

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

GST UPDATE
(FEBRUARY 2023)

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Sr. No. ***Subject***

(I) CGST RATE NOTIFICATIONS

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2.	Notification No. S.O. 6/P.A.5/2017/Ss.9,11,15 and 148/2023, dated the 27th January, 2023, containing amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O. 37/P.A.5/2017/S.11/ 2017, dated the 30th June, 2017.
3.	Notification No. S.O. 7/P.A.5/2017/S.9 / 2023, dated the 27th January, 2023, containing amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.35/P.A.5/ 2017/S.9/2017, dated the 30th June, 2017.
4.	Notification No. S.O. 8/P.A.5/2017/Ss.9 and 15/2023, dated the 27th January, 2023, containing amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.16/P.A.5/ 2017/S.9/2017, dated the 30th June, 2017.
5.	Notification No. S.O. 9/P.A.5/2017/S.11/ 2023, dated the 27th January, 2023, containing amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.18/P.A.5/ 2017/S.11/2017, dated the 30th June, 2017.
6.	Notification No. S.O. 10/P.A.5/2017/S.11/ 2023, dated the 27th January, 2023, containing amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.27/P.A.5/ 2017/S.11/2017, dated the 30th June, 2017.
7.	Notification No. S.O. 11/P.A.5/2017/S.54/ 2023, dated the 27th January, 2023, containing amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.29/P.A.5/ 2017/S.54/2017, dated the 30th June, 2017.
8.	Notification No. S.O. 12/P.A.5/2017/Ss.11and 16/2023, dated the 27th January, 2023, containing amendment in the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.46/P.A.5/2017/Ss.11and 16/2022, dated the 22nd June, 2022.
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10.	Notification No. S.O. 14/C.A.35/2002/S.2/ 2023, dated the 31st January, 2023, notifying the name of Mohammad Khalil Qasmi son of Mohammad Ismail, resident of House No. 386/13, Mohalla Khatikan, Malerkotla, District Malerkotla-148023 as Chairperson of the Punjab State Haj Committee.

(II) IGST RATE NOTIFICATIONS

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GIST of GST Notifications

Centre's Notification No.	Subject	
03/2022-Central Tax (Rate)	13-Jul-22	Seeks to amend Notification No 11/2017- Central Tax (Rate) dated 28.06.2017
04/2022-Central Tax (Rate)	13-Jul-22	Seeks to amend Notification No 12/2017- Central Tax (Rate) dated 28.06.2017
05/2022-Central Tax (Rate)	13-Jul-22	Seeks to amend Notification No 13/2017- Central Tax (Rate) dated 28.06.2017
06/2022-Central Tax (Rate)	13-Jul-22	Seeks to amend notification No. 1/2017- Central Tax (Rate)
07/2022-Central Tax (Rate)	13-Jul-22	Seeks to amend notification No. 2/2017- Central Tax (Rate)
08/2022-Central Tax (Rate)	13-Jul-22	Seeks to amend notification No. 3/2017- Central Tax (Rate)
09/2022-Central Tax (Rate)	13-Jul-22	Seeks to amend notification No. 5/2017- Central Tax (Rate)
10/2022-Central Tax (Rate)	13-Jul-22	Seeks to amend notification No. 2/2022- Central Tax (Rate)
11/2022-Central Tax (Rate)	13-Jul-22	Rescinds notification No. 45/2017- Central Tax (Rate)

(I) CGST RATE NOTIFICATIONS

1. NOTIFICATION: No. S.O. 5/P.A.5/2017/Ss.9,11,15,16 and 148/2023

PART III GOVERNMENT OF PUNJAB

DEPARTMENT OF EXCISE AND TAXATION (EXCISE
AND TAXATION-II BRANCH)

NOTIFICATION

The 27th January, 2023

No. S.O. 5/P.A.5/2017/Ss.9,11,15,16 and 148/2023 .- In exercise of the powers conferred by sub-section (1), sub-section (3) and sub-section (4) of section 9, sub-section

(1) of section 11, sub-section (5) of section 15, sub-section (1) of section 16 and section 148 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017), (hereafter in this notification referred to as the said Act), 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. 17/P.A.5/ 2017/Ss.9,11,15 and 16/2017, dated the 30th June, 2017, namely:-

AMENDMENT

In the said notification, -

(A) in the Table, -

(I) against serial number 3, in column (3), -

(a) items (iii), (iv), (v), (va), (vi) and (ix) and the corresponding entries relating thereto in columns (4) and (5) shall be omitted;

(b) against items (vii) and (x), for the entry in column (4), the entry "6" shall be substituted;

(c) in item (xii), for the brackets and figures "(iii), (iv), (v), (va), (vi), (vii), (viii), (ix)", the brackets and figures "(vii), (viii)," shall be substituted;

(II) against serial number 7, in column (3), in item (i), the words "above one thousand rupees but" shall be omitted;

(III) against serial number 8, in column (3), -

(a) after item (vi) and the corresponding entries relating thereto in columns (4) and (5), the following shall be inserted, namely: -

(3)	(4)	(5)
"(via) Transport of passengers, with or without accompanied belongings, by ropeways.	2.5	The credit of input tax charged on goods used in supplying the service has not been taken. [Please refer to <i>Explanation</i> no. (iv)]";

- (b) for item (vii) and the corresponding entries relating thereto in columns (4) and (5), the following shall be substituted, namely: -

(3)	(4)	(5)
“(vii) Passenger transport services other than (i), (ii), (iii), (iv), (iva), (v), (vi) and (via) above.	9	-”;

(IV) against serial number 9, in column (3), -

- (a) for item (iii) and the corresponding entries relating thereto in columns (4) and (5), the following shall be substituted, namely: -

(3)	(4)	(5)
“(iii) Services of Goods Transport Agency (GTA) in relation to transportation of goods (including used house hold goods for personal use) supplied by a GTA where,-		
(a) GTA does not exercise the option to itself pay GST on the services supplied by it;	2.5	The credit of input tax charged on goods and services used in supplying the service has not been taken. [Please refer to <i>Explanation</i> no. (iv)]
(b) GTA exercises the option to itself pay GST on services supplied by it.	2.5	(1) In respect of supplies on which GTA pays tax at the rate of 2.5%, GTA shall not take credit of input tax charged on goods and services used in supplying the service. [Please refer to <i>Explanation</i> no. (iv)] (2) The option by GTA to itself pay GST on the services supplied by it during a Financial Year shall be exercised by making a declaration in Annexure V on or before the 15th March of the preceding Financial Year:
	<u>or</u>	
	6	

Provided that the option for the Financial Year 2022-2023 shall be exercised on or before the 16th August, 2022:

Provided further that invoice for supply of the service charging State tax at the rates as applicable to clause (b) may be issued during the period from the 18th July, 2022 to 16th August, 2022 before exercising the option for the financial year 2022-2023 but in such a case the supplier shall exercise the option to pay GST on its supplies on or before the 16th August, 2022.”;

(b) after item (vi) and the corresponding entries relating thereto in columns (4) and (5),

the following shall be inserted, namely: -		
(3)	(4)	(5)
“(via) Transport of goods by ropeways.	2.5	The credit of input tax charged on goods used in supplying the service has not been taken. [Please refer to <i>Explanation</i> no. (iv)]”;

(c) for item (vii) and the corresponding entries relating thereto in columns (4) and (5), the following shall be substituted, namely: -

(3)	(4)	(5)
“(vii) Goods transport services other than (i), (ii), (iii), (iv), (v), (vi) and (via) above.	9	-”;

(V) against serial number 10, in column (3), -

(a) after item (i) and the corresponding entries relating thereto in columns (4) and (5), the following shall be inserted, namely: -

(3)	(4)	(5)
“(ia) Renting of goods carriage where the cost of fuel is included in the consideration charged from the service recipient.	6	-”;

(b) in item (iii), after the brackets and figure “(i)”, the brackets and figures “, (ia)” shall be inserted;

(VI) against serial number 11, in column (3), for items (i) and (ii) and the corresponding entries relating thereto in columns (4) and (5), the following shall be substituted, namely:-

(3)	(4)	(5)
“Supporting services in transport.	9	-”;

Explanation: This entry does not include goods transport service involving Goods Transport Agency (GTA) service, which falls under Heading 9965.

(VII) against serial number 15, in column (3), -

(a) item (i) and the corresponding entries relating thereto in columns (4) and (5) shall be omitted;

(b) in item (vii), the brackets and figures “(i),” shall be omitted;

(VIII) against serial number 26, in column (3), in item (i), sub-items (e), (ea) and (h) shall be omitted;

(IX) after serial number 31 and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
“31A	Heading 9993	Services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having room charges exceeding Rs. 5000 per day to a person receiving health care services.	2.5	The credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Explanation no. (iv)]”;

(X) against serial number 32, in column (3), -

(a) after item (i) and the corresponding entries relating thereto in columns (4) and (5), the following shall be inserted, namely: -

(3)	(4)	(5)
“(ia) Services by way of treatment or disposal of biomedical waste or the processes incidental thereto by a common bio-medical waste treatment facility to a clinical establishment.	6	-”;

- (b) in item (ii), after the brackets and figures “(i)”, the word, brackets and figure “and (ia)” shall be inserted;
- (B) in paragraph 4, relating to Explanation, after clause (xxxvi), the following clauses shall be inserted, namely: -
- “(xxxvii) ‘print media’ means, —
- (i) ‘book’ as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867 (25 of 1867), but does not include business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes;
- (ii) ‘newspaper’ as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867 (25 of 1867);
- (xxxviii) ‘clinical establishment’ means, -
- a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases;
- (xxxix) ‘health care services’ means, -
- any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma;
- (xl) ‘goods transport agency’ means, -
- any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called.”;
- (C) After Annexure IV, following annexure shall be inserted, namely: -

“Annexure

VFORM

Form for exercising the option by a Goods Transport Agency (GTA) for payment of GST on the GTA services supplied by him under forward charge before the commencement of any financial year to be submitted before the jurisdictional GST Authority.

Reference No.-

Date: -

1. I/We_____ (name of Person), authorised representative of M/s... have taken registration/have applied for registration and do hereby undertake to pay GST on the GTA services in relation to transportation of goods supplied by us during the financial year _____ under forward charge in accordance with section 9(1) of the PGST Act, 2017 and to comply with all the provisions of the PGST Act, 2017 as they apply to a person liable for paying the tax in relation to supply of any goods or services or both;
2. I understand that this option once exercised shall not be allowed to be changed within a period of one year from the date of exercising the option and will remain valid till the end of the financial year for which it is exercised.

Legal Name: -

GSTIN: - PAN

No.

Signature of Authorised representative:

Name of Authorised Signatory:

Full Address of GTA:

(Dated acknowledgment of jurisdictional GST Authority)

Note: The last date for exercising the above option for any financial year is the 15th March of the preceding financial year. The option for the financial year 2022-2023 can be exercised by 16th August, 2022.”.

2. This notification shall be deemed to have come into force on and with effect from the 18th July, 2022.

VIKAS PRATAP,

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

2. NOTIFICATION: No.S.O. 6/P.A.5/2017/Ss.9,11,15 and 148

PART III

GOVERNMENT OF PUNJAB

DEPARTMENT OF EXCISE AND TAXATION(EXCISE AND TAXATION-II BRANCH) NOTIFICATION

The 27th January, 2023

No.S.O. 6/P.A.5/2017/Ss.9,11,15 and 148.- In exercise of the powers conferred by sub-sections (3) and (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and section 148 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017), (hereafter in this notification referred to as the said Act) , and all other powers enabling him in this behalf, the Governor of Punjab, 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.37/P.A.5/2017/S.11/2017, dated the 30th June,2017, namely:-

AMENDMENT

In the said notification, -

A. in the Table, -

(a) in column (3), -

(i) against serial number 6, in clause (a), the words “by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory” shall be omitted;

(ii) against serial number 7, in the *Explanation*, in clause (a), in sub-clause (i), the words “by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory” shall be omitted;

(iii) against serial number 8, in the proviso, in clause (i), the words “by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory” shall be omitted;

(iv) against serial number 9, in the first proviso, in clause (i), the words “by way of speed post, express parcel post, life insurance, and agency services provided to a person other than the Central Government, State Government, Union territory” shall be omitted;

(b) against serial number 12, in column (3), after the words “as residence”, the words “except where the residential dwelling is rented to a registered person” shall be inserted;

(c) serial number 14 and the entries relating thereto shall be omitted;

(d) against serial number 15, in column (3), for clause (a), the following shall be substituted: -

(3)				
“(a) air in economy class, embarking from or terminating in an airport located in the State of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;”;				

(e) against serial number 20, in column (3), clause (d) shall be omitted;

(f) against serial number 21, in column (3), clauses (b) and (c) shall be omitted;

(g) against serial number 24B, for the entries in column (3), the following shall be substituted: -

(3)				
“Services by way of storage or warehousing of cereals, pulses, fruits and vegetables.”;				

(h) after serial number 24B and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
"24C	Chapter 9968	Services by the Department of Posts by way of post card, inland letter, book post and ordinary post (envelopes weighing less than 10 grams).	Nil	Nil”;

(i) serial number 26 and the entries relating thereto shall be omitted;

(j) serial number 32 and the entries relating thereto shall be omitted;

(k) serial number 33 and the entries relating thereto shall be omitted;

(l) serial number 47A and the entries relating thereto shall be omitted;

(m) serial number 51 and the entries relating thereto shall be omitted;

(n) after serial number 52 and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
"52A	Heading 9985	Tour operator service, which is performed partly in India and partly outside India, supplied by a tour operator to a foreign tourist, to the extent of the value of the tour operator service which is performed outside India: Provided that value of the tour operator service performed outside India shall be such proportion of the total consideration charged for the entire tour	Nil	Nil”;

which is equal to the proportion which the number of days for which the tour is performed outside India has to the total number of days comprising the tour, or 50% of the total consideration charged for the entire tour, whichever is less:

Provided further that in making the above calculations, any duration of time equal to or exceeding 12 hours shall be considered as one full day and any duration of time less than 12 hours shall be taken as half a day.

Explanation. - “foreign tourist” means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

Illustrations:

A tour operator provides a tour operator service to a foreign tourist as follows: -

(a) 3 days in India, 2 days in Nepal;

Consideration Charged for the entire tour:

Rs.1, 00, 000/-

Exemption: Rs.40, 000/- (=Rs.1, 00, 000/- x 2/5)

or, Rs.50, 000/- (= 50% of Rs.1, 00, 000/-)

whichever is less, i.e., Rs.40, 000/- (i.e., Taxable value: Rs.60, 000/-);

(b) 2 days in India, 3 nights in Nepal;

Consideration Charged for the entire tour:

Rs.1,00, 000/-

Exemption: Rs.60,000 (=Rs.1,00,000/- x 3/5) or,

Rs.50, 000/- (= 50% of Rs.1,00,000/-)

whichever is less, i.e., Rs.50,000/- (i.e., Taxable value: Rs.50, 000/-);

(c) 2.5 days in India, 3 days in Nepal;

Consideration charged for the entire tour:

Rs.1,00,000/-

Exemption: Rs.54,545 (=Rs.1,00,000/- x 3/5.5) or,

Rs.50, 000/- (= 50% of Rs.1,00,000/-) whichever

is less, i.e., Rs.50, 000/- (i.e., Taxable value:

Rs.50,000/-).

- (o) serial number 53A and the entries relating thereto shall be omitted;
- (p) against serial number 54, in column (3), clause (h) shall be omitted;
- (q) serial number 56 and the entries relating thereto shall be omitted;
- (r) serial number 73 and the entries relating thereto shall be omitted;
- (s) against serial number 74, in column (3), in clause (a), the following proviso shall be inserted, namely: -

(3)

“Provided that nothing in this entry shall apply to the services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having room charges exceeding Rs. 5000 per day to a person receiving health care services.”;

- (t) serial number 75 and the entries relating thereto shall be omitted;
- (u) against serial number 80, for the entries in column (3), the following shall be substituted: -

(3)

“Services by way of training or coaching in-

- (a) recreational activities relating to arts or culture, by an individual, or
 - (b) sports by charitable entities registered under Section 12AA or 12AB of the Income Tax Act.”;
-

- (v) against serial number 82A, in column (3), after the letters, figures and words, “FIFA U-17 Women’s World Cup 2020”, the brackets and words “[whenever rescheduled]” shall be inserted.

2. This notification shall be deemed to have come into force on and with effect from the 18th day of July, 2022.

VIKAS PRATAP,

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

2757/2-2023/Pb. Govt. Press, S.A.S. Nagar

3. NOTIFICATION : No. S.O. 7/P.A.5/2017/S.9/2023

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

The 27th January, 2023

No. S.O. 7/P.A.5/2017/S.9/2023.-In exercise of the powers conferred by sub-section (3) of section 9 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017), (hereafter in this notification referred to as the said Act) , and all other powers enabling him in this behalf ,the Governor of Punjab, 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. 35/P.A.5/2017/S.9/ 2017, dated the 30th June, 2017, namely:-

AMENDMENT

In the said notification, in the Table, -

(1) against serial number 1, in column (2), -

(a) the words, figures and symbols “who has not paid state tax at the rate of 6%,” shall be omitted;

(b) after the proviso the following proviso shall be inserted, namely: -

“Provided further that nothing contained in this entry shall apply where,

-

i. the supplier has taken registration under the PGST Act, 2017 and exercised the option to pay tax on the services of GTA in relation to transport of goods supplied by him under forward charge; and

ii. the supplier has issued a tax invoice to the recipient charging State Tax at the applicable rates and has made a declaration as prescribed in Annexure III on such invoice issued by him.”;

(2) against serial number 5, in column (2), in the sub-clause (2), in item (i), the words “by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority” shall be omitted;

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

(1)	(2)	(3)	(4)
	“5AA Service by way of renting of residential dwelling to a registered person.	Any person	Any registered person.”;

(4) after Annexure II, the following annexure shall be inserted, namely: -

"Annexure III

Declaration

I/we have taken registration under the PGST Act, 2017 and have exercised the option to paytax on services of GTA in relation to transport of goods supplied by us during the Financial Year _____under forward charge.”.

II. This notification shall be deemed to have come into force on and with effect from the 18th day of July, 2022.

VIKAS PRATAP,

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

2757/2-2023/Pb. Govt. Press, S.A.S. Nagar

4. NOTIFICATION: No.S.O. 8/P.A.5/2017/Ss.9 and 15/2023.

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

The 27th January, 2023

No.S.O. 8/P.A.5/2017/Ss.9 and 15/2023.- In exercise of the powers conferred by sub-section (1) of section 9 and sub-section (5) of section 15 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017), and all other powers enabling him in this behalf, the Governor of Punjab, 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.16/P.A.5/2017/S.9/2017, dated the 30th June, 2017, namely:-

AMENDMENT

1. In the said notification, -
 - A. in the opening paragraph,
 - (i) in clause (v), the word "and" shall be omitted;
 - (ii) in clause (vi), after the word and figures "Schedule VI", the sign and word, "and" shall be inserted;
 - (iii) after clause (vi), the following clause shall be inserted, namely:-

"(vii) 0.75 per cent. in respect of goods specified in Schedule VII".
 - B. in Schedule I @ 2.5%,-
 - (i) against S. Nos. 1 and 2, in column (3), for the portion beginning with the words "and put up in" and ending with the words and bracket "as in the ANNEXURE]", the words, "pre-packaged and labelled" shall be substituted;
 - (ii) after S. No. 9 and the entries relating thereto, following S. No. and entries shall be inserted, namely: -

"9A	0403	Curd, Lassi, Butter milk, pre-packaged and labelled";
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 - (iii) against S. Nos. 11 and 13, in column (3), for the portion beginning with the words "put up in" and ending with the words and bracket "as in the ANNEXURE]", the words, "pre-packaged and labelled" shall be substituted;
 - (iv) against S. No. 16, in column (3), for the portion beginning with the words "and put up in" and ending with the words "as in the ANNEXURE", the words ", pre-packaged and labelled" shall be substituted;
 - (v) against S. No. 25, in column (3), for the portion beginning with the words "put up in" and ending with the words and bracket "as in the ANNEXURE]", the words ", pre-packaged and labelled" shall be substituted;
 - (vi) against S. No. 26, in column (3), for the portion beginning with the words "put up in" and ending with the words "as in the ANNEXURE", the words "pre-packaged and labelled"

shall be substituted;

(vii) against S. No. 30, in column (3), for the portion beginning with the words “put up in” and ending with the words “as in the ANNEXURE”, the words “, pre-packaged and labelled” shall be substituted;

(viii) against S. Nos. 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 58 and 59, in column (3), for the portion beginning with the words “put up in” and ending with the words and bracket “as in the ANNEXURE]”, the words “, pre-packaged and labelled” shall be substituted;

(ix) after S. No. 91 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

“91A	1701	Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery,
	or	pre-packaged and labelled; Khandsari Sugar, pre-packaged and labelled”;
	1702	

(x) after S. No. 98 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

“98A	1904	Puffed rice, commonly known as Muri, flattened or beaten rice, commonly known as Chira, parched rice, commonly known as khoi, parched paddy or rice coated with sugar or gur, commonly known as Murki, pre-packaged and labelled”;
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(xi) against S. No. 101A, in column (3), for the portion beginning with the words “other than those put up in” and ending with the words and bracket “as in the ANNEXURE]”, the words “, other than those pre-packaged and labelled” shall be substituted;

(xii) S. No. 163 and the entries relating thereto shall be omitted;

(xiii) after S. No. 181A and the entries relating thereto, following S. No. and entries shall

be inserted, namely: -

“181B	3006	Ostomy appliances including pouch or flange, stoma adhesive paste, barrier cream, irrigator kit, sleeves, belt, micro-pore tapes”;
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(xiv) against S. No. 182, in column (3), for the words “put up in unit containers and bearing a brand name”, the words “, pre-packaged and labelled.” shall be substituted;

(xv) S. Nos. 197A, 197B, 197C, 197D and 197E and entries relating thereto shall be omitted;

(xvi) against S. No. 215, in column (3), for the words “put up in unit container and bearing a brand name”, the words “, pre-packaged and labelled” shall be substituted;

(xvii) S. Nos. 230, 232, 233, 234A and 234C and entries relating thereto shall be omitted;

(xviii) after S. No. 255 and entries relating thereto, the following S. No. and entries shall

be inserted, namely: -

“255A	9021	Orthopaedic appliances, such as crutches, surgical belts, and trusses; Splints and other fracture appliances; artificial parts of the body; other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability; intraocular lens [other than hearing aids]”;
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(xix) after S. No. 264 and entries relating thereto, in List No. 3, in item (B), the sub-item (1) and the entries relating thereto shall be omitted;

C. in Schedule II @ 6%, -

(i) against S. No. 16, in column (3), after the word “guavas”, the words and brackets “, mangoes (other than mangoes sliced, dried)” shall be inserted;

(ii) against S. No. 41A, in column (3), for the portion beginning with the words “put up in” and ending with the words and bracket “in the ANNEXURE]”, the words “, pre-packaged and labelled” shall be substituted;

(iii) against S. No. 46, in column (3), for the portion beginning with the words “put up in” and ending with the words and bracket “in the ANNEXURE]”, the words “, pre-packaged and labelled” shall be substituted;

(iv) against S. No. 65, in column (3), after the word “contraceptives”, the words “and Ostomy appliances” shall be inserted;

(v) S. No.70 and the entries relating thereto shall be omitted;

(vi) after S. No. 85A and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

“85B	4107	Leather further prepared after tanning or crusting, including parchment-dressed leather, of bovine (including buffalo) or equine animals, without hair on, whether or not split, other than leather of heading 4114
85C	4112	Leather further prepared after tanning or crusting, including parchment-dressed leather, of sheep or lamb, without wool on, whether or not split, other than leather of heading 4114
85D	4113	Leather further prepared after tanning or crusting, including parchment-dressed leather, of other animals, without wool or hair on, whether or not split, other than leather of heading 4114
85E	4114	Chamois (including combination chamois) leather; patent leather and patent laminated leather; metallised leather
85F	4115	Composition leather with a basis of leather or leather fibre, in slabs, sheets or strip, whether or not in rolls; parings and other waste of leather or of composition leather, not suitable for the manufacture of leather articles; leather dust, powder and flour”;

(vii) S. No.120 and the entries relating thereto shall be omitted;

(viii) after S. No. 125 and the entries relating thereto, the following S. No. and entries shall be inserted, namely :-

“125A	4905	Maps and hydrographic or similar charts of all kinds, including atlases, wall maps, topographical plans and globes, printed”;
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(ix) against S. No. 176B, for the entry in column (3), the entry “Fly ash bricks; Fly ash aggregates; Fly ash blocks” shall be substituted;

(x) S. No. 187, 188, 189, 192 and 193 and the entries relating thereto shall be omitted;

(xi) after S. No. 194 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

“194A 8419 12 Solar water heater and system”;

(xii) S. No. 195 and the entries relating thereto shall be omitted;

(xiii) against S. No. 197, in column (3), for the words and figures “machines for cleaning, sorting or grading eggs, fruit or other agricultural produce, other than machinery of heading 8437; parts [8433 90 00]”, the words “parts thereof” shall be substituted;

(xiv) S. Nos. 198, 205, 217, 221, 226 and 227 and the entries relating thereto shall be omitted;

D. in Schedule III @ 9%, -

(i) against S. No. 30A, for the entry in column (3), the entry “Tar distilled from coal, from lignite or from peat and other mineral tars, whether or not dehydrated or partially distilled, including reconstituted tars” shall be substituted;

(ii) after S. No. 54B and entries relating thereto, the following S. No. and entries shall be inserted, namely: -

54C 3215 All Goods, including printing ink, writing or drawing ink and other inks, whether or not concentrated or solid, fountain pen ink, ball pen ink”;

(iii) against S. No. 148, in column (3), the brackets and words “[Other than aseptic packaging paper]” shall be omitted;

(iv) against S. No. 157B, in column (3), after the word and bracket “Scripts)”, the figures and words “; Cheques, loose or in book form” shall be inserted;

(v) against S. No. 182D, in column (3), for the brackets, words and figures “[other than fly ash bricks, fly ash blocks, fly ash aggregate with 90 percent or more fly ash content]”, the brackets and words “[other than Fly ash bricks; Fly ash aggregates; Fly ash blocks]” shall be substituted;

(vi) S. No. 301A shall be re-numbered as S. No. 301AA, and before S. No. 301AA as so re-numbered, the following S. No. and entries shall be inserted, namely:-

“301A 8211 Knives with cutting blades, serrated or not (including pruning knives), other than knives of heading 8208, and blades therefor”;

(vii) against S. No. 302A, in column (3), the brackets and words “[other than paper knives, pencil sharpeners and blades therefor]” shall be omitted;

(viii) after S. No. 302A and entries relating thereto, the following S. No. and entries shall be inserted, namely: -

“302B 8215 Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butter-knives, sugar tongs and similar kitchen or tableware”;

(ix) against S. No. 317A, for the entry in column (3), the entry “(a) Concrete pumps [8413 40 00]; (b) other rotary positive displacement pumps [8413 60]; (c) Power driven pumps primarily designed for handling water, namely, centrifugal pumps (horizontal and vertical), deep tube-well turbine pumps, submersible pumps, axial flow and mixed flow vertical pumps” shall be substituted;

(x) after S. No. 317B and the entries relating thereto, the following S. No. and entries shall be inserted, namely:-

“317C	8414 20 10	Bicycle pumps
317D	8414 90 12	Parts of air or vacuum pumps and compressors of bicycle pumps”;

(xi) after S. No. 328 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

“328A	8433	Machines for cleaning, sorting or grading eggs, fruit or other agricultural produce, other than machinery of heading 8437; parts thereof [8433 90 00]
328B	8434	Milking machines and dairy machinery”;

(xii) after S. No. 329 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

“329A	8437	Machines for cleaning, sorting or grading, seed, grain or dried leguminous vegetables; machinery used in milling industry or for the working of cereals or dried leguminous vegetables other than farm type machinery and parts thereof”;
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(xiii) after S. No. 371 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

“371A	84 or 85	E-waste
		<i>Explanation.</i> - For the purpose of this entry, E-waste means electrical and electronic equipment listed in Schedule I of the E-Waste (Management) Rules, 2016 (published in the Gazette of India vide G.S.R. 338 (E) dated the 23rd March, 2016), whole or in part if discarded as waste by the consumer or bulk consumer”;

(xiv) against S. No. 376AC, in column (3), the brackets and words “[other than wet grinder consisting of stone as a grinder]” shall be omitted;

(xv) against S. No. 390, in column (3), the brackets, words and letters “[other than Light-Emitting Diode (LED) Light Sources]” shall be omitted;

(xvi) after S. No. 406 and the entries relating thereto, the following S. No. and entries shall be inserted, namely: -

“406A	8807	Parts of goods of heading 8801”;
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(xvii) against S. No. 413, for the entry in column (3), the entry “Drawing, marking-out or mathematical calculating instruments (for example, drafting machines, pantographs,

protractors, drawing sets, slide rules, disc calculators); instruments for measuring length, for use in the hand (for example, measuring rods and tapes, micrometers, callipers), not specified or included elsewhere in this chapter" shall be substituted;

(xviii) against S. No. 438A, in column (3), the letters, words, and brackets "LED lights or fixtures including LED lamps; LED (light emitting diode) driver and MCPCB (Metal Core Printed Circuit Board)" shall be omitted;

E. in Schedule VI @ 0.125%-

(i) against S. No. 1, for the entry in column (3), the entry "Rough diamonds or simply sawn diamonds, industrial or non-industrial" shall be substituted;

(ii) against S. No. 3, for the entry in column (3), the entry "Synthetic or reconstructed precious or semiprecious stones [other than diamonds], whether or not worked or graded but not strung, mounted or set; ungraded synthetic or reconstructed precious or semiprecious stones [other than diamonds], temporarily strung for convenience of transport; synthetic or reconstructed diamonds, unworked or simply sawn or roughly shaped" shall be substituted;

F. after Schedule VI and before the Explanation, the following entries shall be inserted, namely:-

"Schedule VII @ 0.75%

S.No.	Chapter / Heading / Sub-heading / Tariff item	Description of Goods
(1)	(2)	(3)
1.	7102	Goods other than those specified against S. No. 1 in Schedule VI
2.	7104	Goods other than those specified against S. No. 3 in Schedule VI";

G. after the Schedule VII, in the Explanation, for clause (ii) and the entries relating thereto, the following clause shall be substituted, namely:-

‘(ii) The expression ‘pre-packaged and labelled’ means a ‘pre-packaged commodity’ as defined in clause (I) of section 2 of the Legal Metrology Act, 2009 (1 of 2010) where, the package in which the commodity is pre-packed or a label securely affixed thereto is required to bear the declarations under the provisions of the Legal Metrology Act, 2009 (Central Act 1 of 2010) and the rules made thereunder.’.

2. This notification shall come into force on and with effect from the 18th day of July, 2022.

VIKAS PRATAP,

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

2757/2-2023/Pb. Govt. Press, S.A.S. Nagar

5. NOTIFICATION No.S.O. 9/P.A.5/2017/S.11/2023.-

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

NOTIFICATION

The 27th January, 2023

No.S.O. 9/P.A.5/2017/S.11/2023.- In exercise of the powers conferred by sub-section

(1) of section 11 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017), (hereafter in this notification referred to as the said Act) , the Governor of Punjab, 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.18/P.A.5/2017/S.11/2017, dated the 30th June, 2017, namely:-

AMENDMENT

In the said notification,-

(A) in the Schedule, -

- (i) against S. Nos. 9 and 22, in column (3), for the portion beginning with the words “otherthan those put up in” and ending with the words “conditions as in the ANNEXURE I]”, thewords “, other than pre-packaged and labelled” shall be substituted;
- (ii) against S. No. 26, for the entry in column (3), the entry “Curd, Lassi, Butter milk, other than pre-packaged and labelled” shall be substituted;
- (iii) against S. Nos. 27, 29, 30B, 45, 46A, in column (3), for the portion beginning with the words “other than those put up in” and ending with the words “conditions as in the ANNEXURE I]”, the words “, other than pre-packaged and labelled” shall be substituted;
- (iv) against S. No. 46B, in column (3), for the portion beginning with the words “[other than those” and ending with the words “conditions as in the ANNEXURE I]”, the words “, other than pre-packaged and labelled” shall be substituted;
- (v) against S. Nos. 65, 66, 67, 68, 69, 70, 71,72, 73, 74 and 75, in column (3), for the portionbeginning with “[other than those” and ending with the words “conditions as in the ANNEXURE I]”, the words “, other than pre- packaged and labelled” shall be substituted;
- (vi) against S. Nos. 77 and 78, in column (3), for the portion beginning with the words “[other than those” and ending with the words “conditions as in the ANNEXURE I]”, the words “, other than pre-packaged and labelled” shall be substituted;
- (vii) against S. No. 94, for the entry in column (3), the entry “(i)Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery, other than pre-packaged and labelled.; (ii) Khandsari Sugar, other than pre-packaged and labelled” shall be substituted;
- (viii) against S. No. 95, in column (3), after the word “Murki”, the words and symbols, “other than pre-packaged and labelled” shall be inserted;

- (ix) against S. No. 97A, in column (3), for the portion beginning with the words “other than those put up” and ending with the words “as specified in the ANNEXURE I]”, the words, “other than pre-packaged and labelled” shall be substituted;
- (x) against S. No. 99, in column (3), the word “purified,” shall be omitted;
- (xi) against S. No. 108, in column (3), for the portion beginning with the words “[other than those” and ending with the words “conditions as in the ANNEXURE I]]”, the words “, other than pre-packaged and labelled” shall be substituted;
- (xiii) S. Nos. 118 and 122 and the entries relating thereto shall be omitted;
- (xiv) against S. No. 132A, in column (3), for the portion beginning with the words “other than those put up” and ending with the words “as in the ANNEXURE I]”, the words “, other than pre-packaged and labelled” shall be substituted;
- (xv) S. No. 141 and the entries relating thereto shall be omitted;
- (B) after the Schedule, in the Explanation, for clause (ii), the following clause shall be substituted, namely:-

“(ii) The expression ‘pre-packaged and labelled’ means a ‘pre-packaged commodity’ as defined in clauses (l) of section 2 of the Legal Metrology Act, 2009 (Central Act 1 of 2010) where, the package in which the commodity is pre-packed or a label securely affixed thereto is required to bear the declarations under the provisions of the Legal Metrology Act, 2009 (Central Act 1 of 2010) and the rules made thereunder.”.

2. This notification shall come into force on and with effect from the 18th day of July, 2022.

VIKAS PRATAP,

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

2757/2-2023/Pb. Govt. Press, S.A.S. Nagar

6. NOTIFICATION NO. No.S.O. 10/P.A.5/2017/S.11/2023

PART III

GOVERNMENT OF PUNJAB

**DEPARTMENT OF EXCISE AND TAXATION(EXCISE
AND TAXATION-II BRANCH) NOTIFICATION**

The 27th January, 2023

No.S.O. 10/P.A.5/2017/S.11/2023.- In exercise of the powers conferred by sub-section (1) of section 11 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017), (hereafter in this notification referred to as the said Act), the Governor of Punjab, 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. 27/ P.A.5/2017/S.11/2017, dated the 30th June, 2017, namely:-

AMENDMENT

In the said Notification,-

in the TABLE, against S. No. 1, for the entry in column (4), the entry “6%” shall be substituted.

2. This notification shall be deemed to have come into force on and with effect from the 18th day of July, 2022.

VIKAS PRATAP,

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

2757/2-2023/Pb. Govt. Press, S.A.S. Nagar

7. NOTIFICATION No. S.O. 11/P.A.5/2017/S.54/2023

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

NOTIFICATION

The 27th January, 2023

No. S.O. 11/P.A.5/2017/S.54/2023.- In exercise of the powers conferred by clause

(ii) of the proviso to sub-section (3) of section 54 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017), (hereafter in this notification referred to as the said Act) ,and all other powers enabling him in this behalf, the Governor of Punjab, 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.29/P.A.5/ 2017/S.54/2017 dated the 30th June, 2017, namely:-

AMENDMENT

In the said notification,-

- (i) in the opening paragraph, in the proviso, in clause (i), for the words and figure “serialnumbers 1”, the words, figure and letters “serial numbers 1AA” shall be substituted;
- (ii) in the TABLE, S. No. 1 shall be re-numbered as S. No. 1AA, and before S. No. 1AAas so re-numbered, the following serial numbers and entries shall be inserted, namely :-

(1)	(2)	(3)
“1A.	1507	Soya-bean oil and its fractions, whether or not refined, but not chemically modified
1B.	1508	Ground-nut oil and its fractions, whether or not refined, but not chemically modified.
1C.	1509	Olive oil and its fractions, whether or not refined, but not chemically modified.
1D.	1510	Other oils and their fractions, obtained solely from olives, whether or not refined, but not chemically modified, including blends of these oils or fractions with oils or fractions of heading 1509
1E.	1511	Palm oil and its fractions, whether or not refined, but not chemically modified.
1F.	1512	Sunflower-seed, safflower or cotton-seed oil and fractions thereof, whether or not refined, but not chemically modified.
1G.	1513	Coconut (copra), palm kernel or babassu oil and fractions thereof, whether or not refined, but not chemically modified.
1H.	1514	Rape, colza or mustard oil and fractions thereof, whether or not refined, but not chemically modified.

1I.	1515	Other fixed vegetable or microbial fats and oils (including jojoba oil) and their fractions, whether or not refined, but not chemically modified.
1J.	1516	Vegetable fats and oils and their fractions, partly or wholly hydrogenated, inter- esterified, re-esterified or elaidinised, whether or not refined, but not further prepared.
1K.	1517	Edible mixtures or preparations of vegetable fats or vegetable oils or of fractions of different vegetable fats or vegetable oils of this Chapter, other than edible fats or oils or their fractions of heading 1516
1L.	1518	Vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516
1M.	2701	Coal; briquettes, ovoids and similar solid fuels manufactured from coal
1N.	2702	Lignite, whether or not agglomerated, excluding jet
1O.	2703	Peat (including peat litter), whether or not agglomerated”
2. This notification shall be deemed to have come into force on and with effect from the 18th day of July, 2022.		

VIKAS PRATAP,

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

2757/2-2023/Pb. Govt. Press, S.A.S. Nagar

8. NOTIFICATION No. S.O. 12 /P.A.5/2017/Ss.11 and 16/2023

PART III

GOVERNMENT OF PUNJAB

DEPARTMENT OF EXCISE AND TAXATION (EXCISE
AND TAXATION-II BRANCH)

NOTIFICATION

The 27th January, 2023

No. S.O. 12 /P.A.5/2017/Ss.11 and 16/2023.- In exercise of the powers conferred by sub-section (1) of section 11 and sub-section (1) of section 16 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017), (hereafter in this notification referred to as the said Act), and all other powers enabling him in this behalf, the Governor of Punjab, 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. 46/P.A.5/2017/Ss. 11 and 16/2022, dated the 22nd June, 2022, namely:-

AMENDMENT

In the said notification, in Table, against Sl. No. 1, for the entry in column (3), the entry "Fly ash bricks; Fly ash aggregates; Fly ash blocks" shall be substituted.

2. This notification shall be deemed to have come into force on with effect from the 18th July, 2022.

VIKAS PRATAP,

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

2757/2-2023/Pb. Govt. Press, S.A.S. Nagar

9. NOTIFICATION NO. No. S.O. 13/P.A.5/2017/Ss.11 and 16/2023

DEPARTMENT OF EXCISE AND TAXATION (EXCISE
AND TAXATION-II BRANCH)

NOTIFICATION

The 27th January, 2023

No. S.O. 13/P.A.5/2017/Ss.11 and 16/2023.-In exercise of the powers conferred by sub-section (1) of section 11 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017), (hereafter in this notification referred to as the said Act) , and all other powers enabling him in this behalf , the Governor of Punjab, on the recommendations of the Council, is pleased to rescind the Government of Punjab, Department of Excise and Taxation, Notification No. S.O.102/P.A.5/2017/S.11/2017, dated the 1st December, 2017, except as respects things done or omitted to be done before such rescission.

2. This notification shall be deemed to have come into force on and with effect from the 18th day of July, 2022.

VIKAS PRATAP,

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

2757/2-2023/Pb. Govt. Press, S.A.S. Nagar

10. **NOTIFICATION No. 14/C.A.35/2002/S.2/2023**

DEPARTMENT OF HOME AFFAIRS AND JUSTICE(CIVIL
DEFENCE BRANCH)

NOTIFICATION

The 31st January, 2023

No. 14/C.A.35/2002/S.2/2023.- In exercise of the powers conferred by sub-section

(3) of section 21 of the Haj Committee Act, 2002 (Central Act No. 35 of 2002), and all other powers enabling him in this behalf, the Governor of Punjab is pleased to notify the name of Mohammad Khalil Qasmi son of Mohammad Ismail resident of House No.386/13, Mohalla Khatikan, Malerkotla, District Malerkotla 148023 (Punjab) as Chairperson of the Punjab State Haj Committee.

ANURAG VERMA,

Additional Chief Secretary to Government of Punjab, Department of
Home Affairs and Justice.

2757/2-2023/Pb. Govt. Press, S.A.S. Nagar

(II) IGST RATE NOTIFICATIONS

1. Notification No. 04/2023- Integrated Tax (Rate) |Dated : 28th February, 2023

Seeks to amend notification No.2/2017- Integrated Tax (Rate), dated the 28th day of June, 2017 vide Notification No. 04/2023- Integrated Tax (Rate) |Dated : 28th February, 2023 – CBIC exempts IGST on Rab, other than pre-packaged and labelled.

MINISTRY OF FINANCE
(Department of Revenue)

Notification No. 04/2023- Integrated Tax (Rate) |Dated : 28th February, 2023

G.S.R. 151(E).— In exercise of the powers conferred by sub-section (1) of section 6 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, Ministry of Finance (Department of Revenue), No.2/2017Integrated Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 667(E), dated the 28th June, 2017, namely:-

In the said notification, in the Schedule, against S. No. 94, in Column (3), after the item (ii) and the entries relating thereto, the following item and entry shall be inserted, namely: –

“(iii) Rab, other than pre-packaged and labelled”.

2. This notification shall come into force on the 1st day of March, 2023.

[F. No. CBIC-190354/21/2023-TO(TRU-II)-CBEC] RAJEEV RANJAN Under Secy.

Note: – The principal notification No.2/2017- Integrated Tax (Rate), dated the 28th day of June, 2017, was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 667(E)., dated the 28th day of June, 2017 and was last amended by notification No. 13/2022 – Integrated Tax (Rate), dated the 30th December, 2022 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 920(E)., dated the 30th December, 2022.

2. Notification No. 03/2023- Integrated Tax (Rate) | Dated : 28th February, 2023

Seeks to amend notification No.1/2017-Integrated Tax (Rate), dated the 28th June, 2017 vide Notification No. 03/2023-Integrated Tax (Rate) Dated: 28th February, 2023 to notify revised IGST Rate on Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery, pre-packaged and labelled; Khandsari Sugar, prepackaged and labelled; Rab, pre-packaged and labelled and Pencil sharpeners.

MINISTRY OF FINANCE (Department of Revenue)

Notification No. 03/2023- Integrated Tax (Rate) | Dated : 28th February, 2023

G.S.R. 148(E).— In exercise of the powers conferred by sub-section (1) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 1/2017-Integrated Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 666(E)., dated the 28 th June, 2017, namely:In the said notification, –

i. in Schedule I –5%, against S. No. 91A, in column (3), for the entry, the following entry shall be substituted,namely: –

“Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery, pre-packaged and labelled; Khandsari Sugar, pre-packaged and labelled; Rab, pre-packaged and labelled ”;

ii. in Schedule II –12%, after S. No. 186 and entries relating thereto, the following S. No. and entries shall be inserted, namely: –

(1)	(2)	(3)
“186A	8214	Pencil sharpeners”;

iii. in Schedule III –18%, against S. No. 302A, in column (3), at the end, the brackets and words “[other thanpencil sharpeners]” shall be inserted.

2. This notification shall come into force on the 1st day of March, 2023.

[F. No. CBIC-190354/21/2023-TO(TRU-II)-CBEC]
RAJEEV RANJAN Under Secy.

Note: The principal notification No.1/2017-Integrated Tax (Rate), dated the 28th June, 2017, was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 666(E), dated the 28th June, 2017 and was last amended by notification No. 12/2022 –Integrated Tax (Rate), dated the 30th December, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R.917(E), dated the 30th December, 2022.

3. Notification No. 02/2023- Integrated Tax (Rate) Dated: 28th February, 2023

Seeks to amend Notification No.10/2017-Integrated Tax (Rate), dated the 28th June, 2017 so as to notify change in GST with regards to services as recommended by GST Council in its 49th meeting held on 18.02.2023 vide Notification No. 02/2023- Integrated Tax (Rate) Dated: 28th February, 2023

CBIC extend dispensation available to Central Government, State Governments, Parliament and State Legislatures with regard to payment of IGST under reverse charge mechanism (RCM) to the Courts and Tribunals also in respect of taxable services supplied by them such as renting of premises to telecommunication companies for installation of towers, renting of chamber to lawyers etc.

MINISTRY OF FINANCE (Department of Revenue)

Notification No. 02/2023- Integrated Tax (Rate) Dated: 28th February, 2023

G.S.R. 144(E).—In exercise of the powers conferred by sub-section (3) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.10/2017-Integrated Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 685(E), dated the 28th June, 2017, namely:-

In the said notification, in the Explanation, in clause (h), for the words “and State Legislatures” the words “, State Legislatures, Courts and Tribunals” shall be substituted.

2. This notification shall come into force with effect from the 01st March, 2023.

[F. No. CBIC-190354/21/2023-TO(TRU-II)-CBEC]

RAJEEV RANJAN Under Secy.

Note: –The principal No.10/2017-Integrated Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, vide number G.S.R. 685 (E), dated the 28th June, 2017 and was last amended vide notification no. 05/2022 -Integrated Tax (Rate), dated the 13th July, 2022 published in the official gazette vide number G.S.R. 548(E), dated the 13th July, 2022.

4. Notification No. 01/2023 – Integrated Tax (Rate) Dated: 28th February, 2023

Seeks to amend notification no. 9/2017 – Integrated Tax (Rate), dated the 28th June, 2017 so as to notify change in GST with regards to services as recommended by GST Council in its 49th meeting held on 18.02.2023 Vide Notification No. 01/2023 – Integrated Tax (Rate) Dated: 28th February, 2023

CBIC extends IGST exemption available to educational institutions and Central and State educational boards for conduct of entrance examination to any authority, board or a body set up by the Central

Government or State Government including National Testing Agency for conduct of entrance examination for admission to educational institutions.

**MINISTRY OF FINANCE
(Department of Revenue)**

Notification No. 01/2023 – Integrated Tax (Rate) Dated: 28th February, 2023

G.S.R. 143(E).— In exercise of the powers conferred by sub-section (3) and sub-section (4) of section 5, subsection (1) of section 6 and clause (xxv) of section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), read with sub-section (5) of section 15 and section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following further amendment in the notification of the Government of India, Ministry of Finance (Department of Revenue) notification no. 9/2017 – Integrated Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i) vide number G.S.R. 684 (E), dated the 28th June, 2017, namely:-

In the said notification, in paragraph 3, in the Explanation, after clause (iv), the following clause shall be inserted, namely: –

“(iva) For removal of doubts, it is clarified that any authority, board or body set up by the Central Government or State Government including National Testing Agency for conduct of entrance examination for admission to educational institutions shall be treated as educational institution for the limited purpose of providing services by way of conduct of entrance examination for admission to educational institutions.”.

2. This notification shall come into force with effect from the 01st March, 2023.

[F. No. CBIC-190354/21/2023-TO(TRU-II)-CBEC]

RAJEEV RANJAN Under Secy.

Note: The principal notification was published in the Gazette of India, Extraordinary, vide notification no. 9/2017 – Integrated Tax (Rate), dated the 28th June, 2017, vide number G.S.R. 684 (E), dated the 28th June, 2017 and last amended vide notification no. 15/2022 – Integrated Tax (Rate), dated the 30th December, 2022 published in the official gazette vide number G.S.R. 927 (E), dated the 30th December, 2022.

(IV) Advance Rulings

1. ITC not available on vouchers received by Myntra: AAAR

Case Name : In re Myntra Designs Pvt. Ltd. (GST AAAR Karnataka)

Appeal Number : Order No. KAR/AAAR/03/2023

Date of Judgement/Order : 24/02/2023

Courts : AAAR (465) AAR Karnataka (429) Advance Rulings (3113)

Decision of the Hon'ble Karnataka High Court dated 16-01-2023 in the case of M/s Premier Sales Promotions Pvt Ltd., holding that 'vouchers' are neither goods nor services is to be respected as the law applicable as on date until the decision is stayed or reversed by a higher court on an appeal by the Department. Hence until the jurisprudence on this issue reaches a finality, we respectfully follow the decision rendered by the High Court on the taxability of vouchers. Having thus said, we move to the point of eligibility of input tax credit on the vouchers intended to be purchased by the Appellant. As already stated above, the primary condition for eligibility to input tax credit is that there should be an inward supply of either goods or services or both on which tax is charged by the supplier. In this case, as held by the Karnataka High Court in the decision cited supra, the vouchers are held to be neither goods nor services and cannot be taxed to GST. Therefore, when the vouchers intended to be procured by the Appellant is neither goods nor service, the question of eligibility of input tax credit does not arise. The Appellant has made detailed submissions to the effect that the vouchers are not provided to the customers 'free of cost'; that although consideration is not explicitly mentioned, the same would be accounted for in the commission charged from the sellers and on which applicable GST would be discharged. They emphasised that the presence of an underlying consideration in provision of the voucher codes cannot be disputed although the same is not explicitly specified. In their defence, they have cited the example of a manufacturer who supplies parts under warranty; that the parts so supplied during the warranty period is given without any consideration but it does not mean that the parts are given free of cost; that the cost of the parts given under warranty are inbuilt in the cost of the manufactured product and the tax is paid on the main item. They relied on the Supreme Court decision in the case of Commissioner of Sales Tax vs M/s Prem Nath Motors (P) Ltd in this regard. In view of our findings in Para 14 above, we do not find it necessary to labour on this argument. The Appellant has also made detailed submissions on why the vouchers cannot be termed as 'gifts' given to the customers. Again, we find that examining this aspect is of no relevance since we have already held that input tax credit is not eligible on an inward supply which is held by the High Court as being neither

a supply of goods or service. Therefore, while we agree with the ultimate ruling given by the lower Authority that input tax credit is not available on the vouchers received by the Appellant, we modify the findings to arrive at this conclusion, in the manner discussed above. We reject the appeal filed by M/s. Myntra Designs Pvt Ltd and uphold the Advance Ruling No.KAR ADRG 33/2022 dated 14-09-2022 while modifying the findings in the manner discussed in this order. Also Read Order AAR: ITC not eligible to 'Myntra' on vouchers & subscription packages procured from third party vendors

2. AAR Gujarat allows 'D.M. Net Technologies' to withdraw application

Case Name : In re D.M. Net Technologies (AAR Gujarat)

Appeal Number : Advance Ruling No. GUJ/GAAR/R/2023/06

Date of Judgement/Order : 22/02/2023

Courts : AAR Gujarat (356) Advance Rulings (3113)

Whether the services provided by the applicant in affiliation to/ partnered with Gujarat University and providing education for degree courses to students under specific curriculum as approved by the Gujrat University, for which degrees are awarded by the Gujarat University are exempt from GST vide Entry No. 66 of the Notification No. 12/ 2017-

Central Tax (Rate) dated 28th June, 2017?

A. Vide their letter dated 05.09.2022, the applicant has requested to permit him to withdraw the appeal filed for determination, on the grounds that

- their contract with Gujarat University was not renewed;
- that they would like to rely on the case of [a] M/s. C Ramappa KAR/ADG 14/2020 dtd 20.3.2020 by GAAR, Kamataka;[b] M/s. S K Properties [KAR ADRG 41/2020]; Sampada Caterers [GST-ARA-45/2018-19/B-97] by GAAR, Maharashtra;
- that even the ICAI reference handbook clearly states that there is no restriction or any time line prescribed for withdrawal.

3. GST on supply of ready to eat and ready to cook food products

Case Name : In re SATS Food Solutions India Private Limited (GST AAR Karnataka)

Appeal Number : Advance Ruling No. KAR ADRG 11/2023

Date of Judgement/Order : 21/02/2023

Year : Courts : AAR Karnataka (429) Advance Rulings (3113)

The applicant is engaged in the business of manufacture/production and supply of frozen food in institutional packs to companies in Aviation Industries, quick service restaurants, Hotels etc., across Ready To Eat (RTE)/ Ready To Cook (RTC)/ Processed and Semi Processed categories. The applicant has sought advance ruling in respect of the following question: Applicable GST rate on their products. The applicant states that they are engaged in the business of manufacture/production and supply of frozen food in institutional packs to companies in Aviation Industries, quick service restaurants, Hotels etc., across Ready To Eat (RTE)/ Ready To Cook (RTC)/ Processed and Semi Processed categories. The applicant states that most of the food items manufactured by SFSI are classifiable either under HSN Code 2007 or under HSN Code 2106 90 99- other food preparation not elsewhere specified or included and is liable to GST at the rate of 12% or at the rate of 18% of Schedule II and Schedule III of Notification No.01/2017-Central Tax (Rate) dated 28-06-2017 and thus the Applicant wants to know the rate of GST on their products. Since the applicant is into manufacture of ready to eat and ready to cook food products, the same are covered under explanation 5(b) mentioned supra at para 13 which is preparations for use, either directly or after processing (such as cooking, dissolving or boiling in water, milk or other liquids), for human consumption. Thus the food products manufactured by the applicant are covered under tariff heading 2106 and hence exigible to GST at 18% (CGST 9% and SGST 9%) as per entry No. 23 of Schedule III of Notification No.1/ 2017-Central Tax (Rate), dated 28.06.2017 The food products manufactured by the applicant are exigible to GST at 18% (CGST 9% and SGST 9%) as per entry No. 23 of Schedule III of Notification No.1/2017-Central Tax (Rate), dated 28.06.2017

4. 12% GST payable on setting of Naval Communication Network for Indian Navy on Supply from 1.4.19 to 31.12.21

Case Name : In re Sterlite Technologies Limited (GST AAAR Maharashtra)

Appeal Number : Advance Ruling No. MAH/AAAR/KS-RM/17/2022-23

Date of Judgement/Order : 07/02/2023

Courts : AAAR AAR Maharashtra Advance Rulings

The supply under the contract for setting of Naval Communication Network for Indian Navy from 1.4.2019 to 31.12.21 are held as falling under entry at serial number 3(vi)(a) of Notification No.11/2017-Central Tax (Rate) dated 28.06.2017 and accordingly taxable at 6% under CGST and 6% under SGST or 12% under IGST Act.

5. Coir-pith compost is exempt from GST when sold in above 50 kg bags

Case Name : In re Lakshminarasimha Agro Products (GST AAR Karnataka)

Appeal Number : Advance Ruling No. KAR ADRG 10/2023

Date of Judgement/Order : 17/02/2023

Courts : AAR Karnataka (429) Advance Rulings (3113)

i. Whether Notification No. 7/2022-Central Tax (Rate), dated 13-07-2022 applies to Coir-Pith Compost (HSN 53050040) mentioned in serial number 132-A of the Notification No.2/2017-Central Tax (Rate) dated 28-06-2017 as amended vide notification No.19/2018-Central Tax (Rate), dated 26-07-2018? Entry 132A of Notification No.2/2017-Central Tax (Rate) dated:28.06.2017 as amended by Notification No. 7/2022-Central Tax (Rate), dated 13-07-2022 applies to Coir-Pith Compost other than prepackaged and labeled.

ii. The registered person sells coir-pith compost in 30 kg and above quantity bags with un-registered brand name "SURYA". In such cases, whether the registered person is liable to tax under the GST Acts? If the registered person sells coir-pith compost in 30 kg and above quantity bags with un-registered brand name "SURYA". Then the same is exigible to GST at 5%(CGST @ 2.5% and SGST 2.5%) as per entry No. 215 of Notification No.1/2017-Central Tax(Rate) dated:28.06.2017 as amended further.

iii. If the coir-pith compost is 30kg and above quantity bags are sold without any label (in plain bags), whether would it attract GST? Coir-pith compost can't be sold without any label in 30kg as label is mandatory for the pre-packed commodities and thus above quantity bags are also exigible to GST at 5%(CGST @ 2.5% and SGST 2.5%) as per entry No. 215 of Notification No.1/2017-Central Tax(Rate) dated:28.06.2017 as amended further.

iv. If the registered person sells coir-pith compost in 25kg and less pre-packed and labelled bags to nurseries who buys for consumption, whether in such cases GST is payable? If the registered person sells coir-pith compost in 25 kg and less pre-packed and labelled bags to nurseries who buys for consumption, then also the said pre-packed and labelled bags are exigible to GST at 5% (CGST @2.5% and SGST 2.5%) as per entry No. 215 of Notification No.1/2017-Central Tax(Rate) dated:28.06.2017 amended further.

v. Whether the nurseries, who are un-registered dealers, come under the definition of "Institutional consumers"? The nurseries, who are un-registered dealers, are not covered under the definition of "Institutional consumers".

vi. If the registered persons sells coir-pith compost with 30Kg and above pre-packed and labelled bags to nurseries who buys for consumption, whether in such cases GST is payable? If the registered persons sells coir-pith compost with 30Kg and above pre-packed and labelled bags to nurseries who buys for consumption, in such cases GST is payable at 5%(CGST @ 2.5% and SGST 2.5%) as per entry No. 215 of Notification No.1/2017-Central Tax(Rate) dated:28.06.2017 amended further

vii. Rule 3(b) of Legal Metrology (Packaged commodities) Rules, 2011, provides that the provisions of Chapter II of that Rules shall not apply to cement, fertilizers and agricultural farm produce sold in above 50 kg bags. Whether the coir-pith compost, which is also the bio-fertiliser, sold by the registered person, falls under this category and exempt from GST? The coir-pith compost is exempted from GST when sold in above 50 kg bags.

6. GST: Chamundeshwari Electricity Supply Corporation is not Govt or Local Authority

Case Name : In re Chamundeshwari Electricity Supply Corporation Limited (GST AAR Karnataka)

Appeal Number : Advance Rulings No. KAR ADRG 09/2023

Date of Judgement/Order : 17/02/2023

Courts : AAR Karnataka (429) Advance Rulings (3113)

i. Since the Government of Karnataka holds 99.99% of equity in the Corporation, whether the Corporation is considered as 'Governmental Authority' or 'Local Authority'?

Chamundeshwari Electricity Supply Corporation Limited cannot be considered either as "Governmental Authority" or "Local Authority".

ii. Since the Corporation is fully owned by the Government of Karnataka and audited by the Comptroller and Auditor General of India, whether filing of Annual Return in Form GSTR-9 and Form GSTR-9C is exempt under the Second Proviso to Section 44 of the CGST and KGST Acts?

The Applicant is not exempted from filing of Annual Return in Form GSTR-9 and Form GSTR-9C under the Second Proviso to Section 44 of the CGST and KGST Act.

iii. Whether the Corporation is eligible to claim input tax credit on the inward supply of goods and services which are capitalized in the books of accounts?

The Applicant is eligible to claim input tax credit on the inward supply of goods and services which are capitalized in the books of accounts if they are used or intended to be used in the course or furtherance of business. Ads by

iv. Whether the Corporation is eligible to claim input tax credit on the inward supply of services against output taxable supplies of support and auxiliary services and other supply of taxable goods?

The applicant is eligible to claim input tax credit on the inward supply of services against output taxable supplies of support and auxiliary services and other supply of taxable goods subject to section 17(2) of the CGST Act read with Rule 42 and 43 of CGST Rules.

v. Whether the Corporation is eligible to claim input tax credit (on inputs, input services and capital goods) proportionately on the taxable output supply of support services and goods (scrap etc.) as per the provisions of Rule 42 and 43 of the CGST and KGST Rules?

The Applicant is eligible to claim input tax credit (on inputs, input services and capital goods) proportionately on the taxable output supply of support services and goods (scrap etc.) subject to section 17(2) of the CGST Act read with Rule 42 and 43 of CGST Rules.

vi. Whether the Corporation is eligible to claim taxes paid under RCM, as input tax credit?

The Applicant is eligible to claim taxes paid under RCM, as input tax credit, subject to section 17(2) of the CGST Act read with Rule 42 and 43 of CGST Rules.

vii. Whether Additional Surcharge collected from Open Access Consumer as per subsection (4) of Section 42 of the Electricity Act, 2003, clause 8.5.4 of the Tariff Policy 2016, Clause 5.8.3 of the National Electricity Policy and Clause 11 (vii) of the KERC (Terms and Conditions for Open Access) Regulations, 2004, is taxable under the GST Acts?

Additional Surcharge collected from Open Access Consumer as per subsection (4) of Section 42 of the Electricity Act, 2003, clause 8.5.4 of the Tariff Policy 2016, Clause 5.8.3 of the National Electricity Policy and clause 11 (vii) of the KERC (Terms and Conditions for Open Access) Regulations, 2004, is taxable under GST Act.

viii. Whether “Wheeling and Banking Charges” allowed by Commission (KERC) as 5% and 2% of the energy input into the distribution system by Open Access consumer is taxable under the GST Acts?

The “Wheeling and Banking Charges” collected by the Applicant is exempted from the payment of GST.

7. Services provided to BWSSB is service to governmental authority under GST

Case Name : In re Suez India Private Limited (AAR Karnataka)

Appeal Number : Advance Ruling No. KAR ADRG 08/2023

Date of Judgement/Order : 17/02/2023

Courts : AAR Karnataka (429) Advance Rulings (3113)

In re Suez India Private Limited (AAR Karnataka)

i. Whether the services provided to Bengaluru Water Supply and Sewerage Board would be considered as a service provided to a governmental authority under GST Laws?

The services provided to Bengaluru Water Supply and Sewerage Board (BWSSB) would be considered as a service provided to a Governmental authority under GST.

ii. What is the applicable GST rate on supply of works contracts services in relation to sewage treatment made by the Applicant to Bengaluru Water Supply and Sewerage Board, on or after 1st Jan 2022?

Works contracts services supplied by the Applicant in relation to sewage treatment to Bengaluru Water Supply and Sewerage Board, on or after 1st Jan 2022 is exigible to GST at 18% (CGST @ 9% and SGST@9%).

8. Sale of developed land does not attract GST: AAAR Karnataka

Case Name : In re Rabia Khanum (GST AAAR Karnataka)

Appeal Number : Advance Ruling No. KAR/AAAR/02/2023

Date of Judgement/Order : 14/02/2022

Courts : AAAR (465) AAR Karnataka (429) Advance Rulings (3113)

CBIC Circular No 177/09/2022 dated 3rd August 2022 at Para 14.3, clarifies that sale of developed land does not attract GST. The entry No 5 of Schedule III to the CGST Act states that 'sale of land' is neither supply of goods or services. The term "Sale" has not been defined in the GST law but has been defined in Section 54 of the Transfer of Property Act, 1882 as "transfer of ownership in exchange for a price paid or promised or part-paid and part-promised. '. The said Section 54 also states that such transfer, in the case of tangible immovable property of the value of one hundred rupees and upwards, can be made only by a registered instrument. Therefore, the term 'sale of land' as mentioned in entry 5 of Schedule III refers to the transfer of title in the land by way of registration as per the Registration Act, 1908. This transfer of title in the land/plot cannot take place before the land is developed with the required infrastructure and amenities, as the Planning Authority, in terms of Section 17 of the KTCPA (reproduced in Para 15 ante), will not issue the layout plan unless the development is complete. Further, without the layout plan issued by the Planning Authority, the local authority will not issue the Khata for the plot and in the absence of the Khata, the registration process for transfer of title from the seller to the buyer will not take place. On a co-joint reading of all the above provisions, we hold that sale of land developed by the Respondent is covered within the scope of the term 'sale of land' as mentioned in entry 5 of Schedule III. We reject the appeal filed by the Assistant Commissioner of Central Tax, Bangalore South Commissionerate and uphold the ruling given by the Authority for Advance Ruling in KAR ADRG 31/2022 dated 8th September 2022.

(V) JUDGEMENTS

1. Assessee permitted to rectify its GSTR-1 for FY 17-18 & 18-19 to avail ITC benefits

**Case Name : Y. B. Constructions Pvt. Ltd. Vs Union of India
(Orissa High Court)**

Appeal Number : W.P.(C) No.12232 of 2021

Date of Judgement/Order : 22/02/2023

Courts : All High Courts Orissa High Court

The Hon'ble Orissa High Court in M/s. Y. B. Constructions Pvt. Ltd. v. Union of India and others [W.P.(C) No.12232 of 2021 dated February 22, 2023] has permitted the assessee to rectify the error of mentioning B2C instead of B2B in Form GSTR-1 at the time of filing of returns, holding that the assessee would be prejudiced if it is not allowed to avail the benefits of Input Tax Credit ("ITC"). Directed the Respondent to receive the corrected Form GSTR-1 manually and upload the details on the web portal within 4 weeks.

Facts: M/s. Y. B. Constructions Pvt. Ltd. ("the Petitioner") had committed a mistake while filing the GST Return under Form GSTR-1 for the period 2017-18 dated October 16, 2017 and November 25, 2017 and for the period 2018-19 dated January 30, 2018 and March 30, 2019, wherein, B2C instead of B2B was mentioned. The Petitioner sought to correct the error in order to receive the ITC benefit from the principal contractor. The last date for rectifying the return was April 13, 2019. The Revenue Department ("the Respondent") stated that once the deadline for rectification of the Forms was crossed, then no further indulgence would be granted to the Petitioner. Being aggrieved, this Petition has been filed. The Petitioner contended that the error came to be noticed when the principal contractor held up the legitimate running bill amount of the Petitioner by informing it about the above error and thereafter it has been making requests to the Respondent to permit it to make the corrections.

Issue: Whether the Petitioner be allowed to rectify the error committed in Form GSTR-1?

Held: The Hon'ble Orrisa High Court in W.P.(C) No.12232 of 2021 held as under:

- Noted that, allowing the Petitioner to rectify the mistake in its GST Returns will not cause any loss to the Respondent, as there will be no escapement of tax, however, denying the request will prejudice the Petitioner, who is entitled to receive the ITC benefit.

- Relied on the judgment of the Hon'ble Madras High Court in the matter of M/s. Sun Dye Chem v. The Assistant Commissioner ST [Writ Petition No. 29676 of 2019 dated October 6, 2020], wherein, the plea of the assessee was accepted and it was permitted to file the corrected Form.
- Permitted the Petitioner to resubmit the corrected Form GSTR-1.
- Directed the Respondent to receive the corrected Form GSTR-1 manually and facilitate the uploading of the details on the web portal within 4 weeks.

Our Comments: The above judgment brings up a significant issue concerning whether the assessee would be allowed to rectify the error while filing its Form GSTR-1. In this regard, recently, in a similar matter, the Hon'ble Orissa High Court in M/s. Shiva Jyoti Construction v. The Chairperson, Central Board of Excise & Customs and others [W.P. (C) No. 18216 of 2017 dated January 12, 2023] had permitted the assessee to rectify its Form GSTR-1 filed for the months of September 2017 and March 2018, in order to claim ITC benefit by the recipient, wherein B2C was erroneously mentioned, instead of B2B. It was held that, the assessee will be unnecessarily prejudiced if it is not allowed to avail the benefits of ITC. Further, the Hon'ble Karnataka High Court in M/s. Wipro Limited India v. the Assistant Commissioner of Central Taxes and Ors. [Writ Petition No. 16175 of 2022 (T-Res) dated January 6, 2023] had allowed the assessee to rectify the errors committed at the time of filing of Forms and submitting GST Returns for FY 2017-2020. It was held that, the error committed by the assessee in showing the wrong Goods and Services Tax Identification Number ("GSTIN") in the invoices, which was carried forward in the relevant forms is a bonafide error, which has occurred due to bonafide reasons, unavoidable circumstances and sufficient cause. Hence, Circular No. 183/15/2022-GST dated December 27, 2022 ("the Circular"), which allows rectification of such bonafide and inadvertent mistakes, would be directly and squarely applicable.

2. HC allows Petitioner to file application for Revocation of GST registration before Authority

Case Name : Pragati Distributors Vs Additional Commissioner (Appeals-I) and others (Bombay High Court)

Appeal Number : Writ Petition No. 15656 of 2022

Date of Judgement/Order : 07/02/2023

Courts : All High Courts Bombay High Court

The Appellate Authority while dismissing the appeal has observed that the Petitioner ought to have filed application under section 30 of the Central Goods and Services Tax Act, 2017 for revocation of cancellation of the

registration. HC granted an opportunity to the Petitioner to file an application before the Authority under Section 30 of the CGST Act. HC further held that In case the application is filed by the Petitioner within 15 days from today under Section 30 of the CGST Act before the Authority, the Authority shall construe the same within limitation and take decision upon the application on merits expeditiously.

3. JVAT: No Section 40(2) Penalty in absence of deliberate act to file incorrect returns

**Case Name : Shiv Jyoti Enterprises Vs State of Jharkhand
(Jharkhand High Court)**

Appeal Number : W.P.(T) No. 3957 of 2022

Date of Judgement/Order : 21/02/2023

Courts : All High Courts Jharkhand High Court

Jharkhand High Court held that as there is no act to deliberately file incorrect returns, hence penalty under section 40(2) of the Jharkhand Value Added Tax Act, 2005. Facts- The petitioner is engaged in the business of works contract on behalf of various entities including Government Entities. For the period in dispute, Petitioner purchased pipes from outside the State of Jharkhand for an amount of Rs.1 ,55,69,332/- towards execution of works contract. The said inter-state purchases were made through valid road permits duly generated from the official website of State of Jharkhand. Petitioner filed its original quarterly return and, inadvertently, reflected interstate purchases as 'Nil'.

On 09.01.2016 "Before assessment" proceeding u/s. 40(2) of the JVAT Act was initiated against the Petitioner by Respondents on the sole ground that for the period in dispute, it filed quarterly returns by reflecting therein inter-state purchases as 'Nil', but, as per data available in the Department's software, it was evident that petitioner utilized SUGAM-G for an amount of Rs.1 ,55,69,332/- for inter-state movement of goods. Accordingly, Petitioner was directed to file its reply by 01.02.2016.

On 01 .02.2016, the petitioner filed its reply by stating, inter-alia, that inadvertently, the amount of inter-state purchases made during the period in dispute could not be reflected in its original quarterly return. Accordingly, to rectify the mistake, it prayed for one month's time to file the revised quarterly return and on 21.02.2016, petitioner revised its quarterly return and disclosed the inter-state purchases of Rs.1,55,69,332/- which could not be reflected in original quarterly return.

Interestingly, on the very next date i.e., on 02.02.2016, the Respondent No. 4 passed an order u/s. 40(2) of the JVAT Act and imposed penalty of Rs.25,68,940/-. Appellate court dismissed the appeal of the petitioner. It is pertinent to mention that during the pendency of the remand

appellate proceeding, original assessment order under Section 35(6) of the JVAT Act was passed against the petitioner.

The petitioner challenged the said assessment order before the Commissioner of Commercial Taxes in the Revision Case and was remanded to the assessing officer. Under the remand order passed by the Commissioner Court, a revised assessment order was passed and a revised GTO of Rs.6,17,61,159/- was duly accepted by the assessing officer. Tax liability of Rs.24,70,658/- was determined against the petitioner.

On 20.12.2019, during the course of revisional proceeding, an amount of Rs.17,35,000/- has also been realized by the Revenue and balance amount of Rs.8,33,940/- has been put on hold by initiating recovering proceeding under Section 46(1) of the JVAT Act by the Respondent-authorities.

Conclusion- In the given facts and circumstances and in view of specific provision enshrined u/s 30(4) (d) of the Act, it is apparent that there is no deliberate act of evasion of tax which would be warranting imposition of penalty on the petitioner given the language used in Section 40(2) containing the penal provision. In fact it cannot be said to be an act of deliberately filing incorrect returns as the revised return has been duly accepted by the Assessing Officer.

We holds that the penalty imposed by the revenue u/s 40(2) of the JVAT Act is not sustainable in the facts and circumstances of this case rather; penalty under Section 30(4)(d) of the JVAT Act could have been imposed upon Petitioner.

4. Granting of personal hearing before submission of reply is against principles of natural justice

Case Name : Shree Shyam Granites and Marbles Vs Assistant Commissioner (ST) (FAC) (Madras High Court)

Appeal Number : W.P. Nos. 4105, 4110 and 4108 of 2023

Date of Judgement/Order : 13/02/2023

Courts : All High Courts Madras High Court

Madras High Court held that granting of personal hearing before submission of defence reply cannot be said to be in compliance of section 75(4) of TNGST Act, 2017. Accordingly, impugned order set aside on the ground of violation of principles of natural justice.

Facts- The petitioner has challenged the impugned orders, all dated 25.10.2022, passed by the respondent under the Tamil Nadu Goods and

Services Act, 2017 (Hereinafter referred to as TNGST Act, 2017) on the ground of violation of principles of natural justice.

Conclusion- Held that interpreting Section 75 (4) of the TNGST Act, 2017 it has been observed that only after a reply is sent by the assessee, the Authority can apply its mind and if they contemplate an adverse decision they must provide an opportunity of hearing. Learned Single Judge has also observed that issuing a personal hearing notice even prior to the receipt of the explanation from the petitioner cannot be said to be in compliance of Section 75 (4) of the TNGST Act, 2017.

5. Demand order passed without considering reply to SCN is not sustainable

**Case Name : Engineering Aids Vs State Tax Officer (Circle)
(Madras High Court)**

Appeal Number : W.P. No.28124 of 2022

Date of Judgement/Order : 15/02/2023

Courts : All High Courts Madras High Court

The Hon'ble Madras Court in M/s. Engineering Aids v. State Tax Officer and Ors. [W.P. No.28124 of 2022 dated February 15, 2023] has quashed the demand order passed by the Revenue Department, on the grounds that the reply filed by the assessee to the Show Cause Notice ("SCN") was not considered even though the same was received by the Revenue Department. Remanded the matter back for fresh consideration on merits and in accordance with the law. Further, directed the Revenue Department to pass final orders, after adhering to the principles of natural justice and providing the opportunity of hearing to assessee.

Facts: This petition has been filed by M/s. Engineering Aids ("the Petitioner") challenging the summary order in Form GST DRC-07 dated April 5, 2022 ("the Impugned Order") passed by the Revenue Department ("the Respondent") under Section 74 of the Central Goods and Services Tax Act, 2017 ("the CGST Act") for demand and recovery of tax, on the grounds of violation of principles of natural justice, contending that only the Impugned Order was served and not the detailed order nor has it been uploaded on the GST portal. Further, the reply in Form GST DRC-06 dated February 25, 2022 ("the Reply") to the SCN issued in Form GST DRC-01 dated February 17, 2022 ("the SCN") was not considered by the Respondent while passing the Impugned Order.

Issue: Whether the Impugned Order can be passed without considering the Reply to the SCN?

Held: The Hon'ble Madras High Court in W.P. No.28124 of 2022 held as under:

- Noted that, the Petitioner has also filed Form GST DRC-06, dated February 25, 2022 which confirms that the Reply sent by the Petitioner was received by the Respondent.
- Observed that, there was no reference of the Reply in the Impugned Order and the Reply was not considered by the Respondent while passing the Impugned Order.
- Held that, the respondents have not considered the Reply even though the same was received by them hence the Impugned Order has to be quashed.
- Quashed the Impugned Order.
- Remanded the matter back to the Respondent for fresh consideration on merits and in accordance with the law.
- Directed the Respondent to pass final orders within 12 weeks, after adhering to the principles of natural justice and providing the opportunity of hearing to the Petitioner.

6. Passing of adverse assessment order without grant of personal hearing is against principles of natural justice

Case Name : Sendhil Kumar Vs State Tax Officer (Madras High Court)

Appeal Number : W.P. No. 4121 of 2023

Date of Judgement/Order : 13/02/2023

Courts : All High Courts Madras High Court

Madras High Court held that no personal hearing has been granted to the petitioner as contemplated under Section 75 (4) of the GST Act, 2017 and importantly adverse decision is taken by the respondent. Hence, impugned assessment order is liable to be quashed on the ground of violation of principles of natural justice.

Facts- This Writ Petition has been filed challenging the impugned assessment order dated 28.12.2022 for the assessment year 2021-2022 on the ground that no personal hearing was afforded to the petitioner in the impugned assessment proceedings.

In the impugned assessment order, the tax liability of the petitioner has been determined under the CGST and SGST at Rs.4,44,292/- and a penalty of Rs.4,44,292/- has been imposed, totalling a sum of Rs.8,88,584/.

The petitioner contends that as per Section 75 (4) of the GST Act, 2017, personal hearing ought to have been afforded to the petitioner since an adverse decision has been taken by the respondent under the impugned assessment order.

Conclusion- Admittedly, no personal hearing was afforded to the petitioner in the impugned assessment proceedings as seen from the impugned assessment order. An adverse decision has also been taken by the

respondent against the petitioner in the impugned assessment order. Therefore, necessarily the impugned assessment order has to be quashed on the ground of violation of the principles of natural justice as no personal hearing has been granted to the petitioner as contemplated under Section 75 (4) of the GST Act, 2017 and remanded back to the respondent for fresh consideration on merits and in accordance with law.

7. HC allows filing of Application for Revocation of GST Registration

**Case Name : Mohankar Timber Company Vs Union of India
(Bombay High Court)**

Appeal Number : Writ Petition No. 665 of 2023

Date of Judgement/Order : 22/02/2023

Courts : All High Courts Bombay High Court

In this case Instead of filing Application for Revocation of GST Registration Certificate, petitioner filed Appeal against the cancellation order which Appellate Authority dismissed as not maintainable. Petitioner challenged order of Appellate Authority by filing Writ Petition before Bombay High Court. HC allowed writ Petition and directed the Proper Officer to allow the application for Revocation filed within 15 days from the date of judgement.

8. Due to non-constitution of Appellate Tribunal, due date of filing of an appeal is to be dealt as per Circular No. 132/2/2020-GST

Case Name : Rochem India Pvt. Ltd. Vs Union of India (Bombay High Court)

Appeal Number : Writ Petition No. 10883 of 2019

Date of Judgement/Order : 08/02/2023

Courts : All High Courts Bombay High Court

Bombay High Court held that as per Circular No. 132/2/2020-GST dated 18 March 2020 dealing with non-constitution of Appellate Tribunal. It is clarified that the appeal to tribunal can be made within three months (six months in case of appeals by the Government) from the date of communication of order or date on which the President or the State President, as the case may be, of the Appellate Tribunal enters office, whichever is later.

Facts- These Writ Petitions under Article 226 of the Constitution of India are filed on the ground that the Appellate Tribunal is not yet constituted. Since various such Petitions are being filed in this Court and taking note of the large pendency of such cases, we had directed the

Respondents to file a reply affidavit as to the position brought about by non-constitution of the Appellate Tribunal.

Conclusion- Therefore, what emerges from the Circular and Affidavit filed by the Chairman of the Board is that the appeal to the Appellate Tribunal can be filed within three months (six months in the case of Appeals by the Government) from the date of the communication of the order or date on which the President or State President, as the case may be, of the Appellate Tribunal enters office, whichever is later.

/As of date, we do not have any positive statement from the respondents to the exact time or date on which the contingency provided in Clause 4.2, that is, President or State President entering office, would occur.

The Chairman of the Board, in the affidavit, has indicated that no hardship would be caused to the taxpayers because of the non-constitution of the Tribunal. Reading the affidavit along with Circular, it is clear that the Government does not intend that taxpayers are prejudiced for want of the Tribunal. With that intent, the period of limitation has been extended. As a corollary of the intention expressed in the affidavit and the Circular, it follows that the appealable orders (to the Tribunal) would not be implemented till the Tribunal becomes functional. That being the position, the writ petitions do not need to remain pending in this Court. Some time after the tribunal becomes functional as above can be given.

It would be advisable, to avoid further complications, that the Respondent-Board issues instructions to incorporate Clause 4.2 of the Circular dated 18 March 2020 in each order which is appealable to the Appellate Tribunal constituted under Section 109 of the Act. This would guide the aggrieved parties as to the future course of conduct and reduce needless litigation in the form of filing writ petitions such as the present ones. The Learned ASG states that this option would be considered.

9. Revenue Department to incorporate measures to reduce litigations arisen due to non-constitution of GST Tribunal

Case Name : Gulf Oil Lubricants India Ltd. Vs Joint Commissioner of State Tax (Bombay High Court)

Appeal Number : Writ Petition No. 3097 of 2022

Date of Judgement/Order : 08/02/2023

Related Assessment Year : Courts : All High Courts Bombay High Court

The Hon'ble Bombay High Court in Gulf Oil Lubricants India Ltd. v. Joint Commissioner of State Tax & Ors. [Writ Petition No. 3097 of 2022 dated February 8, 2023] has directed the Revenue Department to incorporate measures to reduce the inflow of litigations in the Court, which has arisen due to the non-constitution of the GST Tribunal, by incorporating

the stipulation contained in Circular No. JC (HQ)-1/GST/2020/Appeal/ADM-8 dated May 26, 2020 ("the Circular"), to put the taxpayer into notice, that the time limit for filing the appeal is extended and if a declaration is filed within the stipulated period, the protective measure would automatically come into force. Further held that, if recovery is being undertaken for failure to file a declaration within the time limit, then by way of indulgence 15 days period to be given to make such a declaration.

Facts: Gulf Oil Lubricants India Ltd. ("the Petitioner") had received a Show Cause Notice ("SCN"), which was adjudicated and Order-in-Original ("the OIO") was passed by the Revenue Department ("the Respondent"). An appeal was filed against the OIO before the Appellate Authority, but it was dismissed vide the Order-in-Appeal ("the OIA"). Being aggrieved, this petition has been filed challenging the validity of statutory provisions, on the ground that though the statute provides an appeal to an Appellate Tribunal, but such Appellate Tribunal has not been constituted yet. Issue: Whether the petition is maintainable on the ground that the GST Appellate Tribunal is not functional?

Held: The Hon'ble Bombay High Court in Writ Petition No. 3097 of 2022 held as under:

Observed that, as per the Circular, the time to file appeals/application to the Appellate Tribunal would be counted from the date the President or the State President enters the office.

Noted that, as per the Clause 5 of the Circular, a declaration has to be filed before the Respondent stating that an appeal is proposed to be filed and if such declaration is not filed, then it would be presumed that the assessee is not willing to file an appeal and recovery proceedings would be initiated.

Further, if such a declaration is filed, recovery proceedings will not be initiated until the prescribed time limit as specified in the Circular. Thus, there is no prejudice to the Petitioner or any similarly situated assessee on the ground of the non-availability of the State GST Tribunal. Further, noted that, the Petitioner have already filed such a declaration and since the Petitioner have raised various other challenges, such a declaration would be considered as without prejudice.

Held that, as and when the contingency in the Clause 4.3 of the Circular occurs, the Petitioner can file an appeal or writ petition as the case may be.

Further held that, the prescribed time limit has been extended as per Clause 4.3 of the Circular and protective orders are incorporated in Clause 5 of the Circular.

Directed the Respondent to incorporate a stipulation contained in Clause 4.3 and Clause 5 of the Circular in the OIO, to put the Petitioner to notice that the time limit for filing the appeal is extended and if a declaration

is filed within the stipulated period, the protective measure would automatically come into force.

Further directed the Respondent, that if recovery is being undertaken in terms of Clause 5 of the Circular for failure to file a declaration within the time limit, then by way of indulgence, to give 15 days period to the Petitioner to make such a declaration.

Relevant Provisions: Section 112 of the CGST Act: "Appeals to Appellate Tribunal-

(1) Any person aggrieved by an order passed against him under section 107 or section 108 of this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act may appeal to the Appellate Tribunal against such order within three months from the date on which the order sought to be appealed against is communicated to the person preferring the appeal.

(2) The Appellate Tribunal may, in its discretion, refuse to admit any such appeal where the tax or input tax credit involved or the difference in tax or input tax credit involved or the amount of fine, fee or penalty determined by such order, does not exceed fifty thousand rupees.

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

(4) Where in pursuance of an order under sub-section (3) the authorised officer makes an application to the Appellate Tribunal, such application shall be dealt with by the Appellate Tribunal as if it were an appeal made against the order under sub-section (11) of section 107 or under sub-section (1) of section 108 and the provisions of this Act shall apply to such application, as they apply in relation to appeals filed under sub-section (1).

(5) On receipt of notice that an appeal has been preferred under this section, the party against whom the appeal has been preferred may, notwithstanding that he may not have appealed against such order or any part thereof, file, within forty-five days of the receipt of notice, a memorandum of cross-objections, verified in the prescribed manner, against any part of the order appealed against and such memorandum shall be disposed of by the Appellate Tribunal, as if it were an appeal presented within the time specified in sub-section (1).

(6) The Appellate Tribunal may admit an appeal within three months after the expiry of the period referred to in sub-section (1), or permit the filing of a memorandum of cross-objections within forty-five days after the expiry of the period referred to in sub-section (5) if it is satisfied that there was sufficient cause for not presenting it within that period.

(7) An appeal to the Appellate Tribunal shall be in such form, verified in such manner and shall be accompanied by such fee, as may be prescribed.

(8) No appeal shall be filed under sub-section (1), unless the appellant has paid-- (a) in full, such part of the amount of tax, interest, fine, fee and penalty arising from the impugned order, as is admitted by him, and (b) a sum equal to twenty per cent. of the remaining amount of tax in dispute, in addition to the amount paid under sub-section (6) of section 107, arising from the said order subject to a maximum of fifty crore rupees, in relation to which the appeal has been filed.

(9) Where the appellant has paid the amount as per sub-section (8), the recovery proceedings for the balance amount shall be deemed to be stayed till the disposal of the appeal.

(10) Every application made before the Appellate Tribunal,-

(a) in an appeal for rectification of error or for any other purpose; or

(b) for restoration of an appeal or an application, shall be accompanied by such fees as may be prescribed."

Clause 4.3 of the Circular:

"Hence, as of now, the prescribed time limit to make application to appellate tribunal will be counted from the date on which President or the State President enters office. The appellate authority while passing order may mention in the preamble that appeal may be made to the appellate tribunal whenever it is constituted within three months from the President or the State President enters office. Accordingly, it is advised that the appellate authorities may dispose all pending appeals expeditiously without waiting for the constitution of the appellate tribunal."

Clause 5 of the Circular: "Recovery of dues after disposal of appeal -

After disposal of pending appeal u/s 107, if any demand is confirmed or appellate authority has created the additional demand then in such cases tax payer shall submit a declaration in Annexure-I before the jurisdictional tax officer stating that he is proposing to file an appeal u/s 112(1) against the appeal order. If such declaration is not submitted within fifteen days from the communication of the said order, then it will be presumed that tax payer is not willing to file appeal against the order and recovery proceedings may be initiated as per the provisions of law."

10. Order cancelling GST registration traveling beyond the scope of notice is untenable

Case Name : Arsh Traders Through Proprietor Aslam Sodagrbhai Shekh Vs Commercial Tax Officer (Gujarat High Court)

Appeal Number : R/Special Civil Application No. 3224 of 2022

Date of Judgement/Order : 17/02/2023

Courts : All High Courts (10085) Gujarat High Court (996)

Gujarat High Court held that impugned order cancelling the registration traveling beyond the scope of show cause notice is untenable in law.

Facts- Petitioner is before this Court seeking to challenge the action of the respondent – Authority of cancelling the registration and also of rejecting of application for revocation of cancellation under the Gujarat Goods and Service Tax Act, 2017.

Notably, show cause notice was issued by the respondent by the cancellation of registration on the ground that it has been obtained by means of fraud and willful mistake and by suppression of facts. The petitioner was directed to appear, however, when no physical notice was received and as the petitioner is not techno savvy, he could not accede.

Pursuant to the said notice, respondent cancelled the registration of the petitioner without making any mention or reason of cancellation.

Petitioner preferred an application for revocation of cancellation of registration in Form GST REG-21 on portal. The application for revocation was rejected on the ground that the petitioner is involved in bogus billing with various parties. However, this was at no point of time even the part of show cause notice.

Conclusion- This court in Aggarwal Dyeing and Printing Works versus State of Gujarat & Ors. has held that over a period of time, we have noticed in many matters that the impugned order cancelling the registration of a dealer travels beyond the scope of the show cause notice. Many times, the dealer is taken by surprise when he gets to read in the order that the authority has relied upon some inspection report or spot visit report etc. If the authority wants to rely upon any particular piece of evidence then it owes a duty to first bring it to the notice of the dealer so that if the dealer has anything to say in that regard, he may do so. Even if the authority wants to rely on any documentary evidence, the dealer should be first put to the notice of such documentary evidence and only thereafter, it may be looked into. Held that we could notice that the show cause notice, which has been issued, is quite cryptic.

11. Granting personal hearing before submission of reply is against principles of natural justice

Case Name : Shyam Granites and Marbles Vs Assistant Commissioner (ST) (FAC) (Madras High Court)
Appeal Number : W.P. Nos. 4105, 4110 and 4108 of 2023
Date of Judgement/Order : 13/02/2023
Courts : All High Courts Madras High Court

Madras High Court held that impugned order was passed after granting of personal hearing, however, personal hearing was granted before replies were received from the assessee is liable to be quashed on the grounds of principles of natural justice.

Facts- The petitioner has challenged the impugned orders, passed by the respondent under the Tamil Nadu Goods and Services Act, 2017 (TNGST Act, 2017) on the ground of violation of principles of natural justice. The petitioner has informed the respondent that there is no mismatch. According to them, the supplier Bills were reported in the GST return for the next month and a copy of the Bills as well as the return copy were also enclosed by the petitioner along with the respective replies. The defects pointed out by the respondent in the impugned show cause notices have been clarified by the petitioner in their replies. However, in the impugned assessment order, no reasons have been given by the respondent for rejecting the petitioner's replies wherein they have categorically stated that there is no mismatch for which they have also substantiated through documents which have not been considered in the impugned assessment orders. They are non-speaking orders with regard to the contentions raised in the replies all dated 19.10.2022 sent by the petitioner.

Conclusion- While interpreting Section 75 (4) of the TNGST Act, 2017 it has been observed that only after a reply is sent by the assessee, the Authority can apply its mind and if they contemplate an adverse decision they must provide an opportunity of hearing. Learned Single Judge has also observed that issuing a personal hearing notice even prior to the receipt of the explanation from the petitioner cannot be said to be in compliance of Section 75 (4) of the TNGST Act, 2017. Held that this Court is of the considered view that the principles of natural justice has been violated by the respondent before passing of the impugned assessment order as no reasons have been given by the respondent for rejecting the petitioner's objections raised in the replies all dated 19.10.2022; personal hearing was afforded to the petitioner even before the replies were received by the respondent and they are non-speaking orders.

12. Assessment order passed without affording personal hearing is liable to be quashed

Case Name : PHA India Pvt. Ltd. Vs Assessment Commssioner (ST) (Madras High Court)

**Appeal Number : W.P. Nos. 3771, 3773, 3777 &
Date of Judgement/Order : 3780 of 2023 Related
Assessment Year : 08/02/2023
Courts : All High Courts (10085) Madras High Court (1115)**

Madras High Court held that it is seen from the impugned assessment order that no personal hearing has been afforded to the petitioner. Accordingly, the impugned assessment order is quashed on the ground of violation of principles of natural justice.

Facts- The contention of the petitioner is that the reopening of the assessments u/s. 27 of the TNVAT Act, 2006 which culminated in the impugned Assessment Orders are barred by law of limitation. According to the petitioner, since their assessments have not been reopened within a period of six years from the date of the deemed assessment u/s. 22(2) of the TNVAT Act, 2006, the impugned assessment orders have to be quashed.

According to the petitioner, they did not receive the Show Cause Notice issued by the respondents prior to the passing of the impugned orders to enable them to send a detailed reply. It is also their contention that no personal hearing was afforded to them in the impugned proceedings. Learned counsel for the petitioner drew the attention of this Court to section 27(1) of the TNVAT 2006 and submitted that as per the said section within a period of six years, from the date of the deemed assessment under section 22(2) of the Act, the respondents ought to have reopened the assessment in case of escaped turnover or wrong availment of income tax credit.

Conclusion- The petitioner categorically contends that they never received any Show Cause Notice from the respondents. As seen from the impugned Assessment Orders, no personal hearing has also been afforded to the petitioner. Since the contentions of the petitioner raised in this writ petition have not been considered in the impugned assessment orders and the petitioner has also not been granted personal hearing in the impugned proceedings, necessarily, the impugned assessment orders have to be quashed on the ground of violation of principles of natural justice and the matter has to be remanded back to the first respondent for fresh consideration on merits.

13. Assessee permitted to rectify its GSTR-1 for FY 17-18 & 18-19 to avail ITC benefits

**Case Name : Y. B. Constructions Pvt. Ltd. Vs Union of India
(Orissa High Court)
Appeal Number : W.P.(C) No.12232 of 2021
Date of Judgement/Order : 22/02/2023
Courts : All High Courts (10085) Orissa High Court (156)**

The Hon'ble Orissa High Court in M/s. Y. B. Constructions Pvt. Ltd. v. Union of India and others [W.P.(C) No.12232 of 2021 dated February 22, 2023] has permitted the assessee to rectify the error of mentioning B2C instead of B2B in Form GSTR-1 at the time of filing of returns, holding that the assessee would be prejudiced if it is not allowed to avail the benefits of Input Tax Credit ("ITC"). Directed the Respondent to receive the corrected Form GSTR-1 manually and upload the details on the web portal within 4 weeks.

Facts:

M/s. Y. B. Constructions Pvt. Ltd. ("the Petitioner") had committed a mistake while filing the GST Return under Form GSTR-1 for the period 2017-18 dated October 16, 2017 and November 25, 2017 and for the period 2018-19 dated January 30, 2018 and March 30, 2019, wherein, B2C instead of B2B was mentioned. The Petitioner sought to correct the error in order to receive the ITC benefit from the principal contractor. The last date for rectifying the return was April 13, 2019. The Revenue Department ("the Respondent") stated that once the deadline for rectification of the Forms was crossed, then no further indulgence would be granted to the Petitioner.

Being aggrieved, this Petition has been filed.

The Petitioner contended that the error came to be noticed when the principal contractor held up the legitimate running bill amount of the Petitioner by informing it about the above error and thereafter it has been making requests to the Respondent to permit it to make the corrections. Issue: Whether the Petitioner be allowed to rectify the error committed in Form GSTR-1?

Held:

The Hon'ble Orissa High Court in W.P.(C) No.12232 of 2021 held as under:

- Noted that, allowing the Petitioner to rectify the mistake in its GST Returns will not cause any loss to the Respondent, as there will be no escapement of tax, however, denying the request will prejudice the Petitioner, who is entitled to receive the ITC benefit.
- Relied on the judgment of the Hon'ble Madras High Court in the matter of M/s. Sun Dye Chem v. The Assistant Commissioner ST [Writ Petition No. 29676 of 2019 dated October 6, 2020], wherein, the plea of the assessee was accepted and it was permitted to file the corrected Form.
- Permitted the Petitioner to resubmit the corrected Form GSTR-1.
- Directed the Respondent to receive the corrected Form GSTR-1 manually and facilitate the uploading of the details on the web portal within 4 weeks.

Our Comments:

The above judgment brings up a significant issue concerning whether the assessee would be allowed to rectify the error while filing its Form GSTR-1.

In this regard, recently, in a similar matter, the Hon'ble Orissa High Court in *M/s. Shiva Jyoti Construction v. The Chairperson, Central Board of Excise & Customs and others* [W.P. (C) No. 18216 of 2017 dated January 12, 2023] had permitted the assessee to rectify its Form GSTR-1 filed for the months of September 2017 and March 2018, in order to claim ITC benefit by the recipient, wherein B2C was erroneously mentioned, instead of B2B. It was held that, the assessee will be unnecessarily prejudiced if it is not allowed to avail the benefits of ITC.

Further, the Hon'ble Karnataka High Court in *M/s. Wipro Limited India v. the Assistant Commissioner of Central Taxes and Ors.* [Writ Petition No. 16175 of 2022 (T-Res) dated January 6, 2023] had allowed the assessee to rectify the errors committed at the time of filing of Forms and submitting GST Returns for FY 2017-2020. It was held that, the error committed by the assessee in showing the wrong Goods and Services Tax Identification Number ("GSTIN") in the invoices, which was carried forward in the relevant forms is a bonafide error, which has occurred due to bonafide reasons, unavoidable circumstances and sufficient cause. Hence, Circular No. 183/15/2022-GST dated December 27, 2022 ("the Circular"), which allows rectification of such bonafide and inadvertent mistakes, would be directly and squarely applicable.

14. No provision under GST law to seek NOC from any authority to apply for revocation of cancellation of GST registration

Case Name : Spinns International Vs Pr. Commissioner of Goods And Service Tax (Delhi High Court)

Appeal Number : W.P.(C) 1989/2023

Date of Judgement/Order : 15/02/2023

Courts : All High Courts (10085) Delhi High Court (2355)

A plain reading of the show cause notice proposing GST registration cancellation indicates that the reason for the proposed action was stated to be "Non-compliance of any specified provisions in the GST Act or the Rules made thereunder as may be prescribed".

We are at a loss to understand as to how any person could respond to the said allegation. Clearly, the show cause notice does not specify any allegation, which is capable of being responded to. It is settled law that the purpose of the show cause notice is to enable the noticee to meet the allegations on the basis of which an adverse action is proposed. Tested on the said anvil, it is clear that the impugned show cause notice is bereft of

any reasons and is issued in a mechanical manner without any application of mind.

We are of the view that the impugned show cause notice cannot be considered as a show cause notice at all.

The petitioner's registration was cancelled by an impugned order dated 11.10.2022.

The petitioner, understandably, did not respond to the impugned show cause notice.

The petitioner's registration was cancelled on the ground that the petitioner had neither appeared for a personal hearing nor submitted any reply.

The learned counsel for the petitioner has handed over a copy of the message purportedly received from the officers of the Rohini Division, which reads as under:

"M/s Sangeeta Singh GSTIN: 07BFCPS7397E3ZY

Please refer to your Letter dated 20.01.2023

On the subject "status in respect of Reg-21 dated 15.10.2022 filed for revocation of cancellation of registration vide ARN AA071022035800"

In this regard it is submitted that the cancellation of registration has been directed by Anti-Evasion Head-quarter. A proper NOC (No Objection Certificate) from Anti-Evasion Head-Quarter may be obtain in order to enable this office to proceed for the with your revocation application Regards, Rohini Division Range-108" Concededly, there is no statutory provision that requires a taxpayer to seek an NOC from any authority for moving an application for revocation of cancellation of its registration.

As stated above, we find that the procedure adopted by the respondents for cancellation of the registration is flawed.

As noted above, the impugned show cause notice cannot be considered as a show cause notice at all and therefore, the impugned order dated 11.10.2022, cancelling the petitioner's registration, has been passed in violation of principles of natural justice and is liable to be set aside.

SCN lacking reasons cannot be issued in a mechanical manner without any application of mind

15. GST registration cancellation without determination of amount payable is unsustainable

Case Name : Devi Products vs State of Gujarat (Gujarat High Court)

Appeal Number : R/Special Civil Application No. 2288 of 2023

Date of Judgement/Order : 15/02/2023

Courts : All High Courts (10085) Gujarat High Court (996)

Gujarat High Court held that order of cancellation of GST Registration passed without determination of the amount which is to be paid by the petitioner-assessee is unsustainable and liable to be quashed.

Facts- Petitioner is sole proprietor engaged in the business of trading of article brass and was registered with the Gujarat Value Added Tax under the Gujarat Value Added Tax, 2003 and Central Sales Tax Act, 1956. He got his registration with effect from 01.07.2017 by virtue of Section 139 of the GST Act. According to petitioner, till June, 2020, he had filed his return of income under the GST Act, however, because of the prevalent circumstances he had no business subsequent to June, 2020, and therefore he was of bonafide belief that there was no requirement to file return under the GST ACT.

A show cause notice was issued on 15.03.2021 under Rule 22(1) of the GST Rules read with Section 29 of the GST Act whereby the petitioner was informed that his registration was liable to be cancelled because he had not filed the return for a continuous period of six months and he was called upon to file his reply to the notice. It is also the grievance of the petitioner that his registration has been suspended with immediate effect on 15.03.2021 itself under Rule 21A of the GST Rules and this had been done without recording any reasons. Thereafter, the registration of his was cancelled by respondent No.2 with effect from 01.07.2017 without recording any particulars or the reasons or the grounds for cancellation. This orders since was cryptic and there is no tax demand determined, he is before this Court.

Conclusion- Moreover, what is far more vital to be considered is the order which has been passed and that raises a serious concern of ours as the consequential order also is cryptic. While cancelling the registration, the authority concerned has not even determined the amount payable pursuant to such cancellation.

Assuming that the notice which merely speaks of "any tax payer other than composition tax payer has not filed returns for a continuous period of six months" would be comprehensible for the assessee to respond to the same as he was also given an opportunity to appear on 23.03.2021, this non-appearance on the part of the respondent when has resulted into cancellation of registration that too from the first date i.e. 01.07.2017 much prior to 2020 when he had defaulted in filing the returns, what is completely incomprehensible is that cancellation of registration without any determination of the amount which is to be paid by the petitioner which is hardly sustainable and such action can hardly be ratified in any manner.

16. Assessee directed to file representation for release of blocked funds w.r.t. alleged non-payment of GST and excess availment of ITC

Case Name : Lucas TVS Limited Vs Superintendent of GST and Central Excise (Madras High Court)

Appeal Number : W.P. No. 3636 of 2023 and W.M.P. No. 3720 of 2023

Date of Judgement/Order : 10/02/2023

Courts : All High Courts Madras High Court

Assessee directed to file representation for release of blocked funds w.r.t. alleged non-payment of GST and excess availment of ITC The Hon'ble Madras High Court in M/s Lucas TVS Limited v. Superintendent of GST and Central Excise and Ors. [W.P. No. 3636 of 2023 and W.M.P. No. 3720 of 2023 dated February 10, 2023] has directed the assessee to file a fresh representation before the Revenue Department stating grievances pertaining to technical glitches in the GST portal. Held that, no prejudice will be caused to the Revenue Department, if the assessee's representation seeking for release of the blocked funds in the Petitioner's Bank account is considered, on merits and in accordance with law.

Facts:

M/s Lucas TVS Limited ("the Petitioner") filed their GSTR-3B for the month of July 2017 on August 19, 2017 and due to some technical glitches in the GST portal, they were unable to capture the Input Tax Credit ("ITC") eligibility, availed for the month of July, 2017 in the GSTR-3B. Therefore, the Petitioner manually deducted the ITC duly eligible from the gross amount of output GST payable and provided the final net amount of output tax liability to the tune of INR 8,29,34,603/-. Thereafter, while filing the annual GST return for the Financial Year ("F.Y.") 2017-18 in GSTR-9 on January 30, 2020, the Petitioner duly reflected the actual availed ITC and output GST liability. According to the Petitioner, the reconciliation statement filed in Form GSTR-9C, reflected the said difference in the ITC, availed between Form GSTR-3B and Form GSTR-9. Therefore, the Revenue Department ("the Respondent") issued summons to the Petitioner on October 28, 2022 and December 5, 2022 for the alleged short payment of tax in July 2017 and issued a notice to the Petitioner dated December 12, 2022 ("the Impugned Notice") requesting the Petitioner to reconcile the Form GSTR-1, Form GSTR-3B, Form GSTR-2A and Form GSTR-9, already filed by the Petitioner for the month of July 2017. The Petitioner replied to the same on December 15, 2022 requesting an extension of two weeks time and subsequently, on December 30, 2022 and January 19, 2023, the Petitioner submitted the details to the Respondent. However, the Petitioner was unable to use their account and realised that the funds in their bank account is blocked for withdrawal under Section 79(1)(c)(i) of the Central Goods and Services Tax Act, 2017 ("the CGST Act") and no notice for such blocking of funds is given to the Petitioner despite asking. Further, the Respondent served another notice dated January 27, 2023 on the Petitioner seeking details of

the excess availment of ITC in Form GSTR-3B as compared to Form GSTR-2A for the period 2017-18, 2018-19, 2019-20 and 2020-21, to which the Petitioner has replied seeking three weeks time to collate all the details. Being aggrieved this petition has been filed, on the ground that the Petitioner's representation seeking for release of the blocked funds in the Petitioner's Bank Account with the Respondent be considered.

Issue:

Whether the blocked funds of Petitioner are liable to be released?

Held:

- The Hon'ble Madras High Court in W.P. No. 3636 of 2023 and W.M.P. No. 3720 of 2023 held as under:
- Observed that, since a specific request has not been made, the Petitioner will have to give a fresh representation to the Respondent seeking for release of the blocked funds in the Petitioner's bank account.
- Held that, no prejudice would be caused to the Respondent if the Petitioner's representation seeking for release of the blocked funds in the Petitioner's Bank account is considered, on merits and in accordance with law, after giving due consideration to the submissions made by the Petitioner.
- Directed the Petitioner to submit a fresh representation to the Respondent stating grievances within one week.
- Further directed the Respondent to pass fresh order on merits and in accordance with law, after giving due consideration to the grievances raised by the Petitioner in their representation, within a period of four weeks.
- Held that, till final orders are passed, the Respondent is directed not to attach funds lying in any other bank account of the Petitioner.

Relevant Provisions:

Section 79(1)(c)(i) of the CGST Act:

"(i) the proper officer may, by a notice in writing, require any other person from whom money is due or may become due to such person or who holds or may subsequently hold money for or on account of such person, to pay to the Government either forthwith upon the money becoming due or being held, or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount;"

17. GST: HC directs revenue to provide opportunity of hearing to ensure natural justice

**Case Name : Mohan Agencies Vs State of U.P. and Another
(Allahabad High Court)**

Appeal Number : Writ Tax No. - 58 of 2023

Date of Judgement/Order : 13/02/2023

Courts : All High Courts (10089) Allahabad High Court (525)

Providing opportunity of hearing ensures natural justice and allows Revenue Department to pass appropriate orders. The Hon'ble Allahabad High Court in *M/s Mohan Agencies v. State of U.P. And Another* [Writ Tax No. 58 of 2023 dated February 13, 2023] has set aside the order passed by the Revenue Department, on the grounds that the opportunity of personal hearing was not given to the assessee, as the same was not opted by the assessee in reply to the Show Cause Notice ("the SCN"). Held that, providing the opportunity of hearing would ensure observance of rules of natural justice and allow the Respondent to pass appropriate and reasoned orders in order to serve the interest of justice and allow a better appreciation to arise at the appeal stage. Remitted the matter back to the Revenue Department.

Facts:

This petition has been filed by M/s Mohan Agencies ("the Petitioner") challenging the order dated October 21, 2022 ("the Impugned Order") passed by the Revenue Department ("the Respondent") for the tax period July, 2017 to March, 2018 whereby, the demand in excess to INR 10 crores was raised against the Petitioner, on the ground that the SCN dated May 13, 2022 was issued to the Petitioner seeking reply wherein, the opportunity of personal hearing was not given. The Respondent contended that the Petitioner was denied opportunity of hearing because the Petitioner had tick marked the option 'No' against the option for personal hearing in the reply to the SCN on September 14, 2022, submitted through online mode.

Issue: Whether the Petitioner is entitled to get opportunity of personal hearing after declining the same in reply to the SCN?

Held:

The Hon'ble Allahabad High Court in Writ Tax No. 58 of 2023 held as under:

- Analyzed Section 75(4) of the Central Goods and Services Tax Act, 2017 ("the CGST Act") wherein, it is stated that an opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.
- Relied on the earlier judgment of *Bharat Mint & Allied Chemicals v. Commissioner Commercial Tax & Ors.* [(2022) 48 VJ 325 dated December 15, 2022] wherein, it was held that a person/assessee is not required to request for opportunity of personal hearing and it is mandatory upon the Assessing

Authority to afford such opportunity before passing an adverse order.

- Observed that, once it has been laid down by way of a principle of law that a person/assessee is not required to request for “opportunity of personal hearing” and it remained mandatory upon the Respondent to afford such opportunity before passing an adverse order, the fact that the Petitioner may have signified ‘No’ in the column meant to mark the its choice to avail personal hearing, would bear no legal consequence.
- Stated that, principle of natural justice would bind the Respondent to always ensure to provide such opportunity of hearing and it has to be ensured that such opportunity is granted in real terms.
- Noted that, the stand of the assessee may remain unclear unless minimal opportunity of hearing is first granted and only after providing such opportunity the explanation furnished may be rejected and demand created.
- Held that, providing the opportunity of hearing would ensure observance of rules of natural justice and allow the Respondent to pass appropriate and reasoned orders in order to serve the interest of justice and allow a better appreciation to arise at the appeal stage.
- Set aside the Impugned order.
- Remitted the matter back to the Respondent to issue fresh notice to the Petitioner within two weeks.

Relevant Provisions:

Section 75(4) of the CGST Act:

“General provisions relating to determination of tax

(4) An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.”

18. Revenue department cannot go beyond scope of SCN to create new ground at adjudication stage

**Case Name : CJ Darcl Logistics Limited Vs Union of India
Represented Through The Secretary (Jharkhand
High Court)**

Appeal Number : W.P.(T) No. 215 of 2022

Date of Judgement/Order : 09/02/2023

Courts : All High Courts (10089) Jharkhand High Court (91)

The Hon’ble Jharkhand High Court in M/s. CJ Darcl Logistics Limited v. Union of India [W.P.(T) No. 215 of 2022 dated February 9, 2023] has

quashed and set aside the Show Cause Notice ("SCN") and the consequent orders demanding reversal of excess Input Tax Credit ("ITC"), on the ground that, the same were passed without providing the opportunity of personal hearing to the assessee. Hence, violative of principles of natural justice. Held that, the SCN was vague and cryptic in nature and the orders passed were beyond the scope of the SCN.

Facts:

M/s. CJ Darcl Logistics Limited ("the Petitioner") is a public limited company engaged in the business of providing inter alia Goods Transportation Agency ("GTA") services registered under Reverse Charge Mechanism ("RCM") in Jharkhand and also registered under Forward Charge Mechanism ("FCM") as certain customers of Petitioner were willing to discharge the liability under RCM and some customers were not so willing. Thereafter, under a bonafide mistake, the Petitioner deposited the amount of GST totalling to INR 1,70,12,325/- in its Electronic Cash Ledger ("ECL") of RCM registration instead of depositing it in the ECL of the FCM Registration. The Petitioner again deposited the same amount in the ECL of the FCM registration to file GSTR-3B return. As there was double payment and the amount was lying as excess balance in the ECL of the Petitioner, an application for refund in FORM GST RFD-01 was filed on April 18, 2021. Further, a SCN dated May 17, 2021 ("the Impugned SCN") on the refund application under Section 54 of the Central Goods and Services Tax Act, 2017 ("the CGST Act") was issued in respect of RCM Registration. The Petitioner furnished its reply to the Impugned SCN but the claim was rejected by Order-in-Original dated June 14, 2021 ("the OIO") in Form GST RFD-06 passed by the Revenue Department ("the Respondent") on the grounds that, the Petitioner had taken benefit of ITC of INR 4,57,27,369/- in excess due to the reason that, it had taken two GST Registrations in the same state. Subsequently, an appeal was filed by the Petitioner, which was rejected by the Appellate Authority vide Order-in-Appeal dated December 8, 2021 ("the OIA"). Being aggrieved this petition has been filed. The Petitioner contended that the proceedings were vitiated in violation of principles of natural justice as no proper SCN has been issued and only after the reply of the Impugned SCN, the Respondent found about the alleged contraventions i.e. maintaining two GST registration numbers with two different rates of GST within the same state.

Issue: Whether an order can be passed on the basis of allegations which were not mentioned in the Impugned SCN?

Held:

The Hon'ble Jharkhand High Court in W.P.(T) No. 215 of 2022 held as under:

Observed that, the Impugned SCN mentioned a different allegation and only after submissions of Petitioner's reply, the OIO was passed on the grounds which were never part and parcel of the Impugned SCN.

Noted that, it is settled principle of law that if an allegation or ground is not made at the time of issuance of SCN, the authority cannot go beyond the scope of SCN to create new ground at the later stage of adjudication.

Stated that, the proceedings vitiated by the Respondent were in violation of principles of natural justice as neither a proper SCN was issued nor any opportunity of hearing was given to the Petitioner. Further, even the OIA did not deliberate on this issue and simply confirmed the OIO.

Further stated that, if any opportunity would have been given to the Petitioner, the Respondent might have proceeded to issue a subsequent SCN.

Further observed that, it is only after the submissions of Petitioner's reply, the Respondent decided the refund application, on the grounds of maintaining of two GSTIN number by the Petitioner, which were not the part of the Impugned SCN.

Held that, the Impugned SCN is vague and cryptic in nature and the OIO of adjudication is bad in law for the reasons that it has been passed beyond the scope of the Impugned SCN.

Quashed and set aside the Impugned SCN and consequent the OIO and the OIA.

19. Disciplinary proceedings against VAT officer merely based on suspicion is unjustified

Case Name : Anjali Chaurasiya Vs State of U.P. (Allahabad High Court)

Appeal Number : Special Appeal Defective No. 40 of 2023

Date of Judgement/Order : 01/02/2023

Year : Courts : Allahabad High Court (525)

Allahabad High Court held that the disciplinary proceedings against an officer (VAT Commissioner) cannot take place on information, which is vague and indefinite and suspicion has no role to play in such matters when the department has taken a conscious decision not to challenge the order passed by the appellant and has allowed the same to attain finality.

Facts- Feeling aggrieved and dissatisfied with the direction given in paragraph-14 of the interim order dated 28.11.2022 passed by Hon'ble Single Judge in Writ-A No. 7888 of 2022 : Anjali Chaurasia Vs. State of U.P. and 5 others, whereby Hon'ble Single Judge granted liberty to the

respondents/State to proceed with the disciplinary proceedings, without being influenced by the findings recorded in the order and also to post the writ petitioner at any place, considering the fact that disciplinary proceedings are pending against her, the appellant/writ petitioner has preferred the instant appeal. The core issue for consideration is whether the direction issued by Hon'ble Single Judge in paragraph-14 of the impugned order dated 28.11.2022, granting liberty to the respondents to proceed with the disciplinary proceedings and post the appellant at any place, tantamounts to a "judgment" within the meaning of Chapter VIII Rule 5 of the Rules of Court making it amenable to special appeal under Chapter VIII Rule 5 of the Rules of Court.

Conclusion- The disciplinary proceedings against the appellant have been initiated merely because the assessee has deposited the penalty within a very short span of time which raised a suspicion with regard to the penalty order passed by the appellant. In *Zunjarrao Bhikaji Nagarkar*, the Hon'ble Supreme Court has categorically held that the disciplinary proceedings against an officer cannot take place on information, which is vague and indefinite and suspicion has no role to play in such matters when the department has taken a conscious decision not to challenge the order passed by the appellant and has allowed the same to attain finality. Prima facie, it appears at this stage that the disciplinary proceedings cannot be drawn against the appellant to punish her for having passed the aforesaid order. In view of the aforesaid discussion, we are of the view that the respondents ought not to have been given liberty to proceed with the disciplinary proceedings against the appellant and to post her anywhere considering the facts that the disciplinary proceedings are pending against her.

20 Writ not entertained as impugned order was passed without violation of principles of natural justice

**Case Name : Kramski Stamping and Molding Indis Private Ltd.
Vs State Tax Officer (Int.) (Madras High Court)**

Appeal Number : W.P. No. 4217 of 2023

Date of Judgement/Order : 13/02/2023

Year : Courts : All High Courts (10089) Madras High Court (1116)

Madras High Court held that writ petition cannot be entertained as due procedure is followed by the department and there is no violation of principles of natural justice. Petitioner directed/ permitted to file a statutory appeal if aggrieved by the impugned order before the statutory Appellate Authority as per provisions of section 107 of G.S.T. Act.

Facts- This writ petition has been filed challenging the order dated 06.02.2023 passed by the respondent under Section 129 of the Goods and

Services Tax Act, 2017 under which the petitioner has been called upon to pay a penalty of Rs.47,79,721/-, within a period of seven days from the date of receipt of the impugned order, failing which, the respondent has informed the petitioner that action u/s. 130 of the GST Act, 2017 shall be initiated against them. The petitioner's vehicle along with its goods was intercepted by the respondent. The respondent has inspected the goods in movement under the provisions of sub-section 3 of Section 68 of the CGST Act, read with sub-section (3) of Section 68 of the State / Union Territory Goods and Services Tax Act. Based on the inspection report, the goods and conveyance used by the petitioner for the movement of the goods were detained under sub-section (1) of Section 129 of the Central Goods and Services Tax Act, 2017 read with sub-section (3) of Section 68 of the State / Union Territory Goods and Services Tax Act by issuing the order of detention in Form GST MOV-06 and the same was served on the person in charge of the conveyance on 01.02.2023. Under the impugned order, the petitioner has been directed to pay a penalty of Rs.47,79,721/-, forthwith not later than seven days from the date of receipt of the order, failing which, action under Section 130 of the G.S.T. Act, 2017 has been contemplated against the petitioner. Aggrieved by the impugned order, the petitioner has filed this writ petition seeking for release of the detained goods and conveyance.

Conclusion- Held that this Court cannot entertain this writ petition as principles of natural justice have not been violated by the respondent as only after giving them time to submit a reply and that too after the petitioner has submitted its reply, which is also considered by the respondent, the impugned order has been passed. READ MORE The only limited relief that can be granted to the petitioner is to permit them to file a statutory appeal, if aggrieved by the impugned order before the statutory Appellate Authority as per the provisions of Section 107 of G.S.T. Act, 2017 and a direction is issued to the statutory Appellate Authority as and when an appeal is filed by the petitioner to consider the petitioner's application seeking for provisional release under Section 129(1) of the G.S.T Act, 2017, after giving due consideration to the fact that the petitioner is willing to deposit the penalty amount as stipulated under the impugned order under protest for getting provisional release of the goods and the conveyance and take a decision, within a short time to prevent any further deterioration of the goods and conveyance.