GST UPDATE
(December, 2019)

Directorate of Training, Excise and Taxation Department, Punjab

ABSTRACT OF GST UPDATE

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(I) GIST OF GST NOTIFICATIONS

1. Extension of due dates

i. Due date for GSTR-3B of Nov'19 has been extended by 3 days, i.e. up to 23-Dec-19
ii. Due dates for filing **GSTR-1, GSTR-3B** and GSTR-7 for the tax payers of Jammu & Kashmir, for the months Jul'19-Oct'19 has been extended

The Due dates for filing GST returns for the registered persons whose principal place of business is in the State of Jammu and Kashmir has been extended as per below table:

Notification	Return	Related to	Period	Due date
63 & 64/2019	GSTR-1_Monthly	Persons with t/o > 1.5Crs	Jul'19-Oct'19	20-Dec-19
65/2019	GSTR-7_Monthly	All TDS reg.ns	Jul'19-Oct'19	20-Nov-19
66 & 67/2019	GSTR-3B_Monthly	All	Jul'19-Oct'19	20-Dec-19

iii. Due dates for filing GSTR-1, GSTR-3B and GSTR-7 for the tax payers of Assam, Manipur or Tripura, for the month Nov'19 has been extended

The Due dates for filing GST returns for the registered persons whose principal place of business is in the States Assam, Manipur or Tripura has been extended as per below table:

Notification	Return	Related to	Period	Due date
76/2019	GSTR-1 Monthly	Persons with t/o > 1.5 Crs	Nov'19	31-Dec-19
78 /2019	GSTR-7 Monthly	All TDS reg.ns	Jul'19-Oct'19	20-Nov-19
77/2019	GSTR-3B Monthly	All	Nov'19	31-Dec-19

2. E-Invoicing mandatory with effect from 1 April, 2020, if Aggregate turnover > 100Crs

i. What is the concept of E-invoicing and how it works?

Since the pattern of issuing the invoice and the terms used are varying from person to person, it is not possible to configure a system to read all such types of invoice.
Hence, the govt. has come up with an idea of Schema for the invoice and E invoicing.

Accordingly, all the suppliers are required to mention the invoice details in the given form and length (i.e. as per Schema – FORM GST INV-01).
To ensure the same, they would validate the invoices upfront and issue an IRN. The validation includes validation of GSTINs for correctness and other details to check if the same are in line with the schema provided through FORM INV-01.
Further, this would also help the govt to curb the fake invoices.
Although there are multiple circulations on this subject, is not very clear as to how this works practically. Theoretically, below are the three steps involved in the processing:

ii. Whom it is applicable?
Persons with aggregate turnover exceeding 100 crores in a FY should issue invoice by including such particulars contained in FORM GST INV-01.
And the Invoice Reference Number (IRN) should be obtained electronically, for each of the invoices, by providing relevant information

iii. Further, QR code also has been made mandatory for B2C invoices issued by persons with Aggregate turnover exceeding 500 crores

iv. The tax payers can adopt this on voluntary basis, as per the timelines below:
a. Turnover of over ₹500 crore – from 1 Jan, 2020
b. Turnover of over ₹100 crore – from 1 Feb, 2020

v. Following are the portals for submitting details and generating IRN:
(i) www.einvoice1.gst.gov.in;
(ii) www.einvoice2.gst.gov.in;
……
(x) www.einvoice2.gst.gov.in;
Although it was planned to roll-out these portals from 1 Jan,2020, none them are working till date.

vi. The updated FORM INV-01 has been notified vide Notification No. 02/2020 – Central Tax Dated 01.01.2020

[Notification No. 68,69,70,71 and 72/2019-CT, Date: 13th Dec 2019]

3. Measures for improving the compliance with GSTR-1 and thereby the matching with GSTR-2A

As the department is insisting on matching of Input tax credit with GSTR-2A through rule 36(4), it has also started taking the measures for increasing compliance with GSTR-1 by the suppliers on the other hand.
i. Late fee for delay in GSTR-1 has been waived of for the GSTR-1 of Jul'17-Nov'19 filed b/w 19-Dec-19 to 10-Jan-20
The department has waived of the late filing fees for those missed to file GSTR-1s for any period from Jul'17-Nov'19 but filed between 19-Dec-19 to 10-Jan-20.
Although the provisions for late filing fee 25/10 per day are existing, the same was neither collected nor waived off. Since the waiver of late fee also doesn't talk about the returns already filed, the liability for the same still exists. Also, it appears that the department is in view of collecting late filing fees in the upcoming months.

[Notification No. 74/2019-CT, Date: 26th Dec 2019]

ii. New rule sub-rule 138E(c) has been inserted to authorize blocking of E-way bill for nonfiling of GSTR-1 for any 2 months/quarters

1. Earlier, vide rule 138E, the department has introduced the system of automated blocking of E-way bill facility for non-filing with consecutive GSTR-3Bs/CMP-08s
2. Now the same has been extended for non-compliance with GSTR-1 for any two months/quarters.

Since there is no restriction in the portal for filing GSTR-1s chronologically, missing of **any two** GSTR-1s would result in blocking of E-way bills. Whereas, for 3B, it is mentioned as consecutive returns.

[Notification No. 75/2019-CT, Date: 26-Dec-19]

4. New rule 86A has been inserted to authorize the officers to restrict the usage of credit in Electronic credit ledger

New rule 86A has been inserted to authorize the commissioners to block the credit utilization of the credit i.e **fraudulently availed or ineligible,** for discharging any liability, subject to the conditions specified.

Below are the situations in which the commissioner can block the credit utilization:

1. Supplier/ Person availing credit (Recipient) found to be non-existent or not to be conducting any business from the regd. premises
2. Supplier haven't paid the relevant tax to the govt.
3. Recipient is not in possession of Tax invoice/DNs
4. Recipient haven't received the goods or services
5. Person availing credit is found to be non-existent or not to be conducting any business from the regd. premises

Subject to the above conditions, if the commissioner has the reason to believe that the credit is **fraudulently availed or is ineligible**, then, after recording the reasons in writing, can block the credit.

The credit blocked shall be automatically released after expiry of one year from the date of blocking the same.

Further, to avoid miss use of such powers to the officers, it is specified that the commissioner can't authorize the persons below the rank of Assistant commissioner.

[Notification No. 75/2019-CT Date: 26th Dec 2019]

5. Ab-initio withdrawal of the Circular No. 107/26/2019 dated 18.07.2019.

Circular 107/2019 issued for clarifying various doubts related to supply of Information Technology enabled Services (ITeS services) has been withdrawn.

[Circular no. 127/46/2019-CT, Date: 04th Dec 2019]

6. DIN made mandatory for all types of letters or notices, including Emails from CBIC

CBIC has mandated quoting of Document Identification Number **(DIN) on all the communications including E-mails** from its officers w.e.f. 24th Dec,2019.

Further, the board has also provided the standardized formats for the Search authorization, Summons, Arrest memos, Inspection notices issued by it's officers w.e.f. 01-Jan-2020.

[Circular No. 128/47/2019-CT, Date: 23rd Dec 2019]

7. SOP issued for officers to deal with non-filers

The board has also issued the standard operating procedure to be followed by its officers. The same has been summarized below.
1. 3 days prior to the due date of return – Automated reminder mail for filing return
2. If the return isn't filed by due date – 2 reminder
If the return isn't filed within 5 days from the due date – Notice in Form GSTR-3A shall be issued
Standard format for GSTR-3A has been prescribed in the circular, the same may be automatically issued to the tax payer, based on return filing status
If the return isn't filed within 15 days from the date of Notice – Order to pay tax arrived on the basis of information available in Form ASMT-13

Note:
1. No separate notice is required to be issued for best judgment assessment under section 62
2. For assessing the tax liability, the officer may consider GSTR-1, GSTR-2A and also the information gathered through inspection
3. Based on the facts of the case, the officer may resort to provisional attachment before issuing ASMT-13

i. If valid return is filed within 30 days from date of order, Order shall be deemed to be with drawn

[Circular No. 129/48/2019-CT, Date: 23rd Dec 2019]

8. RCM on renting of motor vehicles shall be applicable only for the cases where

i. The purpose of renting is for transportation of passengers
ii. Service provider is not a body corporate,
iii. Service recipient is Body corporate
iv. Service provider haven't opted to charge tax at 12%

In order to implement the 37 council meeting decision to charge GST for renting of **passenger transport** vehicles under RCM, **Notification No. 22/2019-CT(Rate) Date: 30th Sep 2019** has been issued to add new entry "15" in 13/2017, for levying GST under RCM on renting of motor vehicles to body corporate.
However, there were doubts raised w.r.t the drafting of the entry, where it says RCM is applicable for renting of any motor vehicle, if the supplier paying tax at 5%.
Hence, the department has amended the entry "15" vide **Notification No. 29/2019-CT (Rate)** for providing more clarity and also issued circular to explain the same.
Accordingly, the tax on renting of motor vehicles shall be liable under RCM only if the 4 conditions specified above are satisfied.
Further, the circular has clarified that, since the change in the entry is of clarificatory in nature, the effective date shall remain as 01-Oct-2019

[Notification No. 29/2019-CT(Rate), Date: 31st Dec 2019 and Circular No. 130/49/2019-CT, Date: 31st Dec 2019]

(II) PUNJAB GST NOTIFICATIONS/ORDERS

PART II

GOVERNMENT OF PUNJAB

DEPARTMENT OF LEGAL AND LEGISLATIVE AFFAIRS, PUNJAB

NOTIFICATION

The 31st December, 2019

No. 25-Leg./2019.–The following Ordinance of the Governor of Punjab, promulgated under clause (1) of article 213 of the Constitution of India on the 31st day of December, 2019, is hereby published for general information:–

THE PUNJAB GOODS AND SERVICES TAX (AMENDMENT) ORDINANCE, 2019

(Punjab Ordinance No. 5 of 2019)

AN

ORDINANCE

further to amend the Punjab Goods and Services Tax Act, 2017.

Promulgated by the Governor of Punjab in the Seventieth Year of the Republic of India.

Whereas, the Legislative Assembly of the State of Punjab is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Punjab is pleased to promulgate the following Ordinance, namely:-

1. (1) This Ordinance may be called the Punjab Goods and Services Tax (Amendment) Ordinance, 2019. Short title and commencement.

(2) Save as otherwise provided, the provisions of this Ordinance shall come into force on such date as the Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Ordinance and any reference in any such provision to the commencement of this Ordinance shall be construed as a reference to the coming into force of that provision.

2. In the Punjab Goods and Services Tax Act, 2017 (hereinafter referred to as the principal Act), in section 2, in clause (4), after the words and sign "the Appellate Authority for Advance Ruling,", the words and sign "the National Appellate Authority for Advance Ruling," shall be inserted; Amendment in section 2 of Punjab Act 5 of 2017.

3. In the principal Act, in section 10,— Amendment in section 10 of Punjab Act 5 of 2017.

(a) in sub-section (1), after the second proviso, the following Explanation shall be inserted, namely:—

"Explanation.—For the purposes of second proviso, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of

interest or discount shall not be taken into account for determining the value of turnover in the State.";

(b) in sub-section (2),—

(i) in clause (d), the word "and" occurring at the end shall be omitted;

(ii) in clause (e), for the word and sign "Council:", the words and sign "Council; and" shall be substituted;

(iii) after clause (e), the following clause shall be inserted, namely:–

"(f) he is neither a casual taxable person nor a non-resident taxable person:";

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Notwithstanding anything to the contrary contained in this Act, but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, not eligible to opt to pay tax under sub-section (1) and sub-section (2), whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding three per cent of the turnover in the State, if he is not,—

(a) engaged in making any supply of goods or services which are not leviable to tax under this Act;

(b) engaged in making any inter-State outward supplies of goods or services;

(c) engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52;

(d) a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and

(e) a casual taxable person or a non-resident taxable person:

Provided that where more than one registered person are having the same Permanent Account Number issued under the Income-tax Act, 1961, the registered person shall not be eligible to opt for the scheme under this sub-section unless all such registered persons opt to pay tax under this sub-section.";

(d) in sub-section (3), after the words, brackets and figure "under sub-section (1)" at both the places where they occur, the words,

brackets, figure and letter "or sub-section (2A), as the case may be," shall be inserted.

(e) in sub-section (4), after the words, brackets and figure "of sub-section (1)", the words, brackets, figure and letter "or, as the case may be, sub-section (2A)" shall be inserted.

(f) in sub-section (5), after the words, brackets and figure "under sub-section (1)", the words, brackets, figure and letter "or sub-section (2A), as the case may be," shall be inserted.

(g) after sub-section (5), the following Explanations shall be inserted, namely:—

'Explanation 1.—For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, the expression "aggregate turnover" shall include the value of supplies made by such person from the 1st day of April of a financial year up to the date when he becomes liable for registration under this Act, but shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Explanation 2.—For the purposes of determining the tax payable by a person under this section, the expression "turnover in State" shall not include the value of following supplies, namely:–

(i) supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act; and

(ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.'.

Amendment in section 22 of Punjab Act 5 of 2017.

4. In the principal Act, in section 22, in sub-section (1), after the second proviso, the following shall be inserted, namely:—

"Provided also that the Government may, on the recommendations of the Council, enhance the aggregate turnover from twenty lakh rupees to such amount not exceeding forty lakh rupees in case of supplier who is engaged exclusively in the supply of goods, subject to such conditions and limitations, as may be notified.

Explanation.—For the purposes of this sub-section, a person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.".

Amendment in section 25 of Punjab Act 5 of 2017.

5. In the principal Act, in section 25, after sub-section (6), the following sub-sections shall be inserted, namely:—

"(6A) Every registered person shall undergo authentication, or furnish proof of possession of Aadhaar number, in such form and manner and within such time as may be prescribed:

Provided that if an Aadhaar number is not assigned to the registered person, such person shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, prescribe:

Provided further that in case of failure to undergo authentication or furnish proof of possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of this Act shall apply as if such person does not have a registration.

(6B) On and from the date of notification, every individual shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number, in such manner as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that if an Aadhaar number is not assigned to an individual, such individual shall be offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6C) On and from the date of notification, every person, other than an individual, shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number of the Karta, Managing Director, whole time Director, such number of partners, Members of Managing Committee of Association, Board of Trustees, authorised representative, authorised signatory and such other class of persons, in such manner, as the Government may, on the recommendations of the Council, specify in the said notification:

Provided that where such person or class of persons have not been assigned the Aadhaar Number, such person or class of persons shall be

offered alternate and viable means of identification in such manner as the Government may, on the recommendations of the Council, specify in the said notification.

(6D) The provisions of sub-section (6A) or sub-section (6B) or sub-section (6C) shall not apply to such person or class of persons or part of the State, as the Government may, on the recommendations of the Council, specify by notification.

Explanation.—For the purposes of this section, the expression "Aadhaar number" shall have the same meaning as assigned to it in clause (a) of section 2 of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016.".

Insertion of new section 31A of Punjab Act 5 of 2017.

6. In the principal Act, after section 31, the following section shall be inserted, namely:—

"31A. Facility of digital payment to recipient. The Government may, on the recommendations of the Council, prescribe a class of registered persons who shall provide prescribed modes of electronic payment to the recipient of supply of goods or services or both made by him and give option to such recipient to make payment accordingly, in such manner and subject to such conditions and restrictions, as may be prescribed.".

Amendment in section 39 of Punjab Act 5 of 2017.

7. In the principal Act, in section 39,-

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

"(1) Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, a return, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars, in such form and manner, and within such time, as may be prescribed:

Provided that the Government may, on the recommendations of the Council, notify certain class of registered persons who shall furnish a return for every quarter or part thereof, subject to such conditions and restrictions as may be specified therein.

(2) A registered person paying tax under the provisions of

section 10, shall, for each financial year or part thereof, furnish a return, electronically, of turnover in the State, inward supplies of goods or services or both, tax payable, tax paid and such other particulars in such form and manner, and within such time, as may be prescribed.";

(b) for sub-section (7), the following sub-section shall be substituted, namely:—

"(7) Every registered person who is required to furnish a return under sub-section (1), other than the person referred to in the proviso thereto, or sub-section (3) or sub-section (5), shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return:

Provided that every registered person furnishing return under the proviso to sub-section (1) shall pay to the Government, the tax due taking into account inward and outward supplies of goods or services or both, input tax credit availed, tax payable and such other particulars during a month, in such form and manner, and within such time, as may be prescribed:

Provided further that every registered person furnishing return under sub-section (2) shall pay to the Government, the tax due taking into account turnover in the State, inward supplies of goods or services or both, tax payable, and such other particulars during a quarter, in such form and manner, and within such time, as may be prescribed.".

Amendment in section 44 of Punjab Act 5 of 2017.

8. In the principal Act, in section 44, in sub-section (1), for the sign ".", the sign ":" shall be substituted and thereafter following provisos shall be inserted, namely:—

"Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual return for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of Central tax shall be deemed to be notified by the Commissioner."

Amendment in section 49 of Punjab Act 5 of 2017.

9. In the principal Act, in section 49, after sub-section (9), the following sub-sections shall be added, namely:—

"(10) A registered person may, on the common portal, transfer any

amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under this Act, to the electronic cash ledger for integrated tax, central tax, State tax, or cess, in such form and manner and subject to such conditions and restrictions as may be prescribed and such transfer shall be deemed to be a refund from the electronic cash ledger under this Act.

(11) Where any amount has been transferred to the electronic cash ledger under this Act, the same shall be deemed to be deposited in the said ledger as provided in sub-section (1).".

Amendment in section 50 of Punjab Act 5 of 2017.

10. In the principal Act, in section 50, in sub-section (1), the following proviso shall be inserted, namely:—

"Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.".

Amendment in section 52 of Punjab Act 5 of 2017.

11. In the principal Act, in section 52, —

(a) in sub-section (4), for the sign ".", the sign ":" shall be substituted and thereafter following provisos shall be inserted, namely:—

"Provided that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing the statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of Central tax shall be deemed to be notified by the Commissioner.";

(b) in sub-section (5), for the sign ".", the sign ":" shall be substituted and thereafter following provisos shall be inserted, namely:—

"Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual statement for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of Central tax shall be deemed to be notified by the Commissioner.".

Insertion of new section 53A of Punjab Act 5 of 2017.

12. In the principal Act, after section 53, the following section shall be inserted, namely:—

"53A. Where any amount has been transferred from the electronic cash ledger under this Act to the electronic cash ledger for central tax or integrated tax or cess, the Government shall, transfer to the central tax account or the integrated tax account or cess account, an amount equal to the amount transferred from the electronic cash ledger, in such manner and within such time as may be prescribed.".

Transfer of certain amounts.

Amendment in section 54 of Punjab Act 5 of 2017.

13. In the principal Act, in section 54, after sub-section (8), the following sub-section shall be inserted, namely:—

"(8A) Where the Central Government has disbursed the refund of the State tax, the Government shall transfer an amount equal to the amount so refunded, to the Central Government.".

Amendment in section 95 of Punjab Act 5 of 2017.

14. In the principal Act, in section 95,—

(i) in clause (a),—

(a) after the words "Appellate Authority", the words "or the National Appellate Authority" shall be inserted;

(b) after the words and figures "of section 100", the words, figures and letter "or of section 101C" shall be inserted;

(ii) after clause (e), the following clause shall be added, namely:—

'(f) "National Appellate Authority" means the National Appellate Authority for Advance Ruling referred to in section 101A.'.

Insertion of new section 101A, 101B and 101C of Punjab Act 5 of 2017.

15. In the principal Act, after section 101, the following sections shall be inserted, namely:—

"101A. Subject to the provisions of this Chapter, for the purposes of this Act, the National Appellate Authority for Advance Ruling constituted under section 101A of Central Goods and Services Tax Act, 2017 shall be deemed to be the National Appellate Authority for Advance Ruling under this Act.

National Appellate Authority for Advance Ruling under the Central Goods and Services Tax Act, 2017 shall be Appellate Authority under this Act.

101B. (1) Where, in respect of the questions referred to in sub-section (2) of section 97, conflicting Advance Rulings are given by the Appellate Authorities of two or more States or Union territories or both under sub-section (1) or sub

Appeal to National Appellate Authority.

section (3) of section 101, any officer authorised by the Commissioner or an applicant, being distinct person referred to in section 25 aggrieved by such Advance Ruling, may prefer an appeal to National Appellate Authority:

Provided that the officer shall be from the States in which such Advance Rulings have been given.

(2) Every appeal under this section shall be filed within a period of thirty days from the date on which the ruling sought to be appealed against is communicated to the applicants, concerned officers and jurisdictional officers:

Provided that the officer authorised by the Commissioner may file appeal within a period of ninety days from the date on which the ruling sought to be appealed against is communicated to the concerned officer or the jurisdictional officer:

Provided further that the National Appellate Authority may, if it is satisfied that the appellant was prevented by a sufficient cause from presenting the appeal within the said period of thirty days, or as the case may be, ninety days, allow such appeal to be presented within a further period not exceeding thirty days.

Explanation.—For removal of doubts, it is clarified that the period of thirty days or as the case may be, ninety days shall be counted from the date of communication of the last of the conflicting rulings sought to be appealed against.

(3) Every appeal under this section shall be in such form, accompanied by such fee and verified in such manner as may be prescribed.

101C. Order of National Appellate Authority.

(1) The National Appellate Authority may, after giving an opportunity of being heard to the applicant, the officer authorised by the Commissioner, all Principal Chief Commissioners, Chief Commissioners of Central tax and Chief Commissioner and Commissioner of State tax of all States and Chief Commissioner and Commissioner of Union territory tax of all Union territories, pass such order as it thinks fit, confirming or modifying the rulings appealed against.

(2) If the members of the National Appellate Authority differ in opinion on any point, it shall be decided according to the opinion of the majority.

(3) The order referred to in sub-section (1) shall be passed as far as possible within a period of ninety days from the date of filing of the appeal under section 101B.

(4) A copy of the Advance Ruling pronounced by the National Appellate

Authority shall be duly signed by the Members and certified in such manner as may be prescribed and shall be sent to the applicant, the officer authorised by the Commissioner, the Board, the Chief Commissioner and Commissioner of State tax of all States and Chief Commissioner and Commissioner of Union territory tax of all Union territories and to the Authority or Appellate Authority, as the case may be, after such pronouncement.".

Amendment in section 102 of Punjab Act 5 of 2017.

16. In the principal Act, in section 102, in the opening portion,—

(a) after the words "Appellate Authority", at both the places where they occur, the words "or the National Appellate Authority" shall be inserted;

(b) after the words and figures "or section 101", the words, figures and letter "or section 101C, respectively," shall be inserted;

(c) for the words "or the appellant", the words ",appellant, the Authority or the Appellate Authority" shall be substituted.

Amendment in section 103 of Punjab Act 5 of 2017.

17. In the principal Act, in section 103, -

(i) after sub-section (1), the following sub-section shall be inserted, namely:–

"(1A) The Advance Ruling pronounced by the National Appellate Authority under this Chapter shall be binding on—

(a) the applicants, being distinct persons, who had sought the ruling under sub-section (1) of section 101B and all registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961;

(b) the concerned officers and the jurisdictional officers in respect of the applicants referred to in clause (a) and the registered persons having the same Permanent Account Number issued under the Income-tax Act, 1961.";

(ii) in sub-section (2), after the words, brackets and figure "in sub-section (1)", the words, brackets, figure and letter "and sub-section (1A)" shall be inserted.

Amendment in section 104 of Punjab Act 5 of 2017.

18. In the principal Act, in section 104, in sub-section (1),—

(a) after the words "Authority or the Appellate Authority", the words "or the National Appellate Authority" shall be inserted;

(b) after the words and figures "of section 101", the words, figures and letter "or under section 101C" shall be inserted.

19. In the principal Act, in section 105, - Amendment in section 105 of Punjab Act 5 of 2017.

(a) in the marginal heading, the following marginal heading shall be substituted, namely:—

"Powers of Authority, Appellate Authority and National Appellate Authority.";

(b) in sub-section (1), after the words "Appellate Authority", the words "or the National Appellate Authority" shall be inserted;

(c) in sub-section (2), after the words "Appellate Authority", the words "or the National Appellate Authority" shall be inserted.

20. In the principal Act, in section 106, - Amendment in section 106 of Punjab Act 5 of 2017.

(a) for the marginal heading, the following marginal heading shall be substituted, namely:—

"Procedure of Authority, Appellate Authority and National Appellate Authority.";

(b) after the words "Appellate Authority", the words "or the National Appellate Authority" shall be inserted.

21. In the principal Act, in section 171, after sub-section (3), the following sub-sections shall be inserted, namely:— Amendment in section 171 of Punjab Act 5 of 2017.

'(3A) Where the Authority referred to in sub-section (2), after holding examination as required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty equivalent to ten per cent of the amount so profiteered:

Provided that no penalty shall be leviable if the profiteered amount is deposited within thirty days of the date of passing of the order by the Authority.

Explanation.—For the purposes of this section, the expression "profiteered" shall mean the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit

to the recipient by way of commensurate reduction in the price of the goods or services or both.'.

V.P. SINGH BADNORE,
GOVERNOR OF PUNJAB.

S.K. AGGARWAL,
Secretary to Government of Punjab,
Department of Legal and Legislative Affairs.

1936/12-2019/Pb. Govt. Press, S.A.S. Nagar

(III) CENTRAL TAX NOTIFICATIONS

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

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs
Notification No. 63/2019 – Central Tax

New Delhi, the 12th December, 2019

G.S.R.....(E).–In exercise of the powers conferred by second proviso to sub-section (1) of section 37 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Commissioner, on the recommendations of the Council, hereby makes the following further amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No.28/2019 – Central Tax, dated the 28th June, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.454(E), dated the 28th June, 2019, namely:–

In the said notification, for the proviso to the first paragraph, the following proviso shall be substituted, namely: –

"Provided that for registered persons whose principal place of business is in the State of Jammu and Kashmir, the time limit for furnishing the details of outward supplies in **FORM GSTR-1** of Central Goods and Services Tax Rules, 2017, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or current financial year, for each of the months from July, 2019 to September, 2019 till 20th December, 2019."

2. This notification shall be deemed to come into force with effect from the 30th Day of November, 2019.

[F. No. 20/06/09/2019-GST]

(Ruchi Bisht)
Under Secretary to the Government of India

Note: The principal notification No. 28/2019 – Central Tax, dated the 28th June, 2019 was published in the Gazette of India, Extraordinary vide number G.S.R. 454(E), dated the 28th June, 2019 and was last amended by notification No. 57/2019 – Central Tax, dated the 26th November, 2019, published in the Gazette of India, Extraordinary vide number G.S.R. 874(E), dated the 26th November, 2019.

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

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs
Notification No. 64/2019 – Central Tax

New Delhi, the 12th December, 2019

G.S.R.....(E).–In exercise of the powers conferred by second proviso to sub-section (1) of section 37 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Commissioner, on the recommendations of the Council, hereby makes the following further amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No.46/2019 – Central Tax, dated the 9th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.769(E), dated the 09th October, 2019, namely:–

In the said notification, for the proviso to the first paragraph, the following proviso shall be substituted, namely: –

"Provided that for registered persons whose principal place of business is in the State of Jammu and Kashmir, the time limit for furnishing the details of outward supplies in **FORM GSTR-1** of Central Goods and Services Tax Rules, 2017, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or current financial year, for the month of October, 2019 till 20th December, 2019."

2. This notification shall be deemed to come into force with effect from the 30th Day of November, 2019.

[F. No. 20/06/09/2019-GST]

(Ruchi Bisht)
Under Secretary to the Government of India

Note: The principal notification No. 46/2019 – Central Tax, dated the 09th October, 2019 was published in the Gazette of India, Extraordinary vide number G.S.R. 769(E), dated the 09th October, 2019 and was last amended by notification No. 58/2019 – Central Tax, dated the 26th November, 2019, published in the Gazette of India, Extraordinary vide number G.S.R. 875(E), dated the 26th November, 2019.

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

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs
Notification No. 65/2019 – Central Tax

New Delhi, the 12th December, 2019

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

In the said notification, in the first paragraph, for the third proviso, the following proviso shall be substituted, namely: –

"Provided also that the return by a registered person, required to deduct tax at source under the provisions of section 51 of the said Act in **FORM GSTR-7** of the Central Goods and Services Tax Rules, 2017 under sub-section (3) of section 39 of the said Act read with rule 66 of the Central Goods and Services Tax Rules, 2017, for the months of July, 2019 to October,2019, whose principal place of business is in the State of Jammu and Kashmir shall be furnished electronically through the common portal, on or before the 20th December, 2019."

2. This notification shall be deemed to come into force with effect from the 30th Day of November, 2019.

[F. No. 20/06/09/2019-GST]

(Ruchi Bisht)
Under Secretary to the Government of India

Note: The principal notification No. 26/2019 – Central Tax, dated the 28th June, 2019 was published in the Gazette of India, Extraordinary vide number G.S.R. 452(E), dated the 28th June, 2019 and was last amended by notification No. 59/2019 – Central Tax, dated the 26th November, 2019, published in the Gazette of India, Extraordinary vide number G.S.R. 876(E), dated the 26th November, 2019.

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

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs
Notification No. 66/2019 – Central Tax

New Delhi, the 12th December, 2019

G.S.R.....(E).–In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017 (hereafter in this notification referred to as the said rules), the Commissioner, on the recommendations of the Council, hereby makes the following further amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No.29/2019 – Central Tax, dated the 28th June, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.455(E), dated the 28th June, 2019, namely:–

In the said notification, in the first paragraph, for the fourth proviso, the following proviso shall be substituted, namely: –

"Provided also that the return in **FORM GSTR-3B** of the said rules for the months of July to September, 2019 for registered persons whose principal place of business is in the State of Jammu and Kashmir, shall be furnished electronically through the common portal, on or before the 20th December, 2019."

2. This notification shall be deemed to come into force with effect from the 30th Day of November, 2019.

[F. No. 20/06/09/2019-GST]

(Ruchi Bisht)
Under Secretary to the Government of India

Note: The principal notification No. 29/2019 – Central Tax, dated the 28th June, 2019 was published in the Gazette of India, Extraordinary vide number G.S.R. 455(E), dated the 28th June, 2019 and was last amended by notification No. 60/2019 – Central Tax, dated the 26th November, 2019, published in the Gazette of India, Extraordinary vide number G.S.R. 877(E), dated the 26th November, 2019.

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

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs
Notification No. 67/2019 – Central Tax

New Delhi, the 12th December, 2019

G.S.R.....(E).–In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017 (hereafter in this notification referred to as the said rules), the Commissioner, on the recommendations of the Council, hereby makes the following further amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No.44/2019 – Central Tax, dated the 09th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.767(E), dated the 09th October, 2019, namely:–

In the said notification, for the proviso to the first paragraph, the following proviso shall be substituted, namely: –

"Provided that the return in **FORM GSTR-3B** of the said rules for the month of October, 2019 for registered persons whose principal place of business is in the State of Jammu and Kashmir, shall be furnished electronically through the common portal, on or before the 20th December, 2019."

2. This notification shall be deemed to come into force with effect from the 30th Day of November, 2019.

[F. No. 20/06/09/2019-GST]

(Ruchi Bisht)
Under Secretary to the Government of India

Note: The principal notification No. 44/2019 – Central Tax, dated the 09th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.767(E), dated the 09th October, 2019 and was last amended by notification No. 61/2019 – Central Tax, dated the 26th November, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.878(E), dated the 26th November, 2019.

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

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

Notification No. 68/2019 – Central Tax

New Delhi, the 13th December, 2019

G.S.R……(E). - In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely:-

1. (1) These rules may be called the Central Goods and Services Tax (Eighth Amendment) Rules, 2019.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), in rule 48, after sub-rule (3), the following sub-rules shall be inserted, namely:-

"(4) The invoice shall be prepared by such class of registered persons as may be notified by the Government, on the recommendations of the Council, by including such particulars contained in **FORM GST INV-01** after obtaining an Invoice Reference Number by uploading information contained therein on the Common Goods and Services Tax Electronic Portal in such manner and subject to such conditions and restrictions as may be specified in the notification.

(5) Every invoice issued by a person to whom sub-rule (4) applies in any manner other than the manner specified in the said sub-rule shall not be treated as an invoice.

(6) The provisions of sub-rules (1) and (2) shall not apply to an invoice prepared in the manner specified in sub-rule (4).".

[F. No. 20/13/01/2019-GST]

(Ruchi Bisht)
Under Secretary to the Government of India

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II,Section 3, Sub-section (i) vide notification No. 3/2017-Central Tax, dated the 19th June, 2017, published vide number G.S.R. 610 (E), dated the 19th June, 2017 and last amended

vide notification No. 56/2019 - Central Tax, dated the 14th November, 2019, published vide number G.S.R. 845 (E), dated the 14th November, 2019.

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

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

Notification No. 69/2019 – Central Tax

New Delhi, the 13th December, 2019

G.S.R....(E).- In exercise of the powers conferred by section 146 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with sub-rule(4) of rule 48 of the Central Goods and Services Tax Rules, 2017 and section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Government, on the recommendations of the Council, hereby, notifies the following as the Common Goods and Services Tax Electronic Portal for the purpose of preparation of the invoice in terms of sub-rule(4) of rule 48 of the aforesaid rules, namely:-

(i) www.einvoice1.gst.gov.in;
(ii) www.einvoice2.gst.gov.in;
(iii) www.einvoice3.gst.gov.in;
(iv) www.einvoice4.gst.gov.in;
(v) www.einvoice5.gst.gov.in;
(vi) www.einvoice6.gst.gov.in;
(vii) www.einvoice7.gst.gov.in;
(viii) www.einvoice8.gst.gov.in;
(ix) www.einvoice9.gst.gov.in;
(x) www.einvoice10.gst.gov.in.

Explanation.-For the purposes of this notification, the above mentioned websites mean the websites managed by the Goods and Services Tax Network, a company incorporated under the provisions of section 8 of the Companies Act, 2013 (18 of 2013).

2. This notification shall come into force with effect from the 1st day of January, 2020.

[F. No. 20/13/01/2019-GST]

(Ruchi Bisht)

Under Secretary to the Government of India

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

Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
Notification No. 70/2019 – Central Tax

New Delhi, the 13th December, 2019

G.S.R. …..(E).— In exercise of the powers conferred by sub-rule (4) to rule 48 of the Central Goods and Services Tax Rules, 2017, the Government, on the recommendations of the Council, hereby notifies registered person, whose aggregate turnover in a financial year exceeds one hundred crore rupees, as a class of registered person who shall prepare invoice in terms of sub-rule (4) of rule 48 of the said rules in respect of supply of goods or services or both to a registered person.

3. This notification shall come into force from the 1st day of April, 2020.

[F. No. 20/13/01/2019-GST]

(Ruchi Bisht)
Under Secretary to the Government of India

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

Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
Notification No. 71/2019 – Central Tax

New Delhi, the 13th December, 2019

G.S.R. …..(E).— In exercise of the powers conferred by rule 5 of the Central Goods and Services Tax (Fourth Amendment) Rules, 2019, made vide notification No. 31/2019 – Central Tax, dated the 28th June, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 457(E), dated the 28th June,2019, the Government, on the recommendations of the Council, hereby appoints the 1st day of April, 2020, as the date from which the provisions of the said rule, shall come into force.

[F. No. 20/13/01/2019-GST]

(Ruchi Bisht)

Under Secretary to the Government of India

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

Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
Notification No. 72/2019 – Central Tax

New Delhi, the 13th December, 2019

G.S.R. …..(E).— In exercise of the powers conferred by the sixth proviso to rule 46 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), the Government, on the recommendations of the Council, hereby notifies that an invoice issued by a registered person, whose aggregate turnover in a financial year exceeds five hundred crore rupees, to an unregistered person (hereinafter referred to as B2C invoice), shall have Quick Response (QR)code:

Provided that where such registered person makes a Dynamic Quick Response (QR) code available to the recipient through a digital display, such B2C invoice issued by such registered person containing cross-reference of the payment using a Dynamic Quick Response (QR) code, shall be deemed to be having Quick Response (QR) code.

2. This notification shall come into force from the 1st day of April, 2020.

[F. No. 20/13/01/2019-GST]

(Ruchi Bisht)
Under Secretary to the Government of India

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

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

Notification No. 73/2019 – Central Tax

New Delhi, the 23rd December, 2019

G.S.R.....(E).–In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017 (hereafter in this notification referred to as the said rules), the Commissioner, on the recommendations of the Council, hereby makes the following further amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 44/2019 – Central Tax, dated the 09th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.767(E), dated the 09th October, 2019, namely:–

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

"Provided further that the return in **FORM GSTR-3B** of the said rules for the month of November, 2019 shall be furnished electronically through the common portal, on or before the 23rd December, 2019."

2. This notification shall be deemed to have come into force with effect from the 20th Day of December, 2019.

[F. No. CBEC/20/06/07/2019 - GST(Part-I)]

(Ruchi Bisht)
Under Secretary to the Government of India

Note: The principal notification No. 44/2019 – Central Tax, dated the 09th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.767(E), dated the 09th October, 2019 and was last amended by notification No. 67/2019 – Central Tax, dated the 12th December, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.911(E), dated the 12th December, 2019.

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

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

Notification No. 74/2019 – Central Tax

New Delhi, the 26th December, 2019

G.S.R.....(E),– In exercise of the powers conferred by section 128 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 4/2018– Central Tax, dated the 23rd January, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 53(E), dated the 23rd January, 2018, namely:–

In the said notification, after the second proviso, the following proviso shall be inserted, namely:–

"Provided also that the amount of late fee payable under section 47 of the said Act shall stand waived for the registered persons who failed to furnish the details of outward supplies in **FORM GSTR-1** for the months/quarters from July, 2017 to November, 2019 by the due date but furnishes the said details in **FORM GSTR-1** between the period from 19th December, 2019 to 10th January, 2020.".

2. This notification shall be deemed to have come into force with effect from the 19th day of December, 2019.

[F.No.20/06/09/2019-GST]

(Ruchi Bisht)
Under Secretary to the Government of India

Note: The principal notification No. 4/2018-Central Tax, dated 23rd January, 2018 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 53(E), dated the 23rd January, 2018 and was subsequently amended by notification No. 75/2018-Central Tax, dated the 31st December, 2018, published in the Gazette of India, Extraordinary, *vide* number G.S.R. 1252(E), dated the 31st December, 2018.

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

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

Notification No. 75/2019 – Central Tax

New Delhi, the 26th December, 2019

G.S.R…(E). - In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely:-

1. (1) These rules may be called the Central Goods and Services Tax (Ninth Amendment) Rules, 2019.

(2) Save as otherwise provided, they shall come into force on the date of their publication in the Official Gazette.

2. In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), with effect from the 1st January, 2020, in rule 36, in sub-rule (4), for the figures and words "20 per cent.", the figures and words "10 per cent." shall be substituted.

3. In the said rules, after rule 86, the following rule shall be inserted, namely:-

"**86A. Conditions of use of amount available in electronic credit ledger.-**

(1) The Commissioner or an officer authorised by him in this behalf, not below the rank of an Assistant Commissioner, having reasons to believe that credit of input tax available in the electronic credit ledger has been fraudulently availed or is ineligible in as much as-

a) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36-
   i. issued by a registered person who has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or
   ii. without receipt of goods or services or both; or
b) the credit of input tax has been availed on the strength of tax invoices or debit notes or any other document prescribed under rule 36 in respect of any supply, the tax charged in respect of which has not been paid to the Government; or

c) the registered person availing the credit of input tax has been found non-existent or not to be conducting any business from any place for which registration has been obtained; or

d) the registered person availing any credit of input tax is not in possession of a tax invoice or debit note or any other document prescribed under rule 36,

may, for reasons to be recorded in writing, not allow debit of an amount equivalent to such credit in electronic credit ledger for discharge of any liability under section 49 or for claim of any refund of any unutilised amount.

(2)The Commissioner, or the officer authorised by him under sub-rule (1) may, upon being satisfied that conditions for disallowing debit of electronic credit ledger as above, no longer exist, allow such debit.

(3) Such restriction shall cease to have effect after the expiry of a period of one year from the date of imposing such restriction.".

4. In the said rules, with effect from the 11th January, 2020, in rule 138E, after clause (b), the following clause shall be inserted, namely:-

"(c) being a person other than a person specified in clause (a), has not furnished the statement of outward supplies for any two months or quarters, as the case may be.".

[F.No.20/06/09/2019-GST]

(Ruchi Bisht)
Under Secretary to the Government of India

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide notification No. 3/2017-Central Tax, dated the 19th June, 2017, published vide number G.S.R. 610(E), dated the 19th June, 2017 and last amended vide notification No. 68/2019 - Central Tax, dated the 13th December, 2019, published vide number G.S.R. 924(E), dated the 13th December, 2019.

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

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

Notification No. 76/2019 – Central Tax

New Delhi, the 26th December, 2019

G.S.R.....(E).–In exercise of the powers conferred by second proviso to sub-section (1) of section 37 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Commissioner, on the recommendations of the Council, hereby makes the following further amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No.46/2019 – Central Tax, dated the 9th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 769(E), dated the 09th October, 2019, namely:–

In the said notification, in the first paragraph, after the proviso, the following proviso shall be inserted, namely: –

"Provided that for registered persons whose principal place of business is in the State of Assam, Manipur or Tripura, the time limit for furnishing the details of outward supplies in **FORM GSTR-1** of Central Goods and Services Tax Rules, 2017, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or current financial year, for the month of November, 2019 till 31st December, 2019."

2. This notification shall be deemed to come into force with effect from the 11th Day of December, 2019.

[F.No.20/06/09/2019-GST]

(Ruchi Bisht)
Under Secretary to the Government of India

Note: The principal notification No. 46/2019 – Central Tax, dated the 09th October, 2019 was published in the Gazette of India, Extraordinary vide number G.S.R. 769(E), dated the 09th October, 2019 and was last amended by notification No. 64/2019 – Central Tax, dated the12th December, 2019, published in the Gazette of India, Extraordinary vide number G.S.R. 908(E), dated the 12th December, 2019.

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

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

Notification No. 77/2019 – Central Tax

New Delhi, the 26th December, 2019

G.S.R.....(E).–In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017 (hereafter in this notification referred to as the said rules), the Commissioner, on the recommendations of the Council, hereby makes the following further amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 44/2019 – Central Tax, dated the 09th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.767(E), dated the 09th October, 2019, namely:–

In the first paragraph of the said notification, after the second proviso, the following proviso shall be inserted, namely: –

"Provided also that the return in **FORM GSTR-3B** of the said rules for the month of November, 2019 for registered persons whose principal place of business is in the State of Assam, Manipur, Meghalaya or Tripura, shall be furnished electronically through the common portal, on or before the 31st December, 2019."

2. This notification shall be deemed to have come into force with effect from the 23rd day of December, 2019.

[F.No.20/06/09/2019-GST]

(Ruchi Bisht)
Under Secretary to the Government of India

Note: The principal notification No. 44/2019 – Central Tax, dated the 09th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.767(E), dated the 09th October, 2019 and was last amended by notification No. 73/2019 – Central Tax, dated the 23rd December, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.943(E), dated the 23rd December, 2019.

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

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

Notification No. 78/2019 – Central Tax

New Delhi, the 26th December, 2019

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

In the said notification, in the first paragraph, after the third proviso, the following proviso shall be inserted, namely: –

"Provided also that the return by a registered person, required to deduct tax at source under the provisions of section 51 of the said Act in **FORM GSTR-7** of the Central Goods and Services Tax Rules, 2017 under sub-section (3) of section 39 of the said Act read with rule 66 of the Central Goods and Services Tax Rules, 2017, for the month of November, 2019, whose principal place of business is in the State of Assam, Manipur or Tripura, shall be furnished electronically through the common portal, on or before the 25th December, 2019.".

2. This notification shall be deemed to have come into force with effect from the 10th Day of December, 2019.

[F.No.20/06/09/2019-GST]

(Ruchi Bisht)
Under Secretary to the Government of India

Note: The principal notification No. 26/2019 – Central Tax, dated the 28th June, 2019 was published in the Gazette of India, Extraordinary vide number G.S.R. 452(E), dated the 28th June, 2019 and was last amended by notification No. 65/2019 – Central Tax, dated the 12th December, 2019, published in the Gazette of India, Extraordinary vide number G.S.R. 909(E), dated the 12th December, 2019.

(IV) CENTRAL TAX (RATE) NOTIFICATIONS

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

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(Department of Revenue)

Notification No.27/2019-Central Tax (Rate)

New Delhi, the 30th December, 2019

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 9 and sub-section (5) of section 15 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.1/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 673(E), dated the 28th June, 2017, namely:-

In the said notification, -

(a) in Schedule II - 6%, serial numbers 80AA and 171A and the entries relating thereto shall be omitted;

(b) in Schedule III - 9%, after serial number 163A and the entries relating thereto, the following serial numbers and entries shall be inserted, namely: -

"163B	3923 or 6305	Woven and non-woven bags and sacks of polyethylene or polypropylene strips or the like, whether or not laminated, of a kind used for packing of goods;
163C	6305 32 00	Flexible intermediate bulk containers".

2. This notification shall come into force on the 1st day of January, 2020.

[F.No.354/201/2019-TRU]

(Gunjan Kumar Verma)
Under Secretary to the Government of India

Note: - The principal notification No.1/2017-Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 673(E), dated the 28th June, 2017 and was last amended by notification No. 14/2019-Central Tax(Rate), dated the 30th September, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number GSR 709(E), dated the 30th September, 2019.

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

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 28 /2019- Central Tax (Rate)

New Delhi, the 31st December, 2019

G.S.R.....(E).- In exercise of the powers conferred by sub-section (3) and sub-section (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.12/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 691(E), dated the 28th June, 2017, namely:-

In the said notification, in the Table, against serial number 41, -

(a) in column (3), for the figure "50", at both the places where they occur, the figure "20 " shall be substituted;
(b) for the entry in column (5), the following entries shall be substituted, namely, -

(5)
"Provided that the leased plots shall be used for the purpose for which they are allotted, that is, for industrial or financial activity in an industrial or financial business area: Provided further that the State Government concerned shall monitor and enforce the above condition as per the order issued by the State Government in this regard: Provided also that in case of any violation or subsequent change of land use, due to any reason whatsoever, the original lessor, original lessee as well as any subsequent lessee or buyer or owner shall be jointly and severally liable to pay such amount of central tax, as would have been payable on the upfront amount charged for the long term lease of the plots but for the exemption contained herein, along with the applicable interest and penalty: Provided also that the lease agreement entered into by the original lessor with the original lessee or subsequent lessee, or sub- lessee, as well as any subsequent lease or sale agreements, for lease or sale of such plots to subsequent lessees or buyers or owners shall incorporate in the terms and conditions, the fact that the central tax was exempted on the long term lease of the plots by the original lessor to the original lessee subject to above

condition and that the parties to the said agreements undertake to comply with the same.".

2. This notification shall come into force with effect from the 1st day of January, 2020.

[F. No. 354/204/2019- TRU]

(Ruchi Bisht)
Under Secretary to the Government of India

Note: -The principal notification No. 12/2017 - Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 691 (E), dated the 28th June, 2017 and was last amended by notification No. 21/2019 - Central Tax (Rate), dated the 30th September, 2019 *vide* number G.S.R. 734 (E), dated the 30th September, 2019.

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

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 29/2019- Central Tax (Rate)

New Delhi, the 31st December, 2019

GSR.....(E).- In exercise of the powers conferred by sub-section (3) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.13/2017- Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 692(E), dated the 28th June, 2017, namely:-

In the said notification, in the Table, for serial number 15 and the entries relating thereto, the following shall be substituted, namely: -

(1)	(2)	(3)	(4)
"15	Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate.	Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging central tax at the rate of 6 per cent. to the service recipient	Any body corporate located in the taxable territory.".

[F. No.354/204/2019 -TRU]

(Ruchi Bisht)
Under Secretary to the Government of India

Note: -The principal notification No. 13/2017 - Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 692 (E), dated the 28th June, 2017 and was last amended by notification No. 22/2019 - Central Tax (Rate), dated the 30th September, 2019 *vide* number G.S.R. 737(E), dated the 30th September, 2019.

(V) IGST TAX (RATE) NOTIFICATIONS

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

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(Department of Revenue)

Notification No.26/2019-Integrated Tax (Rate)

New Delhi, the 30th December, 2019

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) read with sub-section (5) of section 15 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.1/2017- Integrated Tax (Rate), dated the 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 28th June, 2017, namely:-

In the said notification, -

(a) in Schedule II - 12%, serial numbers 80AA and 171A and the entries relating thereto shall be omitted;

(b) in Schedule III - 18%, after serial number 163A and the entries relating thereto, the following serial numbers and entries shall be inserted, namely: -

"163B	3923 or 6305	Woven and non-woven bags and sacks of polyethylene or polypropylene strips or the like, whether or not laminated, of a kind used for packing of goods;
163C	6305 32 00	Flexible intermediate bulk containers".

2. This notification shall come into force on the 1st day of January, 2020.

[F.No.354/201/2019-TRU]

(Gunjan Kumar Verma)
Under Secretary to the Government of India

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. 14/2019-Integrated Tax (Rate), dated the 30th September, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 710(E), dated the 30th September, 2019.

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

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 27/2019- Integrated Tax (Rate)

New Delhi, the 31st December, 2019

G.S.R.....(E).- In exercise of the powers conferred by sub-section (3) and sub-section (4) of section 5, sub-section (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 amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue) No.9/2017- Integrated Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 684 (E), dated the 28th June, 2017, namely:-

In the said notification, in the Table, against serial number 43, -

(a) in column (3), for the figure "50", at both the places where they occur, the figure "20 " shall be substituted;
(b) for the entry in column (5), the following entries shall be substituted, namely, -

(5)
"Provided that the leased plots shall be used for the purpose for which they are allotted, that is, for industrial or financial activity in an industrial or financial business area: Provided also that the State Government concerned shall monitor and enforce the above condition, as per the order issued by the State Government in this regard: Provided further that in case of any violation or subsequent change of land use, due to any reason whatsoever, the original lessor, original lessee as well as any subsequent lessee or buyer or owner shall be jointly and severally liable to pay such amount of integrated tax, as would have been payable on the upfront amount charged for the long term lease of the plots but for the exemption contained herein, along with the applicable interest and penalty: Provided also that the lease agreement entered into by the original lessor with the original lessee or subsequent lessee, or sub- lessee, as well as any subsequent lease or sale agreements, for lease or sale of such plots to subsequent lessees or buyers or owners shall incorporate in the terms and conditions, the fact that the integrated tax was exempted on the long term lease of the plots by the original lessor to the original lessee subject to above

condition and that the parties to the said agreements undertake to comply with the same.".

2. This notification shall come into force with effect from the 1st day of January, 2020.

[F. No. 354/204/2019- TRU]

(Ruchi Bisht)
Under Secretary to the Government of India

Note: -The principal notification No. 9/2017 - Integrated Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, vide number G.S.R. 684 (E), dated the 28th June, 2017 and was last amended by notification No. 20/2019 – Integrated Tax (Rate), dated the 30th September, 2019 vide number G.S.R. 733(E), dated the 30th September, 2019.

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

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 28/2019- Integrated Tax (Rate)

New Delhi, the 31st December, 2019

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

In the said notification, in the Table, for serial number 17 and the entries relating thereto, the following shall be substituted, namely: -

(1)	(2)	(3)	(4)
"17	Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate.	Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging integrated tax at the rate of 12 per cent. to the service recipient	Any body corporate located in the taxable territory.".

[F. No.354/204/2019 -TRU]

(Ruchi Bisht)
Under Secretary to the Government of India

Note: -The principal notification No. 10/2017 - Integrated Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 685 (E), dated the 28th June, 2017 and was last amended by notification No. 21/2019 - Integrated Tax (Rate), dated the 30th September, 2019 *vide* number G.S.R. 736(E), dated the 30th September, 2019.

(VI) CGST CIRCULARS

Circular No. 127/46/2019 – GST

F. No. CBEC – 20/06/03/2019 – GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing
******

New Delhi, the 4th December, 2019

To

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

The Principal Director Generals / Director Generals (All)

Madam / Sir,

Subject: Withdrawal of Circular No. 107/26/2019-GST dt. 18.07.2019 – reg.

Kind attention is invited to Circular No. 107/26/2019-GST dated 18.07.2019 wherein certain clarifications were given in relation to various doubts related to supply of Information Technology enabled Services (ITeS services) under GST.

2. Thereafter, numerous representations were received expressing apprehensions on the implications of the said Circular. In view of these apprehensions and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168(1) of the Central Goods and Services Tax Act, 2017, hereby withdraws, *ab-initio,* Circular No. 107/26/2019-GST dated 18.07.2019.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular. Hindi version will follow.

(Yogendra Garg)
Principal Commissioner (GST)

****

Circular No.128/47/2019-GST

No. GST/INV/DIN/01/19-20

Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST-Investigation Wing

Room No.01, 10th Floor,
Tower-2, 124, Jeevan Bharti Building,
Connaught Circus, New Delhi- 110001.
Dated the 23rd December, 2019

To:

All Principal Chief Commissioner(s)/ Chief Commissioner(s)/ Principal Director General(s)/ Director General(s)/ All Principal Commissioner(s)/ Commissioner(s) / Principal Additional Director General(s)/ Additional Director General(s)/ Joint Secretaries/Commissioners, CBIC.

Madam/Sir,

Subject: Generation and quoting of Document Identification Number (DIN) on any communication issued by the officers of the Central Board of Indirect Taxes and Customs (CBIC) to tax payers and other concerned persons – reg.

Attention is invited to Board's Circular No. 122/41/2019- GST dated 05th November, 2019 that was issued to implement the decision for Generation and Quoting of Document Identification Number (DIN) on specified documents. This was done with a view to leverage technology for greater accountability and transparency in communications with the trade/ taxpayers/ other concerned persons.

2. Vide the aforementioned Circular, the Board had specified that the DIN monitoring system would be used for incorporating a DIN on search authorisations, summons, arrest memos, inspection notices etc. to begin with. Further, a facility was provided to enable the recipient of these documents/communications to easily verify their genuineness by confirming the DIN on-line at cbic.gov.in. In continuation of the same, the Board has now directed that electronic generation and quoting of Document Identification Number (DIN) shall be done in respect of all communications (including e-mails) sent to tax payers and other concerned persons by any office of the Central Board of Indirect Taxes and Customs (CBIC) across the country. Instructions contained in this Para would come into effect from 24.12.2019.

3. Accordingly, the online digital platform/facility already available on the DDM's online portal "cbicddm.gov.in" for electronic generation of DIN has been suitably enhanced to enable electronic generation of DIN in respect of all forms of communication (including e-mails) sent to tax payers and other concerned persons. On the one hand electronic generation of DIN's would create a digital directory for maintaining a proper audit trail of communications sent to tax payers and other concerned

persons and on the other hand, it would provide the recipient of such communication a digital facility to ascertain the genuineness of the communication.

4. In this context, the Board also felt it necessary to harmonize and standardize the formats of search authorisations, summons, arrest memos, inspection notices etc. issued by the GST/Central Excise/Service Tax formations across the country. Accordingly, the Board had constituted a committee of officers to examine and suggest modifications in the formats of these documents. The committee has submitted its recommendations. The standardized documents have since been uploaded by DDM and are ready to be used. When downloaded and printed, these standardized documents would bear a pre-populated DIN thereon. Accordingly, the Board directs that all field formations shall use the standardized authorisation for search, summons, inspection notice, arrest memo and provisional release order (the formats are attached). These formats shall be used by all the formations w.e.f. 01.01.2020.

5. The Board once again directs that any specified communication which does not bear the electronically generated DIN and is not covered by the exceptions mentioned in paragraph 3 of Circular No. 122/41/2019-GST dated 05.11.2019, shall be treated as invalid and shall be deemed to have never been issued.

6. The Chief Commissioner(s)/Director General(s) are requested to circulate these instructions to all the formations under their charge for strict compliance. Difficulties faced, if any, in implementation of these instructions may be immediately brought to the notice of the Board.

Hindi version to follow.

Encl: As above

(Neeraj Prasad)
Commissioner (GST-Inv.), CBIC
Tel. No.: 011-21400623
Email id: gstinv-cbic@gov.in

Copy to:

i. Chairman, CBIC & All Members, CBIC
ii. DG Tax Payer Services, CBIC
iii. Pr. DG (Systems and Data Management)
iv. Webmaster- for uploading on the CBIC official website.

CBEC-20/06/04/2019-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing
****

New Delhi, Dated the 24th December, 2019

To,

The Pr. Chief Commissioners / Chief Commissioners / Principal Commissioners / Commissioners of Central Tax (All)
The Principal Director Generals / Director Generals (All)

Madam/Sir,

Subject: Standard Operating Procedure to be followed in case of non-filers of returns – reg.

Doubts have been raised across the field formations in respect of the appropriate procedure to be followed in case of non-furnishing of return under section 39 or section 44 or section 45 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act"). It has further been brought to the notice that divergent practices are being followed in case of non-furnishing of the said returns.

2. The matter has been examined. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby issues the following clarifications and guidelines.

3. Section 46 of the CGST Act read with rule 68 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules") requires issuance of a notice in **FORM GSTR-3A** to a registered person who fails to furnish return under section 39 or section 44 or section 45 (hereinafter referred to as the "defaulter") requiring him to furnish such return within fifteen days. Further section 62 provides for assessment of non-filers of return of registered persons who fails to furnish return under section 39 or section 45 even after service of notice under section 46. **FORM GSTR-3A** provides as under:

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

Tax Period - *Type of Return -*

Being a registered taxpayer, you are required to furnish return for the supplies made or received and to discharge resultant tax liability for the aforesaid tax period by due date. It has been noticed that you have not filed the said return till date.

1. *You are, therefore, requested to furnish the said return within 15 days failing which the tax liability may be assessed u/s 62 of the Act, based on the relevant material available with this office. Please note that in addition to tax so assessed, you will also be liable to pay interest and penalty as per provisions of the Act.*

2. *Please note that no further communication will be issued for assessing the liability.*

3. *The notice shall be deemed to have been withdrawn in case the return referred above, is filed by you before issue of the assessment order."*

As such, no separate notice is required to be issued for best judgment assessment under section 62 and in case of failure to file return within 15 days of issuance of **FORM GSTR-3A**, the best judgment assessment in **FORM ASMT-13** can be issued without any further communication.

4. Following guidelines are hereby prescribed to ensure uniformity in the implementation of the provisions of law across the field formations:

(i) Preferably, a system generated message would be sent to all the registered persons 3 days before the due date to nudge them about filing of the return for the tax period by the due date.

(ii) Once the due date for furnishing the return under section 39 is over, a system generated mail / message would be sent to all the defaulters immediately after the due date to the effect that the said registered person has not furnished his return for the said tax period; the said mail/message is to be sent to the authorized signatory as well as the proprietor/partner/director/karta, etc.

(iii) Five days after the due date of furnishing the return, a notice in **FORM GSTR-3A** (under section 46 of the CGST Act read with rule 68 of the CGST Rules) shall be issued electronically to such registered person who fails to furnish return under section 39, requiring him to furnish such return within fifteen days;

(iv) In case the said return is still not filed by the defaulter within 15 days of the said notice, the proper officer may proceed to assess the tax liability of the said person under section 62 of the CGST Act, to the best of his judgement taking into account all

the relevant material which is available or which he has gathered and would issue order under rule 100 of the CGST Rules in **FORM GST ASMT-13.** The proper officer would then be required to upload the summary thereof in **FORM GST DRC-07;**

(v) For the purpose of assessment of tax liability under section 62 of the CGST Act, the proper officer may take into account the details of outward supplies available in the statement furnished under section 37 (**FORM GSTR-1**), details of supplies auto-populated in **FORM GSTR-2A**, information available from e-way bills, or any other information available from any other source, including from inspection under section 71;

(vi) In case the defaulter furnishes a valid return within thirty days of the service of assessment order in **FORM GST ASMT-13,** the said assessment order shall be deemed to have been withdrawn in terms of provision of sub-section (2) of section 62 of the CGST Act**.** However, if the said return remains unfurnished within the statutory period of 30 days from issuance of order in **FORM ASMT-13,** then proper officer may initiate proceedings under section 78 and recovery under section 79 of the CGST Act;

5. Above general guidelines may be followed by the proper officer in case of non-furnishing of return. In deserving cases, based on the facts of the case, the Commissioner may resort to provisional attachment to protect revenue under section 83 of the CGST Act before issuance of **FORM GST ASMT-13.**

6. Further, the proper officer would initiate action under sub-section (2) of section 29 of the CGST Act for cancellation of registration in cases where the return has not been furnished for the period specified in section 29.

7. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

8. Difficulty, if any, in implementation of the above instructions may please be brought to the notice of the Board. Hindi version would follow.

(Yogendra Garg)
Principal Commissioner (GST)

Circular No. 130/49/2019- GST

F. No. 354/189/2019-TRU
Government of India
Ministry of Finance
Department of Revenue
(Tax research Unit)
*****

North Block, New Delhi,
Dated the 31st December, 2019

To,

The Principal Chief Commissioners/ Chief Commissioners/
Principal Commissioners/ Commissioner of Central Tax (All) /
The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Subject– Reverse Charge Mechanism (RCM) on renting of motor vehicles -reg.

Suppliers of service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient have an option to pay GST either at 5% with limited ITC (of input services in the same line of business) or 12% with full ITC.

2. The GST Council in its 37th meeting dated 20.09.2019 examined the request to place the supply of renting of motor vehicles under RCM and recommended that the said supply when provided by suppliers paying GST @ 5% to corporate entities may be placed under RCM. RCM was not recommended for suppliers paying GST @12% with full ITC, so that they may have the option to continue to avail ITC. RCM otherwise would have blocked the ITC chain for them. Accordingly, the following entry was inserted in the RCM notification with effect from 1.10.19:

Sl. No.	**Category of Supply of Services**	**Supplier of service**	**Recipient of Service**
(1)	**(2)**	**(3)**	**(4)**
15	Services provided by way of renting of a motor vehicle provided to a body corporate.	Any person other than a body corporate, paying central tax at the rate of 2.5% on renting of motor vehicles with input tax credit only of input service in the same line of business	Any body corporate located in the taxable territory.

3. Post issuance of the notification, references have been received stating that when a service is covered by RCM, GST would be paid by the service recipient and not by the supplier.

Therefore, the wording of the notification that "any person other than a body corporate, paying central tax at the rate of 2.5%" is not free from doubt and needs amendment/ clarification from the perspective of drafting.

4. The matter has been examined. When any service is placed under RCM, the supplier shall not charge any tax from the service recipient as this is the settled procedure in law under RCM. There are only two rates applicable on the service of renting of vehicles, 5% with limited ITC and 12% with full ITC. The only interpretation of the notification entry in question which is not absurd would be that –

(i) where the supplier of the service charges GST @ 12% from the service recipient, the service recipient shall not be liable to pay GST under RCM; and,

(ii) where the supplier of the service doesn't charge GST @ 12% from the service recipient, the service recipient shall be liable to pay GST under RCM.

5. Though a supplier providing the service to a body corporate under RCM may still be paying GST @ 5% on the services supplied to other non body corporate clients, to bring in greater clarity, serial No. 15 of the notification No. 13/2017-CT (R) dated 28.6.19 has been amended vide notification No. 29/2019-CT (R) dated 31.12.19 to state that RCM shall be applicable on the service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient only if the supplier fulfils all the following conditions:–

(a) is other than a body-corporate;

(b) does not issue an invoice charging GST @12% (6% CGST + 6% SGST) from the service recipient; and

(c) supplies the service to a body corporate.

6. It may be noted that the present amendment of the notification is merely clarificatory in nature and therefore for the period 01.10.2019 to 30.12.2019 also, clarification given at para 5 above shall apply, as any other interpretation shall render the RCM notification for the said service unworkable for that period which is not permissible in law.

7. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Board.

Yours Faithfully,

(Rachna)
OSD, TRU
Email: Rachna.irs@gov.in
Tel: 011 2309 5558

(VII) ADVANCE RULINGS

1. AAR not allowed to answer question raised by Non-supplier

Case Name : **In re NRB Hydraulics Pvt. Ltd. (GST AAR Maharashtra)**
Appeal Number : No. GST-ARA-27/2019-20/B-120
Date of Judgement/Order : 03/12/2019

The applicants have themselves submitted that the scrap is the property of the vendors. Hence question with respect to taxability of sale/supply of such scrap can be raised only by the concerned vendors and not by the applicant. Hence in view of the provisions of Section 95 of the GST Act, since the supply of scrap, will not be undertaken/is proposed to be undertaken, by the applicant, we are of the opinion that this authority is not allowed to answer the question raised by the applicant, being out of the purview of sec. 95 of CGST Act.

2. Time barred ARA order rectification application not maintainable

Case Name : **In re Shri J.J. College of Architecture Consultancy Cell (GST AAR Maharashtra)**
Appeal Number : Order No. GST-ARA-54/2018/Rectification-3/2019-20/B-118
Date of Judgement/Order : 03/12/2019

In the present matter, the applicant's ARA order was passed by the authority on 12.10.2018, as per the document submitted on record at the time of final hearing. On going through the record, it is seen that, the applicant has not provided any copies of contact, entered into by them with MCGM at the time of hearing. Therefore, the applicant's contention that such copies were submitted during hearing is not accepted. Further, the applicant has filed **rectification application on 10.10.2019 which is beyond the statutory limit of six months as prescribed under Section 102 of CGST Act/MGST Act, 2017. It is delayed and barred by limitation. Therefore, the said application is not found tenable under scope of rectification. Hence it is rejected.**

3. AAR cannot decide on Surrender of GST registration

Case Name : **In re Maneckji Cooper Education Trust (GST AAR Maharshtra)**
Appeal Number : No. GST-ARA- 128/2018-19/B-117
Date of Judgement/Order : 03/12/2019

1) The applicant would like to know whether the registration under the GST Act should be surrendered.

We feel it necessary first to decide whether the questions raised by the applicant are covered under Section 97(2) of the CGST Act, 2017, and thus maintainable, or liable for rejection. Having said so, we invite attention to the questions that can be posed in an application for an Advance Ruling under the provisions of the GST Act. Sub-section (2) of Section 97 is the relevant section which is reproduced as below:

(2) The question on which the advance ruling is sought under this Act, shall be in respect of,—
a. classification of any goods or services or both;
b. applicability of a notification issued under the provisions of this Act;
c. determination of time and value of supply of goods or services or both;
d. admissibility of input tax credit of tax paid or deemed to have been paid;
e. determination of the liability to pay tax on any goods or services or both;

f. whether applicant is required to be registered;
g. Whether any particular thing done by the applicant with respect to any goods or services or both amounts to or results in a supply of goods or services or both, within the meaning of that term.
We observe in the instant case, the question which has been raised by the applicant is not pertaining to any of the matters mentioned in Section 97 (2) of the GST Act. In other words, Section 97(2), which encompasses the questions, for the ruling by this Authority does not deal with the issue of whether a GST registration should be surrendered. Hence, it is held that this authority does not have jurisdiction to pass any ruling on such matters.

4. Nicotine Polacrilex Lozenge falls under Chapter Heading 38.24: AAAR Karnataka

Case Name : **In re Strides Emerging Markets Ltd (GST AAAR Karnataka)**
Appeal Number : Order No. KAR/AAAR/04 2019-20
Date of Judgement/Order : 03/12/2019

The active ingredient in 'Nicotine Polacrilex Lozenge' is Nicotine which is a natural alkaloid. Nicotine is bound to an ion-exchange resin (polymethacrilic acid) and administered in the form of tablets, chewing gum, lozenge or patches The chemical formulation of the nicotine bound to the resin polacrilexis such that it provides the user of the product blood nicotine levels via buccal absorption that will approximate those produced by the inhalation of tobacco smoke. We find that the Nicotine Polacrilex Lozenge is a chemical preparation and hence is more aptly classifiable under Chapter Heading 38.24 of the Customs Tariff Act, 1975.

In the GST rate **Notification No 01/2017-Central Tax (Rate) dated 28.06.2017,** the "Prepared hinders for foundry' moulds or cores; Chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included" falling under Chapter Heading 38.24 are covered under entry SI.No 97 of Schedule III with a GST rate of 18% (CGST 9% plus SGST 9%).

5. First GST AA Decision- Section 129 proceeding cannot be initiated for Minor mistake(s) in e-way bill

Case Name : **M/s K.B Enterprises Vs Asst. Commissioner State Taxes & Excise (Appellate Authority, Himachal Pradesh)**
Appeal Number : Appeal No. 001/2019
Date of Judgement/Order : 07/12/2019

GST Council vide circular No 64/38/2018 dated 14th September, 2018 and the HP circular no. 12-25/2018-19-EXN-GST-(575)-6009-6026 dtd 13th March 2019 valid from 14-09-2018 in para 5 provides that in case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, proceedings under section 129 of the CGST Act may not be initiated in case of minor mistakes like error in one or two digits/characters of the vehicle number. Further Para 6 of the said circular states that in case of minor errors mentioned in Para 5, penalty to the tune of Rs. 500/- each under section 125 of the CGST Act and the respective HPSGST Act should be imposed (Rs.1000/- under the IGST Act) in FORM GST DRC-07 for every consignment. Further, the submission of Ld. respondent that the circular of CBIT dtd 14-09-2018 and the circular under the HPGST act is advisory in nature and not implementable by the proper officer is not acceptable. The said circular and the subsequent notification under the HPGST Act have to be followed and the benefit cannot be denied to the appellant for paltry errors of two digits in the vehicle number. The e-way bill has been duly generated and no mistake has been found in all other information entered in the

EWB. The respondents have also not been able to prove beyond doubt nor submit any substantial evidence that the appellant was adopting the system of wrong mentioning of vehicle numbers in the EWB as their modus operandi to evade taxes.

Therefore, keeping in view the above stated facts the orders of ACST&E, Chamba are set-aside on the ground that the standard operating procedure mentioned in Circular No 64/38/2018 dated 14th September, 2018 and the HP circular no. 12-25/2018-19-EXN-GST-(575)-6009-6026 dtd 13th March 2019 valid from 14-09-2018 was not taken into consideration while imposing penalty in the instant case. The additional demand deposited by the appellant may be refunded and the penalty of Rs 500/- under SGST and Rs 500/- under CGST under section 125 of CGST/HPGST Act, 2017 is imposed on the taxpayer in accordance to GST Circular. The judgment in this case was reserved on 01.11.2019 which is released today.

6. Baked food having more than 20% by weight meat is classifiable under HSN 1601

Case Name : **In re Switz Foods Pvt Ltd. (GST AAR West Bengal)**
Appeal Number : Order No. 37/WBAAR/2019-20
Date of Judgement/Order : 09/12/2019

The Application is admitted for the products that belong to the category of baked food preparations made of flour and contain chicken and mentioned under SI Nos 1 to 5 and 11 to 25 of the Table in para 1.5 above.

Chicken meat is used as a filling in most of the above products where bread or baked flour is used as the base. The baked product (sandwich, puff, patty, burger etc.) as distinct food preparations will survive even if the chicken meat is excluded from the filling. They are, therefore, not food preparations based on chicken meat. Such bakers' wares cannot, therefore, be classified under HSN 1601.

A few of the Applicant's products would not survive as food preparation if the chicken meat were removed. Such products may be classified under HSN 1601, provided they contain more than 20% by weight of meat.

7. GST on mobilization advance for works contract- Date of Supply

Case Name : **In re Siemens Limited (GST AAAR West Bengal)**
Appeal Number : Appeal Case No. 11/WBAAAR/APPEAL/2019
Date of Judgement/Order : 16/12/2019

Whether mobilization advance for works contract is supply on the date on which it stands credited on the supplier's account

The appellant argued that the lump sum amount was received by them on 24.06.2011 and they have determined the applicability of taxes on the same as per the extant provisions under the GST Act. They have also submitted that the provision of section 13(2) of the GST Act regarding time of supply of services is applicable only for the considerations received post introduction of GST. The moot question in this case is whether the part of the mobilisation advance remaining unadjusted on 01.07.2017 will be chargeable under the GST Act. Immediately upon introduction of GST Act, that is with effect from the 1st day of July, 2017, the erstwhile Finance Act, 1994 and the notifications issued there under ceased to exist. In the instant matter the only applicable law is the GST Act, 2017. Accordingly, the time of supply of

services is to be guided by section 13(2) of the GST Act. Hence, the remaining unadjusted amount of Rs.13.80.74,549/- as on 01.07.2017 has to be construed as if it was credited into the account of the appellant on the date of 01.07.2017 only, which will attract GST on such amount on that date itself. Hence, we find no force in the argument of the appellant that section 13(2) of the GST Act, 2017 will not be applicable in the instant case.

In respect of the goods and services provided by the appellant to KMRCL post introduction of GST, the amount of Rs. 13,80,74,549/- can only be considered as advance paid as on 01.07.2017, and in the absence of any exemption of mobilization advance from tax under GST regime, the entire amount of Rs. 13,80,74,549/- becomes taxable on the said date.

8. Whether printing of advertising material is a supply of service under GST

Case Name : **In re Macro Media Digital Imaging Pvt. Ltd. (GST AAAR West Bangal)**
Appeal Number : Appeal Case No. 12/WBAAAR/APPEAL/2019
Date of Judgement/Order : 17/12/2019

In the present case, the Appellant prints the content provided by the recipient on the base of PVC, paper, etc., where it provides both the printing ink and the base material. There cannot be any doubt that the content that is printed on the base material is owned by the customers of the Appellant only and the Appellant has no right of usage on the content. The Appellant produced at the time of hearing a few samples of their products, for example, advertising materials for “Hero Glamour” motorbikes, “Hyundai Venue” car, “Vivel Cool Mint” soap and “Brides India”. The said advertisement materials carry specific messages meant for customers and the contents are very specific to the product for which the advertisements are made. The advertisement meant for Hyundai cannot be used by Hero or any other company. Thus the content is exclusively the property of the client who entrusts the job to the Appellant and the usage right of the content remains with the client of the Appellant. However this is not the case described under paragraph 5 of the **Circular No. 11/11/2017-GST.** Thus, in our considered opinion, in the instant case, which is a composite supply, supply of service is predominant and the case of the Appellant is more akin to the case represented in paragraph 4 of **Circular No. 11/11/2017-GST dated 20.10.2017.**

The Appellant argued that the product description in their invoice is mentioned as “Printing and Supply of Trade Advertisement Material 1-N1\144911”, because what they supply arc primarily goods. However, we find that in the purchase order no. 5000060092 dated 12.04.2019, ITC Limited has mentioned the order description as service — “Digital Printing — Outdoor”. Also in purchase order issued to the Appellant under no. 018/EIMPL/18-19 dated 24.05.2018 issued by Eden Media Pvt. Ltd. the particular of charges has been mentioned as “Printing charges for I no. of Blackback flex”. Thus, it is clear beyond doubt that what the Appellant supplies is nothing but service. Hence, we find no basis in the argument of the Appellant that it supplies goods only.

9. Whether HDPE woven tarpaulin is classifiable as textile under GST Tariff Act

Case Name : **In re East Hooghly Agro Plantation Pvt. Ltd. (GST AAAR West Bangal)**
Appeal Number : Appeal Case No. 14/WBAAAR/APPEAL/2019
Date of Judgement/Order : 23/12/2019

On examination of samples produced by the Appellant during the course of hearing it is clear that as the principal characteristic of tarpaulin is water proofing. unless the HDPE woven fabric is laminated it cannot be used to make tarpaulin. The process of lamination cannot he ignored

or treated in isolation. It is an integral and vital process in manufacturing tarpaulin from HDPE woven fabric.

Therefore, in view of Note 1(h) to Section XI of the GST Tariff Act mentioned above, the tarpaulins of HDPE woven fabric, laminated as per specification of IS 7903:2017, **being expressly excluded, do not merit classification under Chapter 63.**

The question as to whether the product can be classified under HSN 5903, Note **2 to** Chapter 59 is relevant which excludes ***"products in which the textile fabric is either completely embedded in plastics or entirely coated or covered on both sides with such material, provided that such coating or covering can be seen with the naked eye with no account being taken of ant' resulting change of colour (Chapter*** The sample produced by the Appellant was seen with the naked eye to he completely coated on both sides by plastic material and thus the laminated HDPE woven fabric in the instant case **is not a textile material and does not merit classification under HSN 5903.**

10. Whether loading & unloading service of yellow peas at the port is exempt supply?

Case Name : **In re T P Roy Chowdhury & Company Pvt. Ltd. (GST AAAR West Bangal)**
Appeal Number : Appeal case No. 13/WBAAAR/APPEAL/2019
Date of Judgement/Order : 23/12/2019

There is no dispute that raw whole yellow peas are agricultural produce covered under serial no. 45 of the Rate Notification and are exempted goods. However, this particular consignment of raw whole yellow peas was harvested in foreign land and the concerned primary market or the farmers' market is located in that foreign land. We observe from a combined reading of entry number 54 of the Exemption Notification and definition 2(d) of the Exemption Notification that all services and processes are excluded beyond the primary market. For the sake of clarity definition under 2(d) the Exemption Notification is reproduced here as following:

"agricultural produce" means any produce out of cultivation of plants and rearing of all life firms of animals, except the rearing of horses, .for .food, fibre, fuel, raw material or other similar products. on which either no further processing is done or such processing, is clone as is usually done by a cultivator or producer which does not alter its essential characteristics hut makes it marketable for primary market"

The term primary market in common parlance refers to farmers' market like "mandi" or "arhat" being a place where the farmers directly sell their product to the buyers like wholesalers. millers. food processing units. etc. The spirit of the legislature was intended to boost the agricultural sector of the home country and not that of a foreign land. The primary market in the instant case being located in foreign shores does not conform to the definition as stated above. Further there is no evidence that the grains have not undergone any type of treatment before leaving the foreign country from where they have been imported into India.

In view of above discussion we find no infirmity in the ruling pronounced by the WBAAR.

11. Pooja oil classifiable under Chapter sub-heading 1518 00 40: AAAR

Case Name : **In re S.K. Aagrotechh (GST AAAR Karnataka)**
Appeal Number : Order No. KAR/AAAR/05/2019-20
Date of Judgement/Order : 24/12/2019

Having concluded that Pooja Oil is classifiable under sub-heading 1518 00 40 of the Customs Tariff as inedible mixtures or preparations of vegetable fats or oils or of fractions of different fats or oils of this Chapter, not elsewhere specified or included, let us now determine the GST rate in terms of **Notification No 01/2017 CT (R)/IT (R)** dt 28.06.2017 as amended. The said Notifications specifies two different entries for tariff heading 1518 in Schedule 1 and Schedule II.

The GIST Rate Notification has divided the heading 15.18 of the Customs Tariff into two parts. Entry SI.No 90 of Schedule I covers only boiled, oxidised, dehydrated. sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modifiedvegetable oils and fats and its fractions. In other words, the entry SI.No 90 of Schedule I only pertains to vegetable oils which have been obtained by or subjected to the above processes. This entry includes both edible and other than edible grade of vegetable oils obtained by the above-mentioned processes. To this extent, we disagree with the findings of the AAR that the entry at SI.No 90 of Schedule I applies to vegetable oils which have been subjected to processes and the resultant product remains edible despite undergoing the aforementioned processes. Drawing support from the HSN Explanatory Notes, in our considered opinion, Pooja oil is not a boiled or oxidised or blown or dehydrated or sulphurised or polymerised or otherwise chemically modified oil. Therefore, we hold that Pooja oil is not covered under entry SI.No 90 of Schedule 1.

On the other hand, entry SI.No 27 of Schedule II covers boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified animal oils and animal fats and its fractions. The said entry No 27 also includes within its purview,inedible mixtures or preparations of animal or taxguru.in vegetable fats or oils or of fractions of different fats or oils of this chapter, not elsewhere specified of included. As already discussed earlier, the Pooja oil is an inedible mixture or preparation of different vegetable oils which is not elsewhere specified or included. Therefore, Pooja Oil is more specifically covered under entry SI.No 27 of Schedule 11 where the GST rate is 6% CGST/6% KGST/ 12% IGST as the case may

Having concluded thus, we do not find it necessary to go into the arguments of the Appellant that when a product is classifiable under two or more different tariff heads, the classification which is more beneficial to the assessee is to be adopted. This situation does not arise since the product Pooja oil is held by us to be classifiable only under Chapter subheading 1518 00 40.

12. Power of GST Appellate Authority to condone delay in filing appeal

Case Name : **In re Durga Projects & Infrastructure Pvt Ltd (GST AAAR Karnataka)**
Appeal Number : Advance Ruling No. KAR/AAAR/06/2019-20
Date of Judgement/Order : 24/12/2019

The appellate authority for advance ruling dismiss the appeal filed by the appellant M/s. Durga Projects & Infrastructure Pvt Ltd, on grounds of time limitation.

It is evident that this Appellate Authority being a creature of the statue is empowered to condone a delay of only a period of 30 days after the expiry of the initial period for filing appeal. As far as the language of Section 100 of the CGST Act is concerned, the crucial words are “not exceeding thirty days” used in the proviso to sub-section (2). To hold that this Appellate Authority could entertain this appeal beyond the extended period under the proviso would render the phrase ‘not exceeding thirty days’ wholly otiose. No principle of interpretation would justify such a result.

We dismiss the appeal filed by the appellant M/s. Durga Projects & Infrastructure PvtLtd, on grounds of time limitation.

13. Classification of a non edible preparation used in confectionary business

Case Name : **In re Ambo Agritec Pvt Ltd (GST AAR West Bangal)**
Appeal Number : Advance Ruling No. 39/WBAAR/2019-20
Date of Judgement/Order : 24/12/2019

Baked food preparations of flour are classifiable under HSN 1905, which includes bread, pastries, cakes, biscuits and *other bakers' wares.* Explanatory Notes to HSN, Third Edition, published by the World Customs Organization (hereinafter EN) clarifies that the heading 1905 includes all bakers' wares, except when it contains 20% or more by weight sausage, meat, fish etc. Any food preparation that involves baking at any stage of cooking should, therefore, be included under HSN 1905, except the ones mentioned above.

The Applicant's product is a mixture and dough of wheat flour, sugar and water, cut into specific shape, dried and hardened by heating. Dry heating for hardening dough is a cooking process known as baking. The Applicant's product is, therefore, a baked item, which needs further processing to become edible. The final edible product, therefore, already involves baking as the method of cooking at an intermediate stage. The end product is, therefore, biscuit or other bakers' ware classifiable under HSN 1905.

In Subramani Sumathi (supra) the Id AAR, Tamilnadu has dealt with a product, namely 'papad', which is specifically included under tariff item 1905 05 40. It is placed as a sub--classification of 'other bakers' wares'. The product involves baking at an intermediate stage although the end edible preparation needs frying.

It follows from the above discussion that the Applicant is supplying mixes and dough for preparation of biscuits and other bakers' wares, whether or not preparation of the final edible item involves further baking or frying. It is, therefore, classifiable under tariff item 1901 20 00.

14. Classification of composite service of selling advertisement space as an agent and printing service

Case Name : **In re Infobase Services Pvt Ltd. (GST AAR West Bangal)**
Appeal Number : Advance Ruling No. 38/WBAAR/2019-20
Date of Judgement/Order : 24/12/2019

Applicant is making a bundled supply to the Club of printing service and intermediary service for selling space for advertisement on behalf of the Club and charging a single price for the bundle as the project cost for printing. The two services are not naturally bundled or supplied in conjunction with each other in the ordinary course of business. They are bound by an obligation discussed above and is a specific feature of the agreement between the Applicant and the Club. It is, therefore, not a composite supply.

Supply by a taxable person of a bundle of services at a single price, if it does not constitute a composite supply, is a mixed supply within the meaning of section 2 (74) of the GST Act. It should, therefore, be treated as supply of that service which attracts the highest rate of tax [section 8 (b) of the GST Act].

Selling of space for advertisement, when made as an intermediary, is classifiable under SAC 998362, which excludes sale of advertising space in print media (SAC 998363) and is taxable @ 18% under SI No. 21(ii) of the Rate Notification. Service by way of printing (SAC 998912) of all goods falling under Chapter 48 or 49 of the First Schedule of the **Customs Tariff Act, 1975** (where the physical inputs are supplied by the printer) is taxable @ 12% under SI No. 27 (i) of the Rate Notification. The mixed supply of the Applicant should, therefore, be treated taxable under SI No. 21 (ii) of the Rate Notification.

(VIII) COURT ORDERS/ JUDGEMENTS

1. TNVAT: Pre-revision notices based on Enforcement proposals are not valid

Case Name : **Tvl Sri Kumaran Mills Vs Assistant Commissioner (CT) (Madras High Court)**
Appeal Number : W.P. Nos.23450 to 23455 of 2018
Date of Judgement/Order : 02/12/2019

The Assessing Authority, in the matter of framing of assessments has to apply his mind to the issues that arise from the return of turnover filed by a dealer/assessee. However, orders of assessment are routinely passed based wholly on the proposals received from the Enforcement Wing and this case is no different. Though the impugned notice itself does not state so, the respondents in their common counter dated 12.10.2018, admit in paragraph 4 that the pre-assessment notices were issued '*to implement the VSI-3 proposals received from the Enforcement Wing (Group-V) Coimbatore'*. According to Mr. Hariharan, learned Standing counsel for the respondents, the pre-revision notices, though based wholly on VSI-3 proposals of the Enforcement Wing, merely call upon the petitioner to file objections to the issues set out therein and the present Writ Petitions are thus pre-mature. He thus prays that the Writ Petitions be dismissed and the petitioner be directed to file objections as called for in the impugned noticed.

This one honest admission by the respondents is sufficient for this Court to set aside the pre-revision notices. The purpose of pre-revision notices/pre-assessment proposal is not for implementing Enforcement Wing proposals but for putting forth issues that arise from the returns of turnover filed by a dealer/assessee, to the dealer/assessee for response and rebuttal. Such issues are to be identified by an officer by independent application of mind only. No doubt, it is incumbent upon the Officer to study the enforcement proposals and he is permitted to deviate from the same where he believes that the same do not give rise to an assessable issue.

In the light of the categoric admission in counter to the effect that the impugned notices are based on Enforcement proposals, the notices have no legs to stand.

The first respondent will issue pre-assessment proposals/pre-revision notices after due and independent application of mind within a period of three (3) weeks from date of receipt of a copy of this order and after hearing the petitioner and considering its reply, orders of assessment shall be passed within a period of four (4) weeks from date of conclusion of personal.

2. SCN Mandatory before levying interest on delayed payment of GST: HC

Case Name : **Godavari Commodities Ltd. Vs Union of India (Jharkhand High Court)**
Appeal Number : W.P.(T) No.1786 of 2019
Date of Judgement/Order : 03/12/2019

In the present case, though it is submitted by learned counsel for CGST that since the tax was paid, Section 73 (1) of the Act shall not be attracted in the case of the petitioner, but the fact remains that the tax was not paid by the petitioner Company in the Government account within the due date, and accordingly it is a case of tax not being paid, within the period prescribed,

or when due. In that view of the matter, we are unable to accept the contention of learned counsel for CGST that no show-cause notice was required to be given in this case. Even otherwise, if any penal action is taken against the petitioner, irrespective of the fact whether there is provision under the Act or not, the minimum requirement is that the principles of natural justice must be followed. In the present case admittedly, prior to the issuance of letter dated 6.2.2019, no show-cause notice or an opportunity of being heard was given to the petitioner and no adjudication order was passed.

In the present case, admittedly amount of Rs.11,58,643/-, i.e., the amount of short paid interest has already been realised from the petitioner, after freezing the bank account of the petitioner, and after the payment of the said amount, the bank account has also been defreezed.

In the aforesaid backdrop, for the purpose of this case, we treat the letter dated 6.2.2019, as contained in Annexure-3, to be a show-cause notice issued under Section 73(1) of the **CGST Act 2017**. The petitioner shall be given an opportunity of being heard by the adjudicating authority, who shall give a hearing to the petitioner, whether the petitioner was liable to pay the short paid interest amount or not. In case, upon adjudication, it is found that the petitioner was not liable to make the payment of interest short paid, the said amount shall be refunded to the petitioner with statutory interest thereon.

3. Transfer of Right to use Vessel is deemed sales & taxable in concerned State

Case Name : **The Great Eastern Shipping Co. Ltd. Vs State of Karnataka & Ors. (Supreme Court)**
Appeal Number : Civil Appeal No. 3383 of 2004
Date of Judgement/Order : 04/12/2019

Conclusion: Charter Party Agreement making available the services of vessel by assessee-company to Port trust would tantamount to a deemed sale as there was a transfer of right to use the vessel as provided in Article 366(29A)(d) read with section 5C or section 2(j) of the Karnataka Sales Tax Act. Thus, the transaction was liable to be taxed by the concerned authorities in the State of Karnataka.

Held: Assessee-company owned a tug (towing vessel). It entered into a Charter Party Agreement with New Mangalore Port Trust. It agreed to make available the services of tug, for the purposes provided in the agreement along with the master and other personnel of the company to the Port Trust for six months. ACIT directed the company to register itself as a dealer under the provisions of the KST Act on the ground that the agreement attracted tax under section 5C thereof. Assessee-company however repudiated the claim on the ground that there was no transfer of right to use the goods given by the company to the Port Trust as the possession and custody of the tug continued with it. ACIT sent another communication informing that last chance was given to the company to get itself registered under the KST Act within 15 days failing which he would be compelled to file chargesheet against the company for the offence under section 29(2)(aaaa) of the KST Act. The company filed a writ petition on the ground that the KST Act did not extend to territorial waters of India situated adjacent to the landmass of the State of Karnataka. Thus, the State was not authorised to exact any tax on the hire charges received from the Port Trust. Single Judge dismissed the writ petition, aggrieved thereby the company preferred a writ appeal. The same was dismissed; hence, the appeal had been filed. It was held Charter party had been entered into admittedly in Mangalore, and the ship was used at the New Mangalore Port by the New Mangalore Port Trust. Though vessel was used in the territorial waters, made no difference with respect to exigibility of salestax under the provisions of the KST Act in view of the decision of this Court

in *20th Century Finance Corporation Ltd. V. State of Maharashtra and Baliram Waman Hiray v. Justice B.Lentin,* that the transfer of right to use occurs when the agreement has been entered into and not when the delivery of the goods takes place, which had been affirmed in *BSNL v. Union of India*, (2006) 3 SCC and had been followed in various other decisions of this Court. Charter Party Agreement tantamount to a deemed sale as there was a transfer of right to use the vessel as provided in Article 366(29A)(d) read with section 5C or section 2(j) of the Karnataka Sales Tax Act. Thus, the transaction was liable to be taxed by the concerned authorities in the State of Karnataka.

4. GST- Wrong availment of input tax credit – HC Denies Bail

Case Name : **Bharat Raj Punj Vs Central Goods And Service Tax Commissionerate (Rajasthan High Court)**
Appeal Number : S.B. Criminal Miscellaneous Bail Application No. 16341/2019
Date of Judgement/Order : 06/12/2019

HC held that Looking to the over all facts and circumstances of the case, gravity of the offence specially the fact that there are serious allegations against the petitioner of wrong availment of input tax credit of more than Rs. 40.53 Crores involved on supply of goods, the matter is still at the stage of investigation and having regard to the seriousness of the offence and without expressing any opinion on the merits of the case, I am not inclined to grant benefit of bail to the accused-petitioner.

5. Liability to pay CST on mere presumption of any pre-existing contract is invalid

Case Name : **Advance Paints (P) Ltd. Vs The Commercial Tax Officer (Madras High Court)**
Appeal Number : W.P. No.14193 of 2001
Date of Judgement/Order : 09/12/2019

Admittedly, before the Assessing Authority himself adequate proof of movement of goods from Tamil Nadu to Kerala had been produced by the Assessee. In support of the branch transfer/ stock transfer made by the Assessee, the prescribed Form “F” were also furnished by the Assessee. No pre-concluded contract with the buyer was found in the record of the Assessing Authority. The mere presumption of the Assessing Authority without any documentary evidence that the goods have moved from Tamil Nadu to Kerala and Bangalore pursuant to some pre-existing contract is unfounded. Merely because the agent happened to sell the goods received from the Principal in Tamil Nadu on the same date of receipt of goods or on the very next day or any day immediately thereafter, it is not a ground to treat the stock transfer/ branch transfer as an inter-state sale. The necessary incident for holding the sale as an inter-state sale, inviting imposition of tax under the Central Sales Tax Act is the movement of goods from one State to another, in pursuance of a pre-existing contract with the seller. Therefore, merely on the assumption or presumption of any such kind of pre-existing contract, the Assessing Authority could not have imposed the tax under the provision of Central Sales Tax Act. Since necessary documents and evidence were already furnished before the Assessing Authority himself, furnishing of the same again before the Appellate Authorities was not at all called for. And therefore, on this premise, the Appellate Authority should not have confirmed the finding of the Assessing Authority that the Assessee is liable to pay tax under the Central Sales Tax Act.

We respectfully agree with the view expressed by the Coordinate Bench of this Court in **P.M.P. Iron and Steel India Ltd. (supra),** and merely because the timing of the sale by the agent is immediately on the receipt of goods or in near future, it cannot be a ground to presume any pre-existing contract with the seller in Tamil Nadu and holding the same to be an inter state sale and therefore, taxable under the CST Act. The writ petition is therefore liable to be allowed and the orders of the Assessing Officer, Appellate Assistant Commissioner and Sales Tax Appellate Tribunal are liable to be quashed.

6. GST system limitations cannot be a justification to deny relief: HC

Case Name : **Vision Distribution Pvt. Ltd. Vs Commisioner, State Goods & Services Tax & Ors. (Delhi High Court)**
Appeal Number : W.P.(C) 8317/2019
Date of Judgement/Order : 12/12/2019

Coming Heavily on GST Department/GSTN Delhi High Court held that The business activity in the country could not be expected to come to a standstill, only to await the Respondents making the GST system workable. The failure of the Respondents in first putting a workable system in place, before implementing the GST regime, reflects poorly on the concern that the Respondents have shown to the difficulties that the trade faced throughout the length and breadth of the country. Unfortunately, even after passage of over two years, the Respondents have not remedied their omissions and failures by taking corrective steps. They continue to take shelter of the limitations in, and the inability of their software systems to grant refund, despite the same being justified. The rights of the parties cannot be subjugated to the poor and inefficient software systems adopted by the Respondents. The software systems adopted by the Respondents have to be in tune with the law, and not vice versa. The system limitations cannot be a justification to deny the relief, to which the Petitioner is legally entitled. We, therefore, reject the hyper technical objections sought to be raised by the Respondents – to the effect, that no refund can be granted, because the system did not reflect any credit lying in the ITC ledger of the Petitioner for the months of July and August, 2017. If that is so, it is entirely the Respondents making. In fact, to permit the Respondents to get away with such an argument would be putting premium on inefficiency. We therefore, reject the submission.

7. HC denies Bail to person accused of issuing Fake GST Invoices

Case Name : **Mohammed Yunus @ Mohammed Yunus Khan@ Mohemmed Yunus@ Yunus Khan Vs State of Rajasthan (Rajasthan High Court)**
Appeal Number : S.B. Criminal Miscellaneous Bail Application No. 15702/2019
Date of Judgement/Order : 16/12/2019

It is contended that matter is still at the stage of investigation. Petitioner has created 26 fake firms and has issued fake invoices to the tune of Rs. 494.16 Crores to facilitate claiming of input credit to the tune of Rs. 108.36 Crores It is also contended that from the investigation done so far, it is revealed that petitioner was having user name and password of all these firms. He himself has got issued three pan cards in different names of the 26 firms which were registered, none of the firm was found to be functional.

It is further contended that petitioner is involved in using data of individuals for creating fake firms to claim Input Tax Credit. It is contended that statement of accountant and brother of

petitioner has been recorded, they have also stated that present petitioner was involved in creating fake firm under GST.

Considering the contentions put forth by counsel for the Union of India, I am not inclined to allow the bail application.

8. Allow petitioner to claim ITC in TRAN-I or in GSTR-3B Form: HC

Case Name : **M/s Abhi Mobile House Vs Union of India and others (Punjab and Haryana High Court)**
Appeal Number : CWP 36445/2019
Date of Judgement/Order : 16/12/2019

The petitioner, a proprietorship concern, is a dealer in the business of sale and purchase of Mobile Phones. It is registered under the Goods and Service Tax Act, 2017. Prior to the introduction of Goods and Service Tax Act, it was registered under the provisions of Punjab VAT Act as well as under the Central Sales Tax Act, 1956.

Grievance of the petitioner is that it could not upload the details of un-utilized **Input Tax Credit** (in short 'ITC') as per the accounts books to the electronically generated statutory Form "TRAN-I", which was the requirement under the GST regime for availing the benefit of the previous un-utilized ITC accrued under the Taxing Statutes.

Counsel for the petitioner submits that the issue stands decided by this Court, vide judgment dated 04.11.2019, passed in **CWP 30949 of 2018 titled "Adfert Technologies Pvt.Ltd. Versus Union of India and others"** in favour of the Assessees, hence the petitioner-Company is also entitled to relief in the same terms.

Notice of motion.

Mr. Sunish Bindlish, Counsel for the respondents/ Revenue accepts notice and concedes that the issue raised in the present petition is squarely covered by the aforesaid judgment dated **04.11.2019**, passed in **Adfert Technologies case (supra)**, therefore, the present petition is liable to be disposed of in terms of the said case.

In view of above, present petition is allowed in terms of the said **CWP No.30949 of 2018** decided on **04.11.2019** with permission/modification to file the said Statutory Form TRAN-I by 31.12.2019.

It is clarified that in case the petitioner is hampered in any manner from availing the benefit of aforesaid judgment, due to non opening of the Portal by the Respondents, then the petitioner shall be permitted, in the alternative to claim the benefit of unutilized credit in their GSTR-3B Forms to be filed for the month of January, 2020 either electronically or manually.

9. Provisional Attachment not permissible u/s 83 when proceedings u/s 62, 63, 64, 67 or 74 of CGST Act not pending

Case Name : **Kushal Ltd Vs UoI (Gujarat High Court)**
Appeal Number : Special Civil Application No. 19533 of 2019
Date of Judgement/Order : 17/12/2019

The petitioner-company manufactures and sells paper and paper waste and is also engaged in trading in various commodities. The petitioners were also duly registered under the GST Acts and regularly filed returns and discharged tax liability – The petitioner claimed to have entered into transactions on as is where is basis in the relevant year. The goods were purchased from registered persons under the GST Acts on payment of tax and were in turn sold to other registered persons. ITC was claimed of tax paid on purchases which was utilized towards payment of output tax liability and differential tax amount was paid through electronic cash ledger. Thereafter search proceedings were conducted at the petitioner's premises whereupon enquiry was made into the trading transactions and evidence regarding sales and purchases was called for. The petitioners claimed that since the goods were sold on as is where is basis, there was no evidence of their movement. While it was not disputed that the goods were purchased from registered vendors who had paid the taxes due. Later, summons were issued to the petitioner & statements were recorded. The petitioners submitted the documents as called for and claimed there to be no evasion of GST. The Revenue officers visited the petitioner's premises again for scrutiny of the same transactions whereupon the second petitioner was called to the commissionerate and was arrested immediately. The second petitioner was later granted bail u/s 167(2) of the CrPC 1973.

The second petitioner was later granted bail u/s 167(2) of the CrPC 1973 – The petitioner claimed to have been issued no notice u/s 73 or 74 of the GST Acts. It was also claimed that no proceedings were pending u/s 62, 63, 64, 67, 73 or 74 of the GST Acts, yet the Revenue provisionally attached the petitioner's bank accounts in exercise of powers u/s 83, which in such circumstances, was wholly without jurisdiction.

Decision of the High Court

A reading of Section 83 of the CGST Act makes it clear that a sine qua non for exercising powers under this provisions is that proceedings should be pending u/s 62, 63, 64, 67 or 74 of the CGST Act. Presently, the proceedings u/s 67 are no longer pending and pursuant to search, proceedings under any of the other sections mentioned in Section 83 were not initiated. In these circumstances, on the date when the orders of provisional attachment came to be passed, the basic requirement for exercising powers u/s 83 have not been satisfied. Hence the provisional attachment is not in consonance with the provisions of Section 83 and cannot be sustained. In such circumstances, it is also not necessary to enter into merits of the petitioner's contentions and the same are left open to be raised in appropriate proceedings before the appropriate forum – Hence the orders attaching the petitioner's bank accounts are unsustainable and merit being quashed.

10. Permit petitioner to file TRAN-1 Forms either electronically or manually: HC

Case Name : **Kalpaka Distrbutors Pvt Vs Union of India (Kerala High Court)**
Appeal Number : WP(C).No. 34771 OF 2019
Date of Judgement/Order : 20/12/2019

On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that since it is not in dispute that the petitioner herein did attempt to upload the necessary details in the system maintained by the respondents, and it cannot be disputed, based on a perusal of the system log, that the petitioner did attempt to log into the system, the mere fact that the petitioner cannot establish that the inability to upload the required details was on account of a system error that was occasioned by the respondents, cannot be a reason for denying him the substantive benefit of carrying forward the credit earned by him under the erstwhile regime.

I also take note of the decision of the Delhi High Court in **Blue Bird Pure Pvt.Ltd. V. Union of India and Others [(2019) 68 GSTR 340 (Delhi)]**, and the decision of the Himachal Pradesh High Court dated 16.11.2019 in **CWP No.2169 of 2018 (Jay Bee Industries Vs. Union of India and Others)**, which take the view that accrued tax credits cannot be denied or varied on account of procedural defects cited by the respondents.

In particular, it was noticed in those judgments that the GST system was still in a trial and error phase as far as its implementation was concerned, and there were a large number of dealers approaching the High Court expressing difficulties in filing return, claiming input tax credit etc., through the GST portal. In the said cases, the Writ petitions were allowed and a direction was issued to the respondents to permit the petitioners therein to file the TRAN -1 Form, either electronically or manually on or before 31.12.2019 without prejudice to the right of the respondent statutory authorities to verify the genuineness of the claim of the petitioners.

Taking cue from the said judgment, and finding that in the instant cases also there is no dispute with regard to the attempt made by the petitioner to log into the system on or before 27.12.2017, I allow this writ petition by quashing the impugned communications, and directing the respondents to permit the petitioner to file their TRAN-1 Forms either electronically or manually on or before 31.12.2019.

While the respondents shall attempt to facilitate the filing of these TRAN-1 Forms electronically by making the necessary arrangements in the web portal an insistence on manual filing shall be only in circumstances where the electronic filing is not possible. In either event, the respondents are at liberty to verify the genuineness of the claim of the petitioners and the claim shall not be denied only on the ground that the same was not filed before 27.12.2017.

11. HC explains provisions of Sections 129 & 130 | Detention, seizure, confiscation | GST

Case Name : **Synergy Fertichem Pvt. Ltd Vs State of Gujarat (Gujarat High Court)**
Appeal Number : Special Civil Application No. 4730 of 2019
Date of Judgement/Order : 23/12/2019

(i) Section 129 of the Act talks about detention, seizure and release of goods and conveyances in transit. On the other hand, Section 130 talks about confiscation of goods or conveyance and levy of tax, penalty and fine thereof. Although, both the sections start with a non-obstante clause, yet, the harmonious reading of the two sections, keeping in mind the object and purpose behind the enactment thereof, would indicate that they are independent of each other. Section 130 of the Act, which provides for confiscation of the goods or conveyance is not, in any manner, dependent or subject to Section 129 of the Act. Both the sections are mutually exclusive. .

(ii) The phrase “with an intent to evade the payment of tax” in Section 130 of the Act assumes importance. When the law requires an intention to evade payment of tax, then it is not mere failure to pay tax. It must be something more. The word “evade” in the context means defeating the provisions of law of paying tax. It is made more stringent by use of the word “intent”. The assessee must deliberately avoid the payment of tax which is payable in accordance with law. However, the element of mens rea cannot be read into Section 130 of the Act.

(iii) For the purpose of issuing a notice of confiscation under Section 130 of the Act at the threshold, i.e., at the stage of detention and seizure of the goods and conveyance, the case has to be of such a nature that on the face of the entire transaction, the authority concerned

should be convinced that the contravention was with a definite intent to evade payment of tax. The action, in such circumstances, should be in good faith and not be a mere pretence. In other words, the authorities need to make out a very strong case. Mere suspicion may not be sufficient to invoke Section 130 of the Act straightway.

(iv) If the authorities are of the view that the case is one of invoking Section 130 of the Act at the very threshold, then they need to record their reasons for such belief in writing, and such reasons recorded in writing should, thereafter, be looked into by the superior authority so that the superior authority can take an appropriate decision whether the case is one of straightway invoking Section 130 of the Act.

(v) Even if the goods or the conveyance is released upon payment of the tax and penalty under Section 129 of the Act, later, if the authorities find something incriminating against the owner of the goods in the course of the inquiry, if any, then it would be permissible to them to initiate the confiscation proceedings under Section 130 of the Act.

(vi) Section 130 of the Act is not dependent on clause (6) of Section 129 of the Act.

(vii) Sections 129 and 130 respectively of the Act are mutually exclusive and independent of each other. If the amount of tax and penalty, as determined under Section 129 of the Act for the purpose of release of the goods and the conveyance, is not deposited within the statutory time period, then the consequence of the same would be forfeiture of the goods and the vehicle with the Government. This does not necessarily imply that the confiscation proceedings can be initiated only in the event of the failure on the part of the owner of the goods or the conveyance in depositing the amount towards the tax and liability determined under Section 129 of the Act.

(viii) For the purpose of Section 129(6) of the Act, it would not be necessary for the department to establish any intention to evade payment of tax. If the tax and penalty, as determined under Section 129, is not deposited within the statutory time period, then the goods and the conveyance shall be liable to be put to auction and the sale proceeds shall be deposited with the Government.

(ix) Similarly, the reference to Sections 73 and 74 respectively of the Act is not warranted for the purpose of interpreting Sections 129 and 130 of the Act, more particularly, when they all are independent of each other. The provisions of Sections 73 and 74 of the Act are similar to the provisions of Section 11A of the Central Excise Act and Section 28 of the Customs Act, which deal with the adjudication proceedings. Despite this, Section 110 is present in the Customs Act, which speaks about seizure and similarly, Section 129 is present in the Act for detention/seizure. Therefore, Sections 129 and 130 of the Act have non-obstante clauses, whereby they can be operated upon in spite of Sections 73 and 74 of the Act.

(x) The provisions of sections 73 and 74 respectively of the Act deal with the ‘demands and recovery’ to be made by the assessing officer based upon the assessment, whereas the provisions of Section 129 of the Act deal with the ‘detention/ seizure’. While assessing the returns, if the assessing officer finds that the amount of tax has not been paid or erroneously refunded, or where the input tax credit has been wrongly availed or utilized for any reason, either with mala fide intention or without the same, as the case may be, the provisions of Section 73/74 of the Act would be invoked. However, the provisions of Section 129 of the Act deal with situation where the evasion of tax/contravention of the Act/Rules is detected during transit itself, requiring the adoption of summary like proceedings. Therefore, the said provisions operate in different spheres.

(xi) The comparison of the provisions of Customs Act/ Excise Act on one hand and the provisions of the Act on the other, as sought to be drawn on behalf of the writ applicants, is

not correct. Section 110(1) of the Customs Act is not comparable to Section 129(1) of the Act inasmuch as, the provisions of Section 110 of the Customs Act contemplates that the proper officer may seize the goods which are liable for confiscation, whereas the provisions of Section 129 contemplate that the proper officer may detain/ seize the goods/ conveyance in transit in contravention of the provisions of the Act or the Rules.

(xii) The provisions of Sections 110(2) and 124 of the Customs Act do not contemplate that the goods which are seized are to be released in a specific time limit, much less, within a period of six months. Apropos this, the said sections merely cast a duty on the department to issue a show cause notice within a period of six months from the date of seizure of goods, but the same does not contemplate as to in how much time, the same has to be adjudicated upon. Therefore, the contention raised on behalf of the writ applicants that the goods which are seized are to be released within a short span of time and that the legislature has not contemplated to retain the goods pending the confiscation proceedings. is not tenable. In addition to the above, even otherwise, the provisions of Section 110A of the Customs Act, which deal with the 'provisional release' of the goods, do not contemplate the release of the goods only on payment of penalty and interest but the proposed amount of fine is also to be included for provisional release of the goods. In view of this, the amount of fine should be taken into account while directing the provisional release of the goods/ conveyance as per Section 129(2) read with Section 67(6) of the Act read with Rule 140 of the Rules.

(xiii) Although there is no serious challenge to the validity of the provisions of Sections 129 and 130 respectively of the Act, yet it is a settled principle of law that the power to levy tax includes all the incidental powers to prevent the evasion of such tax. The power to seize and confiscate the goods in the event of evasion of tax and the power to levy penalty are meant to check tax evasion and is intended to operate as a deterrent against the tax-evaders and are, therefore, ancillary or incidental to the power to levy tax on the goods and thus, fall within the ambit and scope of the legislative powers.

(xiv) The goods are not liable to be detained on the ground that the tax paid on the product was less. In such circumstances, the Inspecting Authority is expected to alert the Assessing Authority to initiate appropriate proceedings "for assessment of any alleged sale at which the dealer will have his opportunities to put forward his pleas on law and on fact. The process of detention of the goods cannot be resorted to when the dispute is bona fide, especially concerning the exigibility of tax and, more particularly, the rate of that tax.

(xv) Even in the absence of the physical availability of the goods or the conveyance, the authority can proceed to pass an order of confiscation and also pass an order of redemption fine in lieu of the confiscation. In other words, even if the goods or the conveyance has been released under Section 129 of the Act and, later, confiscation proceedings are initiated, then even in the absence of the goods or the conveyance, the payment of redemption fine in lieu of confiscation can be passed.

(xvi) The extraordinary powers under Article 226 of the Constitution, directing for release of the vehicles or goods, during the pendency of the confiscation, can only be sparingly exercised under extraordinary situations and circumstances when injustice occurs because of non-fulfillment of the conditions for confiscation.

From the plain reading of Sections 129 and 130 of the Act, it is clear that the suppliers or receivers of the goods transport any goods in contravention of provisions of the Act or the Rules made thereunder are liable for the detention or seizure of the goods under Section 129 of the Act and under Section 130 (i)(v) of the Act for confiscation of the goods and conveyance. Thus, for the same breach and/or contravention of the provisions of the Act, there are two types of penalties provided under Section 129 and Section 130(i)(v) of the Act.

In this regard, we would like to observe as held by the Supreme Court that it would be important to notice certain well settled canons of interpretation of statutes. The primary and foremost task of a Court in interpreting a statute, is to ascertain the intention of the legislature, actual or imputed. Having ascertained the intention, the Court must then strive to so interpret the statute as to promote and advance the object and purpose of the enactments. If two constructions are possible upon the language of the statute, the Court must choose the one which is consistent with good sense and fairness, and eschew the other which makes its operation unduly oppressive, unjust or unreasonable or which would lead to strange, inconsistent results or otherwise introduce an element of bewildering uncertainty and practical inconvenience in the working of the statute. For this purpose, where necessary, the Court may even depart from the rule that plain words should be interpreted according to their plain meaning. There need not be meek and mute submissions to the plainness of the language. To avoid patent injustice, anomaly or asburdity, the Court would well be justified in departing from the so-called golden rule of construction so as to give effect to the object and purpose of the enactment by supplementing the written word if necessary. Though normally it is not permissible to read words in a statute which are not there, but, “where the alternative lies between either supplying by implication words which appear to have been accidently omitted or adopting a construction which deprives certain existing words of all meaning, it is permissible to supply the words.” Having regard to the context in which a provision appears and the object of statute in which the said provision is enacted, the Court should construe it in a harmonious way to make it meaningful. An attempt must always be made so as to reconcile the relevant provisions as to advance the remedy intended by the statute.

I am of the view that the Legislature should, once again, look into both the provisions, i.e, Sections 129 and 130 of the Act and amend the sections accordingly so as to remove certain inconsistencies in the two provisions. Let this aspect be looked into by the State Government in accordance with law.

Recently in one of landmark judgment of GST Hon’ble Gujarat High Court in the matter of *Synergy Fertichem Private Limited vs State Of Gujarat* had occasion to interpret the provisions of Sections 129 and 130 of the act. An attempt has been made in this blog to explain related provisions of Detention and Confiscation of Goods and/or Vehicles basis arguments raised by writ applicants, counsel appearing for government and judgment of the court.