All High Courts (11239) Allahabad High Court (583)

47. **Dharampal Satyapal Limited Vs Union Of India And 6 Others (Allahabad High Court)**

Introduction: Dharampal Satyapal Limited, a major manufacturer and distributor of silver-coated illaichi, has recently challenged the authority of the GST Council at the Allahabad High Court. Their contention revolves around the reclassification of their product and the subsequent GST rate increase.

1. **Background of the Classification Issue:**

- **Prior Classification:** The petitioner's products, including the silver-coated illaichi, formerly fell within Chapter 20 of the Central Excise Tariff, incurring a duty of 12%.

Shift in Classification: Following the migration to the GST regime, the products maintained their position under Heading No. 2008. However, the GST Council, in its meeting on 17th September 2021, decided to reclassify these products under Chapter 21, imposing an 18% GST rate.

2. **Dharampal Satyapal Limited's Contentions:**

The company argues that the GST Council lacks the authority to alter a product's classification and increase its GST rate under a mere clarification. The shift, according to them, not only impacts their business but also challenges the authority and process followed by the Council.

3. **Implications of the Change:**

The petitioner has emphasized that the reclassification has led to financial strain. During the investigations, they have deposited Rs. 5 crores under protest, believing it would be refunded. Nonetheless, demands for additional GST, penalties, and interest are being made, amplifying their concerns.

4. **Present Status of the Case:**

As of now, the Allahabad High Court has given the respondents four weeks to submit their counter-affidavit. The petitioner is also granted two weeks thereafter to provide a rejoinder affidavit. Pending further hearings, certain interim measures have been ordered by the court.

5. A Deeper Look at the GST Council's Role:

The GST Council's role in tax classification and its implications on businesses is a topic of debate. The Council's decisions, which directly impact the taxation landscape, can have broad ramifications for industries and manufacturers.

Conclusion: The case of Dharampal Satyapal Limited vs. Union Of India highlights the continuous tug of war between businesses and tax authorities in the evolving GST landscape. The outcome will not only determine the fate of one company but might also set a precedent for future classifications and rate adjustments in the Indian GST regime.

29. Pre-deposit made through E-credit ledger is valid under GST: Orissa HC

Case Name : Kiran Motors Vs Addl. Commissioner of CT & GST (Orissa High Court)

Appeal Number : W.P (C) No. 22817 of 2023

Date of Judgement/Order : 10/08/2023

Courts : All High Courts (11239) Orissa High Court (224)

48. Kiran Motors Vs Addl. Commissioner of CT & GST (Orissa High Court)

In the case of M/s. Kiran Motors v. Addl. Commissioner of CT & GST [W.P (C) No.22817 of 2023, dated

August 10, 2023], the Hon'ble Orissa High Court overturned the order rejecting the appeal by the 1st Appellate Authority. The Court concluded that a pre-deposit for GST can be accomplished using the Electronic Credit Ledger (ECL).

Facts:

M/s. Kiran Motors ("**the Petitioner**") filed first appeal before the 1st Appellate Authority who vide order dated March 31, 2023 ("**Impugned Order**") rejected the appeal as the pre-deposit of 10% of admitted tax amount was debited through the ECL.

Aggrieved by the Impugned Order the Petitioner filed a writ before the Hon'ble Orrisa High Court and contended that the CBIC vide circular dated July 06, 2022 clarified that payment of pre-deposit can be made by using the ECL.

Issue:

Whether pre-deposit under GST can be done through E-Credit Ledger Instead of the ECL?

Held:

The Hon'ble Orrisa High Court ***W.P (C) No.22817 of 2023*** held as under:

- Noted that, CBIC vide circular dated July 06, 2022 clarified that payment of pre-deposit
- can be made by using the ECL.
- Opined that, the Petitioner has already made the pre-deposit using the ECL, that will now be accepted by the Revenue Department.

Set aside the Impugned Order, and listed the matter before the 1st Appellate Authority on September 11, 2023.

Conclusion: The ruling by the Orissa High Court in the Kiran Motors vs. Addl. Commissioner case has brought clarity on the usage of the ECL for pre-deposits under GST. The validation of the CBIC's previous circular on the matter reiterates the importance of the consistent application of rules and guidelines across various appellate authorities. This judgment not only benefits the petitioner but also sets a precedent for similar cases in the future.

30. GST Registration Cannot Be Cancelled on Mere Fraud Allegation: Delhi HC

Case Name : Cuthbert Oceans LLP Vs Superintendent of CGST Range 109 Division Rohini (Delhi High Court)

Appeal Number : W.P.(C) 10421/2023

Date of Judgement/Order : 08/08/2023

Courts : All High Courts (11239) Delhi High Court (2606)

Cuthbert Oceans LLP Vs Superintendent of CGST Range 109

Division Rohini (Delhi High Court)

Introduction: In the case between Cuthbert Oceans LLP and the Superintendent of CGST Range 109 Division Rohini, the Delhi High Court addressed the validity of the cancellation of GST registration on mere grounds of alleged fraud, willful misstatement, or suppression of facts.

Analysis: The crux of the matter was the issuance of a show-cause notice by the respondent to Cuthbert Oceans LLP, proposing the cancellation of their GST registration based solely on allegations of fraud, willful misstatement, or suppression of facts without concrete evidence. The notice lacked specifics, making it hard for the petitioner to understand and respond adequately.

Despite a late response by the petitioner questioning the legitimacy of these allegations, the respondent went ahead to cancel the GST registration. The cancellation was done retrospectively, and the order itself lacked clear reasons, rendering the action against Cuthbert Oceans LLP seemingly arbitrary.

The High Court, in its analysis, emphasized the importance of presenting clear allegations in any show-cause notice to allow the accused party an opportunity for an informed response. Mere blanket statements of fraud or suppression of facts, without clear specifics, are not only contrary to the principles of natural justice but also insufficient grounds for drastic actions like cancelling a GST registration.

Conclusion: The Delhi High Court set aside both the show-cause notice and the subsequent cancellation order due to their vagueness and lack of substance. This decision underscores the significance of due process and the necessity for clarity and transparency in legal actions, ensuring that entities are not penalized based on unfounded or vague allegations.