

GST UPDATE

(January, 2020)

Directorate of Training, Excise and Taxation Department, Punjab

ABSTRACT OF GST UPDATE

Sr. No.	Subject	Page No.
I.	<u>GIST OF GST NOTIFICATIONS</u>	01
II.	<u>PUNJAB GST NOTIFICATIONS/ORDERS</u>	04
III.	<u>CENTRAL TAX NOTIFICATIONS</u>	06
IV.	<u>IGST TAX NOTIFICATIONS</u>	24
V.	<u>CGST CIRCULARS</u>	25
VI.	<u>ADVANCE RULINGS</u>	30
VII.	<u>COURT ORDERS/ JUDGEMENTS</u>	38

CONTENTS

Sr. No. Subject Page No.

I GIST OF GST NOTIFICATIONS 01

II PUNJAB GST NOTIFICATIONS/ORDERS

1	No. S.O. 2/P.A.5/2017/S.172/2020 dated 27-01-2020	04
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III CENTRAL TAX NOTIFICATIONS

1	01/2020-Central Tax ,dt. 01-01-2020	Seeks to bring into force certain provisions of the Finance (No. 2) Act, 2019 to amend the CGST Act, 2017.	06
2	02/2020-Central Tax ,dt. 01-01-2020	Seeks to make amendment (2020) to CGST Rules.	07
3	03/2020-Central Tax ,dt. 01-01-2020	Seeks to amend the notification No. 62/2019-CT dt. 26.11.2019 to amend the transition plan for the UTs of J&K and Ladakh	21
4	04/2020-Central Tax ,dt. 10-01-2020	Seeks to extend the one-time amnesty scheme to file all FORM GSTR-1 from July 2017 to November, 2019 till 17th January, 2020.	22
5	05/2020-Central Tax ,dt. 13-01-2020	Seeks to appoint Revisional Authority under CGST Act, 2017.	23

IV IGST TAX NOTIFICATIONS

1	01/2020-Integrated Tax,dt. 01-01-2020	Seeks to bring into force certain provisions of the Finance (No. 2) Act, 2019 to amend the IGST Act, 2017	24
---	---------------------------------------	---	----

V CGST CIRCULARS

1	131/1/2020, dt 23-01-2020	Standard Operating Procedure (SOP) to be followed by exporters -reg.	25
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VI ADVANCE RULINGS

1	Advance Ruling No. KAR ADRG 03/2020 dt 09/01/2020	GST AAR cannot be filed by recipient of Services or Goods or Both	30
2	Order No. KAR/AAAR/07/2019-20 dt 10/01/2020	GST on Filters manufactured solely for use by Indian Railways	30
3	Order No. KAR/AAAR-08/2019-20 dt 14/01/2020	12% IGST payable on import of Pharmaceutical Reference Standards	30

4	Order No. GST-ARA-48/2019-20/B-05 dt 15/01/2020	AAR not maintainable as applicant has not undertaken supply in subject case	31
5	Advance Ruling No. GST-ARA-34/2019-20/B-04 dt 15/01/2020	Transformers' supplied to Indian Railways covered under HSN '8504'	31
6	Advance Ruling NO. GST-ARA- 40/2019-20/B-06 dt 15/01/2020	GST leviable on sale of TDR/FSI received for surrendering joint rights in land	31
7	Order No. GST-ARA-22/2019-20/B-03 dt 15/01/2020	18% GST on Restaurant services at a place where Room Tariff is Rs. 7500 & above	32
8	Order No. GST-ARA-30/2019-20/B-07 dt 17/01/2020	AAR cannot decide on issue of validity of certificates used by end-users of subject products	32
9	Advance Rulings No. GST-ARA-125/2018/Rectification-4/2019-20/B-08 dt 17/01/2020	Visvesvaraya National Institute of Technology is not a Govt. Authority: AAR	33
10	Order No. 40/WBAAR/2019-20 dt 17/01/2020	GST on leasing goods vehicles to GTA where right to use is transferred	33
11	Order No. KAR/AAAR-09/2019-2020 dt 20/01/2020	Pre-sales marketing service by Indian Subsidiary to foreign parent is intermediary services: AAAR	34
12	Advance Ruling Order No. KAR/AAAR-10/2019-20 dt 21/01/2020	No GST exemption to RWA if per member monthly contribution exceeds Rs. 7500	34
13	Advance Ruling No. No. GST-ARA-31/2019-20/B-13 dt 22/01/2020	GST: No ITC to Co-op Hsg. Soc. on replacement of existing lift	35
14	Advance Ruling No. GST-ARA- 60/2019-20/B-12 dt 22/01/2020	No advance ruling if question raised not pertain to supply of goods or services	35
15	Order No. GST-ARA-63/2019-20/B-14 dt 22/01/2020	No advance ruling If primarily, no sale of goods by applicant	36
16	Order No. GST-ARA-57/2019-20/B-11 dt 22/01/2020	AAR have no jurisdiction to rule on place of supply of Goods/Services	37

VII COURT ORDERS/JUDGEMENTS

1	Writ Petition Nos.23360 and 23361 of 2019 & WMP Nos.23106 and 23108 of 2019 Dt 06/01/2020	Interest cannot be levied on Gross GST Liability before adjusting ITC: Madras HC	38
2	W.P. 23512(W) of 2019 dt 08/01/2020	Validity of Section 16(2)(c) of the CGST Act/WBGST Act	39
3	Writ Petition No. 3145 of 2019 dt 17/01/2020	Section 83 of CGST Act- Power to provisionally attach bank accounts	39

Sr. No. Subject Page No.

4	S.B. Criminal Miscellaneous Bail Application No. 742/2020 dt 20/01/2020	Rajasthan HC grants bail to CA accused of wrongly availing ITC	40
5	W.P.(C) 627/2020 dt 21/01/2020	Filing of GST refund for tax periods spread across two financial years cannot be restricted	41
6	S.B. Criminal Miscellaneous Bail Application No. 16734 of 2019 dt 22/01/2020	Rajasthan HC denies Bail to accused in Fake GST Invoice Case	42
7	W.P.(C) 9575/2017 dt 23/01/2020	Delhi HC unsatisfied with non-operationalisation of GSTR-9/9A/9C form for FY 2018-19	43
8	Special Civil Application No. 726 of 2018 dt 23/01/2020	GST not leviable on Ocean Freight for transportation of goods by foreign seller: HC	43

(I) GIST OF GST NOTIFICATIONS

1. Bringing into force certain provisions of the Finance (No. 2) Act, 2019 to amend the CGST Act, 2017

The notification makes applicable certain provisions of the Finance Act, 2019 w.e.f. 1st January 2020. The list of the provisions is given below:

1. Section 10–

- A composition dealer, apart from his regular business for which registration has been obtained as a composition dealer, is eligible provide services (other than restaurant services) to the extent of 10% of the turnover in the preceding year or 5,00,000 whichever is higher. As per the amendment, for the purpose of calculation of limit of 10%, interest or discount shall not be taken into account.
- Further, another amendment has been made to deny the option to avail composition scheme for a casual taxable person and a non-resident taxable person.
- The option to avail composition scheme has been extended to a service provider (any services other than restaurant services), having a turnover of upto 50 lakhs to enable them to pay tax at the rate of 6% on the value of services.
- For the purpose of computing eligibility of a person to pay tax under composition (basically for computing the limit of 1.50 crores in case of goods and 50 lakhs in case of services), the aggregate turnover shall include the turnover from 1 April to the date to becoming liable for registration under the Act but shall not include income in the nature of interest or discount on deposits, loans or advances. For example- Mr. A commences business on 5 April 2019. Till 30 September 2019, his turnover is 20 lakh. Consequently, Mr. A gets registered as a composition dealer and his turnover from 1 October 2019 to 31 March 2020 is INR 1.1 crore. Now, for determining his eligibility for next year during 2021-2022, his aggregate turnover shall be taken as 1.3 crores (INR 20 lakh + INR 1.1. crores)

2. Section 22

As per the amendment to Section 22, in case of a supplier engaged in only supply of goods, the limit for registration under GST has been raised to INR 40 lakh from the earlier 20 lakh.

3. Section 49 (Intra-head adjustment in Electronic Cash ledger)

As per the amendment, any amount outstanding in the electronic cash ledger may be transferred to any other head in CGST, SGST and IGST in the electronic cash ledger and such transfer shall be deemed to be a refund under the Act. This adjustment is a welcome step as in many cases amount deposited under the wrong head had to be deposited again and the amount wrongly deposited had to be claimed as refund from the GST authorities.

[Notification No. 01/2020-Central Tax dated 01st January 2020]

2. Amendment (2020) to CGST Rules.

Notification No. 02/2020-Central Tax, Dated: 01st January 2020 has been issued for making amendments in CGST Rules, According to the said notification due date for submitting the declaration electronically in FORM GST TRAN-1 has been extended up to 31st March, 2020 in respect of registered persons who could not submit the said declaration by the due date on account of technical difficulties on the common portal and in respect of whom council has made a recommendation for such extension.

[Notification No. 02/2020-Central Tax dated 01st January 2020]

3. CBIC amends transition plan for UTs of J&K and Ladakh

- i. Seeks to amend the notification No. 62/2019-CT dt. 26.11.2019 to amend the transition plan for the UTs of J&K and Ladakh.
- ii. Taxpayer has an option to transfer the input tax credit (ITC) from the registered GSTIN, till the 31st December, 2019 30th October, 2019 in the State of Jammu and Kashmir, to the new GSTIN in the Union territory of Jammu and Kashmir or in the Union territory of Ladakh from the 1st January, 2020
- iii. The balance of State taxes in electronic credit ledger of the said class of persons, whose principal place of business lies in the Union territory of Ladakh from the 1st January, 2020, shall be transferred as balance of Union territory tax in the electronic credit ledger

[Notification No. 03/2020–Central Tax dated 01st January, 2020]

4. Extension for one-time amnesty scheme to file all GSTR-1 for tax periods up to November 2019

Amnesty scheme to file FORM GSTR-1 from July 2017 to November 2019 is extended till 17th January 2020.

[Notification No. 03/2020–Central Tax dated 10th January, 2020]

5. Seeks to appoint Revisional Authority under CGST Act, 2017

Following shall be authorities:

- (a) the Principal Commissioner or Commissioner of Central Tax for decisions or orders passed by the Additional or Joint Commissioner of Central Tax; and

(b) the Additional or Joint Commissioner of Central Tax for decisions or orders passed by the Deputy Commissioner or Assistant Commissioner or Superintendent of Central Tax.

[Notification No. 03/2020–Central Tax dated 13th January, 2020]

6. Standard Operating Procedure (SOP) to be followed by exporters

Under the GST regime, several cases of monetization of fraudulent input tax credit have been observed. In such cases, it was often found that the exporters were non-existent at the addresses provided. It was also observed that these exporters were claiming ITC on the basis of fake invoices and were using this ITC to pay tax on exports which was later claimed as refund at the time of filing the GST returns. To curb this menace of fraudulent GST refunds CBIC has, through the captioned Circular, introduced the following **Standard Operating Procedure (SOP)** to be followed by exporters:

1. At the outset, the Board through tools of Artificial Intelligence and Data Analytics, shall select a small percentage of exporters for further verification. Till the verification is complete, the refund scrolls with respect to such exporters shall be kept in abeyance and their export consignments shall be subjected to 100 % examination at the customs port. Further, the jurisdictional CGST or Customs authorities of the concerned exporter shall inform him at the earliest to avoid any inconvenience to the genuine exporter. The concerned exporter, on being informed or his own volition, shall furnish certain information in the Format as per Annexure-A to the circular.

2. On the basis of the information furnished, the Jurisdictional CGST authorities shall complete the verification procedure within 14 days, failing which it has to be brought to the knowledge of nodal cell constituted in Pr. Chief Commissioner / Chief Commissioner Office.

3. After completion of 14 days from the date of submission of information to the jurisdictional CGST authorities, the exporter may escalate the matter to the Chief Commissioner by sending him an email concerned (email ids of the jurisdictional Chief Commissioner given in Annexure-B to the circular). The jurisdictional Pr. Chief Commissioner / Chief Commissioner shall get the verification procedure completed within the next 7 working days.

4. In any case, where the refund remains pending for more than a month, the exporter may file a grievance at cbic.gov.in/issue by giving all the relevant details like GSTN, IEC, Shipping Bill no., Port of Export and CGST formation where the details in the prescribed format of Annexure-A were submitted by the exporter. These grievances shall be resolved by a Committee headed by Member GST, CBIC.

Thus, through this circular, due care has been taken to reduce the cases of fraudulent refunds while ensuring minimum hardship for the genuine exporter.

[Circular No.131/1/2020-GST dated 23 January 2020]

(II) PUNJAB GST NOTIFICATIONS/ORDERS

PUNJAB GOVT. GAZ. (EXTRA), FEBRUARY 4, 2020 79
(MAGHA 15, 1941 SAKA)

PART III

GOVERNMENT OF PUNJAB

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

NOTIFICATION

The 27th January, 2020

No. S.O. 2/P.A.5/2017/S.172/2020.—WHEREAS, sub-section (1) of section 44 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017) (hereafter in this Order referred to as the said Act) provides that every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year;

AND WHEREAS, for the purpose of furnishing of the annual return electronically for every financial year as referred to in sub-section (1) of section 44 of the said Act, certain technical problems are being faced by the taxpayers as a result whereof, the said annual return for the period from the 1st July, 2017 to the 31st March, 2018 and for the period from 1st April, 2018 to the 31st March, 2019 could not be furnished by the registered persons, as referred to in the said sub-section (1) and because of that, certain difficulties have arisen in giving effect to the provisions of the said section.

NOW, THEREFORE, in exercise of the powers conferred by section 172 of the Punjab Goods and Services Tax Act, 2017, and all other powers enabling him in his behalf, the Governor of Punjab, on the recommendations of the Council, is pleased to make the following Order, to remove the difficulties, namely:—

1. (1) This Order may be called the Punjab Goods and Services Tax (Removal of Difficulties) Order, 2020.
(2) This order shall be deemed to have come into force on and with effect from the 14th day of the November, 2019.
2. For the Explanation in section 44 of the Punjab Goods and Services Tax Act, 2017, the following Explanation shall be substituted, namely: –
“*Explanation.* - For the purposes of this section, it is hereby declared that the annual return for the period from the 1st July, 2017 to the 31st March, 2018 shall be furnished on or before the 31st December, 2019 and the annual return

for the period from the 1st April, 2018 to the 31st March, 2019 shall be furnished on or before the 31st March, 2020. ”.

Sd/-
KARAN AVTAR SINGH,
Chief Secretary-cum-
Financial Commissioner (Taxation) to
Government of Punjab,
Department of Excise and Taxation.

1961/2-2020/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. 01/2020 – Central Tax

New Delhi, the 01st January, 2020

G.S.R.(E).— In exercise of the powers conferred by sub-section (2) of section 1 of the Finance (No. 2) Act, 2019 (23 of 2019), the Central Government hereby appoints the 1st day of January, 2020, as the date on which the provisions of sections 92 to 112, except section 92, section 97, section 100 and sections 103 to 110 of the Finance (No. 2) Act, 2019 (23 of 2019), shall come into force.

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

(Pramod Kumar)
Director, 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. 02/2020 – Central Tax

New Delhi, the 01st January, 2020

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 (Amendment) Rules, 2020.

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

2. In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), in rule 117,-

(a) in sub-rule (1A), with effect from the 31st December 2019, for the figures, letters and word “31st December, 2019”, the figures, letters and word “31st March, 2020” shall be substituted;

(b) in sub-rule (4), in clause (b), in sub-clause (iii), in the proviso, for the figures, letters and word “31st January, 2020”, the figures, letters and word “30th April, 2020” shall be substituted.

3. In the said rules, in **FORM REG-01**, in Part-B, for serial numbers 12 and 13 and the entries relating thereto, the following shall be substituted, namely:-

“ 12.	Are you applying for registration as a SEZ Unit?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	(i) Select name of SEZ		▽
	(ii) Approval order number and date of order		
	(iii) Period of validity	From DD/MM/YYYY	To DD/MM/YYYY
	(iv) Designation of approving authority		

13.	Are you applying for registration as a SEZ Developer?	Yes <input type="checkbox"/>		No <input type="checkbox"/>	
	(i) Select name of SEZ Developer	▽			
	(ii) Approval order number and date of order				
	(iii) Period of validity	From	DD/MM/YYYY	To	DD/MM/YYYY
	(iv) Designation of approving authority	”.			

4. In the said rules, in **FORM GSTR-3A**,-

(a) in serial number 2 under the heading “Notice to Return Defaulter u/s 46 for not filing Return”, for the words “tax liability will” , the words “tax liability may” shall be substituted;

(b) after serial number 4 under the heading “Notice to Return Defaulter u/s 46 for not filing Return” , the following serial number shall be inserted, namely:-

“5. This is a system generated notice and does not require signature.”;

(c) in serial number 3 under the heading “Notice To Return Defaulter U/S 46 For Not Filing Final Return Upon Cancellation Of Registration”, for the words “tax period will”, the words “tax period may” shall be substituted;

(d) after serial number 4 under the heading “Notice To Return Defaulter U/S 46 For Not Filing Final Return Upon Cancellation Of Registration” , the following serial number shall be inserted, namely:-

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

5. In the said rules, for **FORM INV-01**, the following form shall be substituted, namely:-

“Note: Cardinality Means occurrence of field in the schema. Below are the the meaning of various symbol used in this column:

0..1 : It means this item is optional and even if mentioned can not be repeated

1..1: It means that this item is mandatory and can be mentioned only once.

1..n: It means this item is mandatory and can be repeated more than once

0..n: It means this item is optional but can be repeated many times. For example: Previous invoice reference is optional but if required one can mention many previous invoice reference.

FORM GST INV – 1 (See rules 48)							
S No	Technical Field name	Cardinality	Small Description of the field	Is it Mandatory on invoice?	Technical Field Specifications	Sample Value of the field	Explanatory Notes of the Field
0	Version	1..1	Version number	Mandatory	string(Max length:10)	1.0	It is the version of schema . It will be used to keep track of version of Invoice specification.

1	IRN	0..1	Invoice Reference Number	Mandatory	string(Max length:50)	649b01ft	This will be a unique reference number for this invoice. It can be generated by application based on the Algorithm provided by E-Invoice system or can be left blank. In case this field has been left blank E-Invoice system will generate it and respond back in response to registration request. In case application send this number then e-Invoice system will validate it and after validation registered same number against this invoice. Invoice will only be valid once it has this number and it is registered on E-invoice system.
2	Invoice_type_code	1..1	Code for Invoice type	Mandatory	string(Max length:10)	B2B/B2C/SEZWP/SEZWOP/EXPWP/EXPWOP/DEXP/ISD/BOS/DC	This will be the code to identify type of supply, some of the examples are mentioned. It will have also code for bill of entry, invoice and other type of documents. B2C invoice can be mentioned as type and based on that some fields will become optional. Detail JSON schema will mention these details later.
3	Invoice_Subtype_code	1..1	Sub_Code for Invoice type	Mandatory	Drop Down	Regular / CreditNote / DebitNote	Type of the Document Can be used as Regular for Bill of Supply and Delivery Challan etc
4	InvoiceNum	1..1	Invoice number	Mandatory	string(Max length:16)	Sa/1/2019	It will be as per invoice number rule mentioned in CGST/SGST rule. Rule to be checked.

5	InvoiceDate	1..1	Invoice Date	Mandatory	string (DD/MM/YYYY)	21/7/2019	The date when the Invoice was issued. Format "DD/MM/YYYY"
6	Invoice_currency_code	1..1	Currency code	Optional	string(Max length:16)	USD	It depicts an additional currency in which all Invoice amounts can be given along with INR. one additional currency shall be used in the Invoice.
7	Reversecharge	0..1	Reverse Charge	optional	Character	Y	Is the liability payable under reverse charge
8	Delivery_or_Invoice_Period	0..1		Optional			
9	Invoice_Period_Start_Date	1..1	Invoice period start date	Mandatory (if this section is selected or used)	string (DD/MM/YYYY)	21-07-19	
10	Invoice_Period_End_Date	1..1	Invoice Period End date	Mandatory (if this section is selected or used)	string (DD/MM/YYYY)	21-07-19	

11	Order and Sales Order Reference	0..1		Optional			
12	Preceding Invoice Reference	0..n					
13	Preceding_Invoice_Number	1..1	Detail of Base Invoice which is being amended by subsequent document	Mandatory (if this section is selected or used)	string(Max length:16)	Sa/1/2019	This is the reference of original invoice to be provided in the case of debit and credit notes. In mere invoicing this is not required. It is required to keep future expansion of e versions of Credit notes, Debit Notes and other documents required under GST
14	Invoice_Document_Reference	1..1	Invoice reference	Optional	string(Max length:20)	KOL01	This reference is kept for user to provide any additional fields for eg., some branch, their user id, their employee id, sales centre reference etc.
15	Preceding_Invoice_Date	1..1	Date of Invoice	Mandatory (if this section is selected or used)	string (DD/MM/YYYY)	21-07-19	
16	Other References	0..1					
17	Receipt_Advice_Reference	0..1	Terms reference	Optional	string(Max length:2)	CREDIT30	This reference is kept for user to provide their receipt advice details to their customer.

					0)		
18	Tender_or_Lot_Reference	0..1	Lot / Batch Reference	Optional	string(Max length:20)	TENDERJAN2020	This reference is kept for mentioning number or detail of Lot or Tender if supplies are made under such Lot or tender
19	Contract_Reference	0..1	Contract Number	Optional	string(Max length:20)	CONT23072019	This reference is kept for mentioning contract number if supplies are made under any specific Contract
20	External_Reference	0..1	Any other reference	Optional	string(Max length:20)	EXT23222	An additional field for provision of any additional reference number for such supply.
21	Project_Reference	0..1	Project Reference	Optional	string(Max length:20)	PJTCODE01	This reference is kept for mentioning Project number if supplies are made under any specific Project
22	RefNum	0..1	Vendor PO Reference number	Optional	string(Max length:16)	Vendor PO /1	0
23	RefDate	0..1	Vendor PO Reference date	Optional	string(DD/MM/YYYY)	21-07-19	00-01-00
24	Supplier Information	1..1		Mandatory			<i>A group of business terms providing information about the Supplier.</i>

25	Supplier_Legal_Name	1..1	Supplier_Legal_Name	Mandatory	string(Max length:100)	The Institute of Chartered Accountants of India	Name as appearing in PAN of the Supplier
26	Supplier_trading_name	0..1	Trade Name of Supplier	Optional	string(Max length:100)	ICAI	A name by which the Supplier is known, other than Supplier name (also known as Business name).
27	Supplier_GSTIN	1..1	Gstin of the Supplier	Mandatory	Alphanumeric with 15 characters	29AADFV7589C1ZO	GSTIN of the supplier
28	Supplier_Address 1	1..1	Supplier address1	Mandatory	string(Max length:100)	Vasanth Nagar	Address of the Supplier
29	Supplier_Address 2	0..1	Supplier address 2	Optional	string(Max length:100)	Bangalore	City of the Supplier
30	Supplier_City	1..1	Supplier address 2	Optional	string(Max length:50)	Bangalore	City of the Supplier
31	Supplier_State	1..1	Place	Mandatory	string(Max length:50)	Karnataka	State of the Supplier

32	Supplier_Pincode	1..1	Pincode	Mandatory	string(Max length:6)	560087	Pincode of the Supplier
33	Supplier_Phone	0..1	Phone	Optional	string(Max length:12)	9999999999	Contact number of the Supplier
34	Supplier_Email	0..1	eMail id	Optional	string(Max length:50)	Supplier@icai.com	Email id of the Supplier.
35	Buyer Information	1..1		Mandatory			Header for Buyer information
36	Billing_Name	1..1	Buyer Legal name	Mandatory	string(Max length:100)	Adarsha	It will be legal name of buyer
37	Billing_Trade_Name	1..1	Buyer Legal name	Mandatory	string(Max length:100)	Adarsha	It will be Trade Name of buyer
38	Billing_GSTIN	1..1	GSTIN	Mandatory	string(Max length:15)	29AACCR7832C1ZD	GSTIN of the Buyer
39	Billing_POS	1..1	State code	Mandatory	String(Max length:2)	29	Place of supply code of Supply

)		
40	Billing_Address1	1..1	Address1	Mandatory	string(Max length:100)	Address	Address of the Buyer
41	Billing_Address2	0..1	Address2	optional	string(Max length:100)	Address	Address of the Buyer
42	Billing_State	1..1	Place	Mandatory	string(Max length:50)	Bangalore	State of the Buyer
43	Billing_Pincode	1..1	pincode	Mandatory	string(Max length:6)	560002	Pincode of the Buyer
44	Billing_Phone	0..1	Phone number	Optional	string(Max length:12)	080 2223323	contact number of the Buyer
45	Billing_Email	0..1	eMail id	Optional	string(Max length:50)	billing@icai.com	Email id of the buyer. This should be provided to help E-Invoicing system to receive this invoice on mail.

46	Payee Information (Seller payment information)	0..1		optional			<i>Header for Payee Information - person to whom amount is payable. Optional for cases where payment is to be made to a person other than Supplier</i>
47	Payee_Name	1..1	Payee name	Mandatory	string(Max length:100)		Name of the person to whom payment is to be made
48	Payee_Financial_Account	1..1	Account Number	Mandatory	string(Max length:18)		Account number of Payee
49	ModeofPayment	1..1	Payment mode	Mandatory	string(Max length:6)	Cash/Credit/Direct Transfer	Cash/Credit/Direct Transfer
50	Financial_Institution_Branch	1..1	Financial Institution Branch (IFSC Code)	Mandatory	string(Max length:11)		A group of business terms to specify Branch of Payee
51	Payment_Terms	0..1	Payment Terms	Optional	string(Max length:50)		Terms of Payment with the recipient if to be provided
52	Payment_Instruction	0..1	Payment Instruction	Optional	string(Max length:50)		A group of business terms providing information about the payment.

53	Credit_Transfer	0..1		Optional	string(Max length:50)		A group of business terms to specify credit transfer payments.
54	Direct_Debit	0..1		Optional	string(Max length:50)		A group of business terms to specify a direct debit.
55	CreditDays	0..1	Due date of Credit	Optional	Numeric (Min length:1 Max length:3)	30-11-2019	The date when the payment is due. Format "DD-MM-YYYY".
56	Delivery_Information	1..1		Mandatory			A group of business terms providing information about where and when the goods and services invoiced are delivered.
57	DispatchFromDetails	1..1	DISPATCH from details	Mandatory	Refer A 1.1		
58	ECOM_GSTIN	0..1	eCommerce GSTIN	Optional	string(Max length:15)		Mention og E commerce operator is supply is made through him
59	ECOM_POS	0..1	State code	Optional	String(Max length:2)	29	Mention og E commerce operator is supply is made through him
60	Invoice Item Details	1..n		Mandatory			

				Y			
61	List {items}		Items	Mandatory	Refer A 1.2		A group of business terms providing information about the goods and services invoiced.
62	Document Total	1..1		Mandatory	-	-	
63	TotalDetails	1..1	Bill TotalDetails	Mandatory	Refer A 1.3		0
64	Tax_Total	1..1	Total Tax Amount	Mandatory	Decimal (10,2)		When tax currency code is provided, two instances of the tax total must be present, but only one with tax subtotal.
65	Sum_of_Invoice_line_net_amount	0..1	Item level net amount	optional	Decimal (10,2)		Sum of all Invoice line net amounts in the Invoice. Must be rounded to maximum 2 decimals.
66	Sum_of_allowances_on_document_level	0..1	total discount	optional	Decimal (10,2)		Sum of all allowances on document level in the Invoice. Must be rounded to maximum 2 decimals.
67	Sum_of_charges_on_document_level	0..1	total other charges	optional	Decimal (10,2)		Sum of all charges on document level in the Invoice. Must be rounded to maximum 2 decimals.
68	PreTaxDetails		Break up of the tax rate at invoice level	Optional	Refer A 1.3		The total amount of the Invoice without GST. Must be rounded to maximum 2 decimals.
69	Paid_amount	1..1	Paid amount	Mandatory	Decimal (10,2)		The sum of amounts which have been paid in advance. Must be rounded to maximum 2 decimals.
70	Amount_due_for_payment	1..1	Payment Due	Mandatory	Decimal (10,2)		The outstanding amount that is requested to be paid. Must be rounded to maximum 2 decimals.
71	Extra Information	0..1		Optional			
72	Tax_Scheme	1..1	GST, Excise, Custom, VAT etc.	Mandatory	string(Max length: 4)	GST,CUST, VAT etc..	Mandatory element. Use "GST"
73	Remarks	0..1	Remarks/Note	Optional	string(Max length: 100)	New batch Items submitted	A textual note that gives unstructured information that is relevant to the Invoice as a whole. Such as the reason for any correction or assignment note in case the invoice has been factored.
74	Additional_Supporting_Documents	0..n		optional			
75	Additional_Supporting_Documents_url	0..1	Supporting document URLs	optional	string(Max length: 100)		A group of business terms providing information about additional supporting documents substantiating the claims made in the Invoice. The additional supporting documents can be used for both referencing a document number which is expected to be known by the receiver, an external document (referenced by a URL) or as an embedded document, Base64 encoded (such as a time report).

76	Additional_Supporting_Documents	0..1	Supporting document in base64 format.	optional	string(Max length: 1000)		A group of business terms providing information about additional supporting documents substantiating the claims made in the Invoice. The additional supporting documents can be used for both referencing a document number which is expected to be known by the receiver, an external document (referenced by a URL) or as an embedded document, Base64 encoded (such as a time report).
77	Invoice_Allowances_or_Charges	0..1	Total Value of allowances and charges at invoice level	optional	Decimal (10,2)		A group of business terms providing information about allowances or charges applicable at invoice level as sometime discount or charges may be applicable on invoice level not on line item level.
78	Eway Bill Details	0..1		Optional			
79	Transporter ID	1..1	Transporter Id	Optional	Alphanumeric with 15 characters	29AADFV7589C1ZO	GSTIN :: 29AMRPV8729L121
80	transMode	1..1	Mode of transportation	Road / Rail / Air / Ship	<u>Drop Down - Fixed</u>	-	1/2/3/4
81	transDistance	1..1	Distance of transportation		Decimal (10,2)	-	20

82	transporterName	0..1	Transporter Name		string(Max length: 100)	-	SPURTHI R
83	transDocNo	0..1	Transporter Doc No		-	-	TA120; Mandatory if the mode of transport is other than by Road
84	transDocDate	0..1	Transporter Doc Date		string (DD/MM/YYYY)	21-07-2019	20/9/2017
85	vehicleNo	1..1	Vehicle No	Optional	string(Max length: 20)	-	KA12KA1234 or KA12K1234 or KA123456 or KAR1234
86	Signature Detials	0..1		Mandatory			
87	DSC	1..1	Digital Signature of the Document			DSC KEY Hash	an optional field since it is signed by the GSTN Portal also and data travels thry secured platform
	A 1.0 ShipTo Details	0..1					
S No	Parameter Name		Description		Field Specifications	Sample Value	
1	ShippingTo_Name	1..1	ShippingTo_Legal_Name	Mandatory	string(Max length:	Adarsha	A group of business terms providing information about the address to which goods and services invoiced were or are

					60)		delivered.
1	ShippingTo_Name	1..1	ShippingTo_Trade_Name	Mandatory	string(Max length: 60)	Adarsha	A group of business terms providing information about the address to which goods and services invoiced were or are delivered.
2	ShippingTo_GSTIN	1..1	ShippingTo_GSTIN	Mandatory	string(Max length: 100)	36AABCT2223L1ZF	A group of business terms providing information about the address to which goods and services invoiced were or are delivered.
3	ShippingTo_Address1	1..1	ShippingTo_Address1	Mandatory	string(Max length: 50)	Address	A group of business terms providing information about the address to which goods and services invoiced were or are delivered.
4	ShippingTo_Address2	0..1	ShippingTo_Address2	Optional	string(Max length: 50)	Address	A group of business terms providing information about the address to which goods and services invoiced were or are delivered.
5	ShippingTo_Place	0..1	ShippingTo_Place	Optional	string(Max length: 50)	Bangalore	A group of business terms providing information about the address to which goods and services invoiced were or are delivered.
6	ShippingTo_Pincode	1..1	ShippingTo_Pincode	Mandatory	string(Max length: 6)	560001	A group of business terms providing information about the address to which goods and services invoiced were or are delivered.
7	ShippintTo_State	1..1	ShippintTo_State	Mandatory	string(Max length: 100)	Karnataka	A group of business terms providing information about the address to which goods and services invoiced were or are delivered.

8	SubsupplyType		Supply Type	Mandatory	String(Max length: 2)	Supply/export/Jobwork	A group of business terms providing information about the address to which goods and services invoiced were or are delivered.
9	TransactionMode		Transacion Mode	Mandatory	String(Max length: 2)	Regula/BilTo/ShipTo	A group of business terms providing information about the address to which goods and services invoiced were or are delivered.
A 1.1 DispatchFrom Details							
S No	Parameter Name		Description		Field Specifications	Sample Value	
1	Company_Name	1..1	Company_Name	Mandatory	string(Max length: 60)	ICAI	Detail of person and address wherefrom goods are dispatched.
2	Address1	1..1	Address1	Mandatory	string(Max length: 100)	Vasanth Nagar	Detail of person and address wherefrom goods are dispatched.
2	Address2	0..1	Address2	Optional	string(Max length: 100)	Millers Road	Detail of person and address wherefrom goods are dispatched.
3	City	1..1	Place	Optional	string(Max length: 100)	Bangalore	Detail of person and address wherefrom goods are dispatched.

4	State	1..1	State	Mandatory	String(Max length: 2)	Karnataka	Detail of person and address wherefrom goods are dispatched.
5	Pincode	1..1	Pincode	Mandatory	string(Max length: 6)	560087	Detail of person and address wherefrom goods are dispatched.
A 1.2 Item Details							
5 No	Parameter Name		Description		Field Specifications	Sample Value	
1	SLNO	1..1	Serial Number	Mandatory	int	1,2,3	
2	Item Description	0..1	Item description	optional	string(Max length: 300)	Mobile	The identification scheme identifier of the Item classification identifier
3	ISService	0..1	ISService	Optional	Character	Y/N	Specify whether supply is that of Services or not
4	HSN code	0..1	HSN code	Optional	string(Max length: 8)	1122	A code for classifying the item by its type or nature.
5	Batch	0..1	...	Optional	<u>Refer A 1.3.1</u>	<u>galaxy</u>	<u>Batch number details are important to be mentioned for certain set of manufacturers</u>
6	Barcode	0..1	ItemBarcode	Optional	string(Max	b123	Barcoding if to be provided need to be specified

					length: 30)		
7	Quantity	1..1	Quantity	Mandatory	Decimal (13,3)	10	The quantity of items (goods or services) that is charged in the Invoice line.
8	FreeQty	0..1	free quantity	Optional	Decimal (13,3)	1	Detail of any FOC item
9	UQC	0..1	uom	Optional	string(Max length: 8)	Box	The unit of measure that applies to the invoiced quantity. Codes for unit of packaging from UNECE Recommendation No. 21 can be used in accordance with the descriptions in the "Intro" section of UN/ECE Recommendation 20, Revision 11 (2015): The 2 character alphanumeric code values in UNECE Recommendation 21 shall be used. To avoid duplication with existing code values in UNECE Recommendation No. 20, each code value from UNECE Recommendation 21 shall be prefixed with an "X", resulting in a 3 alphanumeric code when used as a unit of measure.
10	Rate	1..1	Item Rate per quantity	Mandatory	Decimal (10,2)	500.5	The number of item units to which the price applies.
11	GrossAmount	1..1	gross amount	Optional	Decimal (10,2)	5000	The price of an item, exclusive of GST, after subtracting item price discount. The Item net price has to be equal with the Item gross price less the Item price discount, if they are both provided. Item price can not be negative.
12	DiscountAmount	0..1	discount amount	Optional	Decimal (10,2)		The total discount subtracted from the Item gross price to calculate the Item net price.

13	PreTaxAmount	0..1	Pretax	Optional	Decimal(10,2)	50	This is the Value after the Tax. Ideally this would be taxable value in most cases, when ever there is a change in the assesseeable value then pretax amount should be used for.
14	AssesseableValue	1..1	net amount	Mandatory	Decimal(13,2)	5000	The unit price, exclusive of GST, before subtracting Item price discount, can not be negative
15	GST Rate	1..1	Rate	Mandatory	Decimal(3,2)	5	The GST rate, represented as percentage that applies to the invoiced item.
16	Iamt	0..1	IGST Amount as per item	Mandatory	Decimal(11,2)		A group of business terms providing information about GST breakdown by different categories, rates and exemption reasons
17	Camt	0..1	CGST Amount as per item	Mandatory	Decimal(11,2)	650.00	
18	Samt	0..1	SGST Amount as per item	Mandatory	Decimal(11,2)	650.00	
19	Csamt	0..1	CESS Amount as per item	Optional	Decimal(11,2)	65.00	
20	StateCessAmt	0..1	State cess amount as per item	Optional	Decimal(11,2)	65.00	
21	OtherCharges	0..1	Other if any	Optional	Decimal(11,2)		A group of business terms providing information about allowances applicable to the Invoice as a whole. A group of business terms providing information about charges

							and taxes other than GST, applicable to the Invoice as a whole.
22	Invoice_line_net_amount	0..1	Invoice line Net Amount	Optional	Decimal(11,2)		The total amount of the Invoice line. The amount is "net" without GST, i.e. inclusive of line level allowances and charges as well as other relevant taxes. Must be rounded to maximum 2 decimals.
23	Order__Line_Reference	0..1	Reference to purchase order	optional	String(50)		Reference of purchase order.
24	ItemTotal	1..1	net amount	Optional	Decimal(13,2)	5000	A group of business terms providing the monetary totals for the Invoice.
25	Origin_Country	0..1	Origin country of item	optional	String(Max length: 2)		This is to specify item origin country like mobile phone sold in India could be manufactured in China.
26	SerialNoDetails	0..1	...	Optional	Refer A 1.3.2		
	A 1.3 Total Details	1..1		Mandatory			
S No	Parameter Name		Description		Field Specifications	Sample Value	
1	IGSTValue	0..1	IGST Amount as per invoice	Optional	Decimal(11,2)		Appropriate taxes based on rule will be applicable. For example either of CGST& SGST or IGST will be mandatory. As there is no way to show conditional mandatory,

							optional has been mentioned against all taxes.
2	CGSTValue	0..1	CGST Amount as per invoice	Optional	Decimal(11,2)		Taxable value as per Act to be specified
3	SGSTValue	0..1	SGST Amount as per invoice	Optional	Decimal(11,2)		Taxable value as per Act to be specified
4	CESSValue	0..1	cess Amount as per invoice	Optional	Decimal(11,2)		Taxable value as per Act to be specified
5	StateCessValue	0..1	State cess Amount as per invoice	Optional	Decimal(11,2)		Taxable value as per Act to be specified
6	Rate	0..1	Tax Rate	Optional	Decimal(11,2)		Tax Rate
7	Freight	0..1	Charges	Optional	Decimal(11,2)		
8	Insurance	0..1	Charges	Optional	Decimal(11,2)		
9	Packaging and Forwarding	0..1	Charges	Optional	Decimal(11,2)		
10	Other Charges	0..1	Pretax/post charges	Optional	Decimal(11,2)		A group of business terms providing information about allowances applicable to the Invoice as a whole. A group of business terms providing information about charges and taxes other than GST, applicable to the Invoice as a whole.

11	Roundoff	0..1	roundoff value	Optional	Decimal(11,2)		The amount to be added to the invoice total to round the amount to be paid. Must be rounded to maximum 2 decimals.
12	Total Invoice Value	1..1	Total amount	Mandatory	Decimal(11,2)		The total amount of the Invoice with GST. Must be rounded to maximum 2 decimals.
	A 1.3.1 Batch Details	1..1					
S No	Parameter Name		Description		Field Specifications	Sample Value	
1	BatchName	1..1	Batch number/name	Mandatory	string(Max length: 20)		Batch number details are important to be mentioned for certain set of manufacturers
2	BatchExpiry Date	0..1	Expiry Date	optional	string(DD/MM/YYYY)		Expiry Date of the Batch
3	WarrantyDate	0..1	Warranty Date	Optional	string(DD/MM/YYYY)		Warranty Date of the ITEM
	A 1.3.2 Serial Number Details	0..1					
S No	Parameter Name		Description		Field Specifications	Sample Value	

1	SerialNumber	1..1	Serial Number in case of each item having unique number	Optional	string(Max length: 15)		0
2	OtherDetail1	0..1	other detail of serial number	Optional	string(Max length: 10)		0
3	OtherDetail2	0..1	other detail of serial number	Optional	string(Max length: 10)		0
A 1.3.3 PreTax Details							
S No	Parameter Name		Description		Field Specifications	Sample Value	
1	Pretax Particulars		Pretax ledger/particulars	Optional	string(Max length: 100)		0
2	TaxOn		Pretax on gross amount or any other	Optional	Decimal(11,2)		0
3	Amount		Amount	Optional	Decimal(11,2)		0

”.

[F. No. 20/06/07/2019 – GST (Pt. II)]

(Pramod Kumar)
Director, 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, *vide* number G.S.R. 610 (E), dated the 19th June, 2017 and last amended *vide* notification No. 75/2019 - Central Tax, dated the 26th December, 2019, published *vide* number G.S.R. 954 (E), dated the 26th 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. 03/2020 – Central Tax

New Delhi, the 01st January, 2020

G.S.R.....(E). -In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Government, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 62/2019–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. 879(E), dated the 26th November, 2019, namely:–

In the said notification,–

- (i) in paragraph 2, in clause (iii), for the figures, letters and words “30th day of October, 2019” and “31st day of October”, the figures, letters and words “31st day of December, 2019” and “1st day of January, 2020” shall respectively be substituted;
- (ii) in paragraph 3, for the figures, letters and words “31st day of October, 2019”, the figures, letters and words “1st day of January, 2020” shall be substituted.

[F. No. 20/06/07/2019 – GST (Pt. II)]

(Pramod Kumar)
Director, Government of India

Note: The principal notification No. 62/2019 –Central Tax, dated the 26th November, 2019 was published in the Gazette of India, Extraordinary vide number G.S.R. 879(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. 04/2020 – Central Tax**

New Delhi, the 10th January, 2020

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, in the third proviso for the figures, letters and word “10th January, 2020”, the figures, letters and word “17th January, 2020” shall be substituted.

[F. No. 20/06/07/2019-GST (Pt. II)]

(Pramod Kumar)
Director, 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 last amended by notification No. 74/2019-Central Tax, dated the 26th December, 2019, published in the Gazette of India, Extraordinary, *vide* number G.S.R. 953(E), dated the 26th 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. 05/2020 – Central Tax

New Delhi, the 13th January, 2020

G.S.R.....(E).– In pursuance of the provisions of section 5 read with clause (99) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Board of Indirect Taxes and Customs hereby authorises -

- (a) the Principal Commissioner or Commissioner of Central Tax for decisions or orders passed by the Additional or Joint Commissioner of Central Tax; and
- (b) the Additional or Joint Commissioner of Central Tax for decisions or orders passed by the Deputy Commissioner or Assistant Commissioner or Superintendent of Central Tax,

as the Revisional Authority under section 108 of the said Act.

[F. No. 20/06/07/2019-GST]

(Prmod Kumar)
Director, Government of India

(IV) IGST 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. 01/2020 – Integrated Tax

New Delhi, the 01st January, 2020

G.S.R.(E).— In exercise of the powers conferred by sub-section (2) of section 1 of the Finance (No. 2) Act, 2019 (23 of 2019), the Central Government hereby appoints the 1st day of January, 2020, as the date on which the provisions of section 114 of the Finance (No. 2) Act, 2019 (23 of 2019) shall come into force.

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

(Pramod Kumar)
Director, Government of India

(V) CGST CIRCULARS

Circular No.131/1/2020-GST

**CBEC-20/16/07/2020-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 23rd January, 2020

To

The Principal Chief Commissioners/Chief Commissioners/Principal Commissioners/
Commissioners (All)

Madam/Sir,

Subject: Standard Operating Procedure (SOP) to be followed by exporters– regarding

As you are aware, several cases of monetisation of credit fraudulently obtained or ineligible credit through refund of Integrated Goods & Service Tax (IGST) on exports of goods have been detected in past few months. On verification, several such exporters were found to be non-existent in a number of cases. In all these cases it has been found that the Input Tax Credit (ITC) was taken by the exporters on the basis of fake invoices and IGST on exports was paid using such ITC.

2. To mitigate the risk, the Board has taken measures to apply stringent risk parameters-based checks driven by rigorous data analytics and Artificial Intelligence tools based on which certain exporters are taken up for further verification. Overall, in a broader time frame the percentage of such exporters selected for verification is a small fraction of the total number of exporters claiming refunds. The refund scrolls in such cases are kept in abeyance till the verification report in respect of such cases is received from the field formations. Further, the export consignments/shipments of concerned exporters are subjected to 100 % examination at the customs port.

3. While the verifications are caused to mitigate risk, it is necessary that genuine exporters do not face any hardship. In this context it is advised that exporters whose scrolls have been kept in abeyance for verification would be informed at the earliest possible either by the jurisdictional CGST or by Customs. To expedite the verification, the exporters on being informed in this regard or on their own volition should fill in information in the format attached as Annexure 'A' to this Circular and submit the same to their jurisdictional CGST authorities for verification by them. If required, the jurisdictional authority may seek further additional information for verification. However, the jurisdictional authorities must adhere to timelines prescribed for verification.

3.1 Verification shall be completed by jurisdiction CGST office within 14 working days of furnishing of information in proforma by the exporter. If the verification is not completed within this period, the jurisdiction officer will bring it the notice of a nodal cell to be constituted in the jurisdictional Pr. Chief Commissioner/Chief Commissioner Office.

3.2 After a period of 14 working days from the date of submission of details in the prescribed format, the exporter may also escalate the matter to the Jurisdictional Pr. Chief

Circular No.131/1/2020-GST

Commissioner/Chief Commissioner of Central Tax by sending an email to the Chief Commissioner concerned (email IDs of jurisdictional Chief Commissioners are in Annexure B).

3.3 The Jurisdictional Pr. Chief Commissioner/Chief Commissioner of Central Tax should take appropriate action to get the verification completed within next 7 working days.

4. In case, any refund remains pending for more than one month, the exporter may register his grievance at www.cbic.gov.in/issue by giving all relevant details like GSTIN, IEC, Shipping Bill No., Port of Export & CGST formation where the details in prescribed format had been submitted etc.. All such grievances shall be examined by a Committee headed by Member GST, CBIC for resolution of the issue.

5. It is requested that suitable trade notices may be issued to publicize the contents of this circular. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Yogendra Garg)
Principal Commissioner
email: IGSTrefund-cbic@gov.in

Copy for information to:

1. The Principal Director Generals/ Director Generals (All)
2. Director General FIEO

Annexure A

The details to be provided by the exporter for verification:

I. GST related data:

1. GSTIN –
2. Please provide the following details if the proprietor/director/partner of this entity is also associated with other entities.

S No	Name of Director/Partner/Proprietor	Name of the other Entity Associated with	PAN (DIN if Director)	GSTIN	Registration status (Active / Inactive)
1					
2					
3					

3. Turnover of previous Financial Year -
(For New Entity till date Current Financial Year Turnover, if any)

4. Details of GST liability–

S No	Return Type	Declared aggregate liability for Previous Financial Year	Declared aggregate liability for Current Financial Year
1	GSTR 3B		
2	GSTR 1		

5. Details of ITC :

FY	ITC available in GSTR-2A	ITC availed in GSTR-3B	Mismatch	Details of payment or reversal of mismatched ITC
2017-18				
2018-19				
2019-20				

6. Details of refund claimed in previous Financial Year and current Financial Year-

S No	GSTIN	Type of Refund	ARN No. and Date	Amount		Authority from which refund claimed
				Claimed	Sanctioned	

7. Summary of E way Bills generated for relevant period.

S No	Supplies	No of E way Bill generated	HSNs	Taxable Amount
1	Inward			
2	Outward			

II. Financial Data

1. Bank Account details including the bank accounts of proprietor/partner/directors–

S. No.	Account Number	IFSC Code	Account Type	Name of Account Holder	PAN of Account Holder	Date of opening of Bank Account

2. Bank Account statement of past 6 months in respect of the bank accounts provided above.
3. BRCs/FIRCs evidencing receipt of foreign remittances against the exports made in past 1 year.
4. Bank letter for up to date KYC of all bank accounts provided above.
5. Top 5 creditors and Debtors (with GSTIN) from account(s) where refunds are proposed to be received and from which major business transactions (payments for supplies and receipts) are carried out.

III. Additional Data

1. Copy of PAN.
2. Copy of IEC
3. Certificate of Incorporation or partnership deed
4. Rent agreement of all premises along with geo-tagged photos
5. Telephone Bill of past 3 months for all premises
6. Electricity Bill of past 3 months for all premises
7. Number of employees and the statement of PF evidencing employees
8. Copy of the following schedules of the latest Income Tax Return:
 - (i) Computation of depreciation on plant and machinery under the Income-tax Act
 - (ii) Computation of depreciation on other assets under the Income-tax Act
 - (iii) Summary of depreciation on all the assets under the Income-tax Act

Annexure-B

Following are the official email IDs of Pr. Chief Commissioner's/Chief Commissioner's office of CGST zones under CBIC:

Sl. No.	Name of Zone	Email ID
1	Ahmedabad	ccu-cexamd@nic.in
2	Bengaluru	ccbz-excise@nic.in
3	Bhopal	ccu-cexbpl@nic.in
4	Bhubaneshwar	ccu-cexbbr@nic.in
5	Chandigarh	ccu-cexchd@nic.in
6	Chennai	ccu-cexchn@nic.in
7	Cochin	cccocchin@nic.in
8	Delhi	ccu-cexdel@nic.in
9	Hyderabad	ccu-cexhyd@nic.in
10	Jaipur	ccu-cexjpr@nic.in
11	Kolkata	ccu-cexkoa@nic.in
12	Lucknow	ccu-cexlko@nic.in
13	Meerut	ccu-cexmeerut@nic.in
14	Mumbai	ccu-cexmum1@nic.in
15	Nagpur	ccu-cexngpr@nic.in
16	Panchkula	cco.gstpk1@gov.in
17	Pune	ccu-cexpune@nic.in
18	Ranchi	ccu-cexranchi@nic.in
19	Shillong	ccu-cexshlng@nic.in
20	Vadodara	ccu-cexvdr@nic.in
21	Vishakhapatnam	ccu-cexvzg@nic.in

(VI) ADVANCE RULINGS

1. GST AAR cannot be filed by recipient of Services or Goods or Both

Case Name : **In re Barbeque nation Hospitality Ltd. (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 03/2020

Date of Judgement/Order : 09/01/2020

Section 95(a) of the CGST Act 2017, while defining the term 'advance ruling', stipulates that an applicant can seek advance ruling on the questions specified under Section 97(2) of the CGST Act 2017, **in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the said applicant.** In the instant case the questions, on which the applicant seeks advance ruling, are not in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the said applicant, but in relation to the service/ s being received by them. Therefore, the instant application is beyond the jurisdiction of this authority and hence is liable for rejection.

2. GST on Filters manufactured solely for use by Indian Railways

Case Name : **In re Parker Hannifin India Pvt Ltd, (GST AAAR Karnataka)**

Appeal Number : Order No. KAR/AAAR/07/ 2019-20

Date of Judgement/Order : 10/01/2020

The appellate authority for advance ruling uphold the ruling passed under section 98(4) of the CGST Act 2017 vide **NO. KAR ADRG 54/2019 dated 19-09-2019** i.e. Contention of the appellant is dismissed on all accounts.

Filters manufactured by the Appellant solely and principally for use by the Indian Railways and supplied directly to the Indian Railways are classifiable under Chapter Heading 84.21 of the Customs Tariff. The classification of the subject goods will not change if the same are supplied to a distributor instead of Indian Railways and the distributor in turn affects the supply to the Indian Railways.

3. 12% IGST payable on import of Pharmaceutical Reference Standards

Case Name : **In re Chromachemie Laboratory Private Limited (GST AAAR Karnataka)**

Appeal Number : Order No. KAR/AAAR-08/2019-20

Date of Judgement/Order : 14/01/2020

The appellate authority for advance ruling set aside the ruling passed under section 98(4) of the CGST Act 2017 vide **NO. KAR. ADRG 71/2019 dated 23-09-2019** i.e. Contention of the appellant is allowed where in the Pharmaceutical Reference Standards (Prepared Laboratory Reagents) imported and supplied by the Appellant and classified under Tariff Item 3822 00 90 of the Customs Tariff Act, 1975 is covered

under Entry No. 80 of Schedule-II to Notification No. 1/2017- Integrated Tax (Rate) dated 28th June 2017 attracting a levy of Integrated Tax at the rate of 12%.

4. AAR not maintainable as applicant has not undertaken supply in subject case

Case Name : **In re Anju Kushal Jain (GST AAR Maharashtra)**

Appeal Number : Order No. GST-ARA- 48/2019-20/B-05

Date of Judgement/Order : 15/01/2020

Question- Whether GST is leviable on the sale of shop which is 44 yrs old and between lessor to the lessee / or any other person?

Answer- From a perusal of activity undertaken by applicant as submitted, the applicant has purchased four shops i.e. Shop No. A3, A4, A5 and A6 at House No. 1, City Survey No. 110, Panchsheel Square, Dhantoli, Nagpur and wants to know the liability under GST Act on this transaction.

Section 95 allows this authority to decide the matter in respect of supply of goods or services or both, undertaken or proposed to be undertaken by the applicant. We find that the applicant has not undertaken the supply in the subject case. In fact, the applicant is a recipient of property in subject transaction. Thus, the condition under Section 95 is not satisfied by the applicant and hence, the issue is not within purview of this authority. The impugned transactions are not in relation to the supply of goods or services or both undertaken by the applicant and therefore, the subject application cannot be admitted. Hence we do not discuss the merits of the case.

5. Transformers' supplied to Indian Railways covered under HSN '8504'

Case Name : **In re Rishab Industries (GST AAR Maharashtra)**

Appeal Number : Advance Ruling No. GST-ARA-34/2019-20/B-04

Date of Judgement/Order : 15/01/2020

Question- Whether transformers supplied to Indian Railways can be classified as 'Parts of railway or tramway locomotives or rolling stock' under HSN '8607' and thereby subjected to GST@ 5% or the transformers shall be categorized under HSN 8504 and subjected to GST@ 18%?

Answer- Transformers' supplied to Indian Railways, by the applicant, are covered under HSN '8504' and Sr. No. 375 of Schedule III of the **Notification 1/2017 Central Tax (Rate) dated 28.06.2017** and therefore subjected to GST@ 18%.

6. GST leviable on sale of TDR/FSI received for surrendering joint rights in land

Case Name : **In re Vilas Chandanmal Gandhi (GST AAR Maharashtra)**

Appeal Number : Advance Ruling NO. GST-ARA- 40/2019-20/B-06

Date of Judgement/Order : 15/01/2020

Question A: Whether GST is leviable on sale of Transferable Development Rights ('TDR')/ Floor Space Index ('FSI') received as consideration for surrendering the joint rights in land in terms of Development Control Regulations and granted in light of the article of agreement dated 18 December 2017 entered between the Applicant and Pune Municipal Corporation ('PMC') read with Development Control Regulations?

Answer:- Answered in the affirmative.

Question B:- If yes, what will be classification under GST and what will be applicable rate of GST?

Answer: – GST classification will be under Heading 9972 and the applicable rate of GST 18% (9% CGST+ 9% SGST).

7. 18% GST on Restaurant services at a place where Room Tariff is Rs. 7500 & above

Case Name : **In re Kutting Fusion Hospitality LLP (GST AAR Maharashtra)**

Appeal Number : Order No. GST-ARA- 22/2019-20/B-03

Date of Judgement/Order : 15/01/2020

As per Sr. No. 7(iii) of **Notification No. 11/2017-CT(Rate) dated 28.06.2017**, as amended, supply of food or drinks in a restaurant for consumption within the restaurant premises or away from the restaurant premises, where the restaurant is located in the premises of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes with a tariff of seven thousand five hundred rupees and above per unit/room per day or equivalent for any unit/room in the premises, the applicable rate of GST will be 18%.

In view of the above discussions, we have no hesitation in holding that the applicant restaurant is located in the same premises as JW Marriot Hotel having rooms with a tariff of seven thousand five hundred rupees and above, per unit/room per day or equivalent for any unit/room and applicant will be supplying food or drinks for consumption within the JW Marriot Hotel premises. Thus we are of the opinion that in view of the facts of the subject case, the applicant must discharge its GST liability @ 18% (9% each of CGST and SGST) as per Sr.No. 7(iii) of **Notification No. 11/2017-CT(Rate) dated 28.06.2017**, as amended.

8. AAR cannot decide on issue of validity of certificates used by end-users of subject products

Case Name : **In re Equitron Medica Pvt. Ltd. (GST AAR Maharashtra)**

Appeal Number : Order No. GST-ARA-30/2019-20/B-07

Date of Judgement/Order : 17/01/2020

Question- Can a certificate issued by the end user (scientific research organization) mentioning the name of the manufacturer (WE in this case) & the name of the seller

(our distributor) be held valid to enable us invoice our product to our dealer at concessional rate of GST @ 5.00%?

Answer- We observe in the instant case, the question 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 validity of certificates used by end-users of subject products. Hence, it is held that this authority does not have jurisdiction to pass any ruling on such matters.

In view of the above discussion, we reiterate that, the question posed before us does not pertain to matter in respect of which an Advance Ruling can be sought under the GST Act. In view thereof, we find that the impugned question is not maintainable.

9. Visvesvaraya National Institute of Technology is not a Govt. Authority: AAR

Case Name : **In re Security and Intelligence Services (India) Ltd (GST AAR Maharashtra)**

Appeal Number : Advance Rulings No. GST-ARA- 125/2018/Rectification-4/2019-20/B-08

Date of Judgement/Order : 17/01/2020

*Visvesvaraya National Institute of Technology (VNIT) has neither been set up by an Act of Parliament or a State Legislature, nor has been established by any Government, with ninety percent or more participation by way of equity or control, to carry out any function entrusted to Municipality under Article 243W of the Constitution or to a Panchayat under 243G of the Constitution. Hence, they cannot be considered as 'Governmental Authority'. Therefore Serial No. 3 of **Notification No. 12/2017** is not applicable in the subject case.*

10. GST on leasing goods vehicles to GTA where right to use is transferred

Case Name : **In re Ishan Resins & Paints Limited (GST AAR West Bengal)**

Appeal Number : Order No. 40/WBAAR/2019-20

Date of Judgement/Order : 17/01/2020

Classification of the service of leasing goods vehicles to GTA where the right to use is transferred

The Applicant intends to lease out vehicles like trucks, tankers etc. that are designed to transport goods. The control and possession of the vehicle will be transferred to the lessee, who will engage operator and bear the cost of repair, insurance etc. It is, therefore, not classifiable under SAC 9966, which is restricted to rental services of transport vehicles with operator.

The service is classifiable under SAC 997311 as leasing or rental services concerning transport equipment without operator. It amounts to the transfer of the right to use the goods and taxable under SI No. 17(iii) of the Rate Notification.

Section 17(5)(a) of the GST Act does not allow input tax credit on inward supply of motor vehicles of a specific category (those meant for transportation of persons having seating capacity not exceeding thirteen persons). The restriction, therefore, does not apply to the goods transport vehicles. SI No. 17(iii) of the Rate Notification does not prohibit claiming input tax credit on the goods given on lease.

11. Pre-sales marketing service by Indian Subsidiary to foreign parent is intermediary services: AAAR

Case Name : **In re Infinera India Pvt. Ltd. (GST AAR Karnataka)**

Appeal Number : Order No. KAR/AAAR-09/2019-2020

Date of Judgement/Order : 20/01/2020

Although the Pre-sales and Marketing Agreement in this Appellant's case does mention that they are independent contractors and are not to act as an agent of Infinera US in any manner, we find that the actual activity performed by the Appellant as outlined in the BAPA is one of facilitating the supply of goods by Infinera US to their customers in India. For the above reasons we are not inclined to give any weightage to the ruling given in the case of **M/s Asahi Kasei India Pvt Ltd**. In view of the foregoing discussions, we uphold the decision of the AAR that the pre-sale and marketing service provided by the Appellant of the products of the overseas client — Infinera US, is in the nature of facilitating the supply of the products of the overseas client and is appropriately classified as an 'intermediary service' as defined under Section 2(13) of the IGST Act.

12. No GST exemption to RWA if per member monthly contribution exceeds Rs. 7500

Case Name : **In re Vaishnavi Splendour Homeowners Welfare Association (GST AAAR Karnataka)**

Appeal Number : Advance Ruling Order No. KAR/AAAR-10/2019-20

Date of Judgement/Order : 21/01/2020

The contention of the Appellant is that contributions upto an amount of Rs 7500/- per member per month are exempted from GST by virtue of the above entry and for contributions above Rs 7500/- per member per month, the difference amount alone is liable to tax. This is not a correct interpretation of the Notification. The exemption as per the entry 77 of the Notf No 12/2017 CT (R) is available only when a member's contribution per month is upto an amount of Rs 7500/-. A member who contributes an amount which is more than Rs 7500/-, will not be eligible for the exemption under entry No 77 and the entire contribution amount will be liable to be taxed. Hon'ble Supreme Court of India, Constitution Bench of Five Judges in the case of Commissioner of Customs (Import) Mumbai Vs. M/s Dilip Kumar and Company and Ors (Civil Appeal No. 3327 OF 2007) has held that the **benefit of ambiguity in exemption notification cannot be claimed by the subject/assessee and it must be interpreted in favour of the revenue/state**. Exemption notifications are subject to strict interpretation. We

find that the Advance Ruling Authority had correctly interpreted this exemption Notification. The Circular No. 109/28/2019-GST dated 22.07.2019 issued by the CBIC only clarifies this position. The Appellant has argued that this Circular will apply only prospectively since it is oppressive in nature. This argument does not hold water since the said Circular does not introduce any new levy by its clarifications. The position regarding the exemption from GST was always applicable only when the individual member's contribution per month was within Rs 7500/-. The Circular dated 22.07.2019 only clarified this position and did not bring in any new levy. Hence the question of applying the Circular prospectively does not arise.

13. GST: No ITC to Co-op Hsg. Soc. on replacement of existing lift

Case Name : **In re Las Palmas Co-Operative Housing Society Limited (GST AAR Maharashtra)**

Appeal Number : Advance Ruling No. No. GST-ARA-31/2019-20/B-13

Date of Judgement/Order : 22/01/2020

Question- Whether the Applicant, a Co-operative Housing Society paying Goods and Services Tax (GST) on Maintenance Charges collected from its Members, shall be entitled to claim **Input Tax Credit** of GST paid on replacement of existing lift/ elevator at its own premises to the vendor registered under the Goods and Services Tax Act for manufacture, supply, installation and commissioning of lift/ elevator?; Whether the Input Tax credit, if available; is not covered under blocked credits under the Goods and Services Tax Act?

Answer- Explanation to Section 17(5) is very clear. ITC is available for "plant and machinery". Plant and machinery means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes – **Land, building or any other civil structures.**

The lift, after erection and installation is an immovable property because it becomes a part of an immovable property i.e a building. In other words it is to be considered as an integral part of the building itself. It is not a separate part of the building. When any person speaks of such a building, he also includes the lifts as an integral part of the building, like storage water tanks, etc.

To summarize, Manufacture, Supply, Installation and Commissioning of Lifts/ Elevators is in the nature of Works Contract activity which results in creation of an immovable property. Hence in view of the above discussions and Explanation to Section 17 of the CGST Act, we are of the opinion that the applicant is not entitled to ITC of GST paid on replacement of existing Lift/Elevator, in its premises.

14. No advance ruling if question raised not pertain to supply of goods or services

Case Name : **In re Municipal Corporation of Greater (GST AAR Maharashtra)**

Appeal Number : Advance Ruling No. GST-ARA- 60/2019-20/B-12
Date of Judgement/Order : 22/01/2020

As per provision of section 95 of CGST ACT, **this authority can give a ruling to an applicant on matters or questions raised, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant.**

We find that the question raised in the subject application, is not in relation to supply of goods or services or both being undertaken or proposed to be undertaken by the applicant. From the submissions made by the applicant, we find that in the subject transaction, they are a receiver of supply of services from VFS. The question raised by Applicant does not pertain to supply of goods or services or both being undertaken or proposed by them.

15. No advance ruling if primarily, no sale of goods by applicant

Case Name : **In re Wise Design Communications Pvt. Ltd. (GST AAR Maharashtra)**

Appeal Number : Order No. GST-ARA-63/2019-20/B-14

Date of Judgement/Order : 22/01/2020

Question 1. Are hard copies of shipping bills (which are duly stamped & signed by the LET Export Officer of Customs, having details such as Name & address of authorised courier, Courier registration number, Port of loading, Airlines & Flight number, Customs Shipping number, Shipping bill date, Courier AWB no., Declared weight, Consignor Name & Address, Destination country, IEC Number & GSTIN of Exporter, Description of goods, Invoice value, Consignee name & address, etc.) enough for filing claim for refund of ITC since it is an export sale though the shipping bill is not trackable on ICEGATE website?

Answer- First query raised by the applicant is technical/procedural in nature and is not covered under categories of (a) to (g) of the Section 97(2) and therefore this Authority cannot pass a ruling in respect of the said query.

Question 2. Is the drop- shipping transaction an export sale or is it subject to IGST?

Answer– We find from the applicant's submission that in the case of drop shipment transaction, the applicant, after receiving the order for a particular product/products on their website from the buyer along with online payment, contacts the supplier and furnishes details of the buyer to them. The desired product/goods is shipped directly from the supplier to the buyer. Hence, it is clear that the applicant is not directly supplying goods to the buyers. **From the submissions made on this issue it is seen that the applicant neither owns the said goods nor delivers the same to their customers. Applicant only facilitates the transaction between the buyer and the seller through their website and acts as an intermediary. We find that there is no sale of goods undertaken by the applicant in this case, therefore such supply**

will not be considered at all, as sale of goods effected by the applicant. When there is primarily, no sale of goods by the applicant, the question as to whether such supply will be considered as export sale under GST ACT does not arise at all.

Since we observe that in the subject case there is no supply of goods undertaken by the applicant the provisions of Section 95 of the CGST Act will be applicable, in view of which the application is non-maintainable and liable for rejection.

16. AAR have no jurisdiction to rule on place of supply of Goods/Services

Case Name : **In re Mayank Vinodkumar Jain (GST AAR Maharashtra)**

Appeal Number : Order No. GST-ARA- 57/2019-20/B-11

Date of Judgement/Order : 22/01/2020

From a perusal of transaction as discussed above in their submissions, we observe that the supply of services is to an entity situated outside India and therefore to answer their question we will be required to discuss the provisions of Section 13 and Section 2(6) of IGST Act, 2019, pertaining to export of services. Thus, to decide the issue, this authority will have to discuss the place of supply in the subject case since "Export of services" means the supply of any service when, (i) The supplier of service is located in India; (ii) The recipient of service is located outside India; (iii) The place of supply of service is outside India; (iv) Payment for such service has been received by the supplier of service in convertible foreign exchange (or in Indian rupees wherever permitted by the Reserve Bank of India]; and (v) The supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in Section 8.

As per the Section 97(2) of CGST Act, the questions on which advance ruling is sought under this Act, shall be in respect of, matters or issues mentioned in Section 97 (2) (a) to (g) only. We find that, "place of supply of services" does not find mention in the said Section 97 mentioned above.

On perusal of the provision of section 97(2), we find that the question on the determination of place of supply has not been covered in the above set of questions, on which advance ruling can be given. Therefore, we do not have jurisdiction to pass any ruling on such questions which involve the determination of the place of supply of goods or services or both.

(VII) COURT ORDERS/ JUDGEMENTS

1. Interest cannot be levied on Gross GST Liability before adjusting ITC: Madras HC

Case Name : **Refex Industries Ltd. Vs Assistant Commissioner of CGST & Central Excise (Madras High Court)**

Appeal Number : Writ Petition Nos.23360 and 23361 of 2019 & WMP Nos.23106 and 23108 of 2019

Date of Judgement/Order : 06/01/2020

According to the petitioners, Section 50 that provides for levy of interest on belated payments would apply only to payments of tax by cash, belatedly, and would not stand triggered in the case of available ITC, since such ITC represents credit due to an assessee by the Department held as such.

The specific question for resolution before me is as to whether in a case such as the present, where credit is due to an assessee, payment by way of adjustment can still be termed 'belated' or 'delayed'. The use of the word 'delayed' connotes a situation of deprivation, where the State has been deprived of the funds representing tax component till such time the Return is filed accompanied by the remittance of tax. The availability of ITC runs counter to this, as it connotes the enrichment of the State, to this extent. Thus, Section 50 which is specifically intended to apply to a state of deprivation cannot apply in a situation where the State is possessed of sufficient funds to the credit of the assessee. In my considered view, the proper application of Section 50 is one where interest is levied on a belated cash payment but not on ITC available all the while with the Department to the credit of the assessee. The latter being available with the Department is, in my view, neither belated nor delayed.

The argument that ITC is liable to be reversed if it is found to have been erroneously claimed, and that it may be invalidated in some situations, does not militate with my conclusion as aforesaid. The availment and utilization of ITC are two separate events. Both are subject to the satisfaction of statutory conditions and it is always possible for an Officer to reverse the claim (of availment or utilization) if they are found untenable or not in line with the statutory prescription. Credit will be valid till such time it is invalidated by recourse to the mechanisms provided under the Statute and Rules.

I am supported in my view by a recently inserted proviso to Section 50(1) reading as below:

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.

The above proviso, as per which interest shall be levied only on that part of the tax which is paid in cash, has been inserted with effect from 01.08.2019, but clearly seeks

to correct an anomaly in the provision as it existed prior to such insertion. It should thus, in my view, be read as clarificatory and operative retrospectively.

2. Validity of Section 16(2)(c) of the CGST Act/WBGST Act

Case Name : **M/s. LGW Industries Limited & ors. Vs. Union of India & ors. (Calcutta High Court)**

Appeal Number : W.P. 23512(W) of 2019

Date of Judgement/Order : 08/01/2020

Hon'ble Calcutta High Court has issued notice to Centre and State Government on 08.01.2020 in the matter of LGW Industries Ltd. Vs UOI & others, W.P. No. 23512 (W) of 2019, wherein the petitioner has challenged the constitutional validity of Section 16(2)(c) of the **CGST Act/WBGST Act**, which seeks to deny ITC to a buyer of goods or services, if the tax charged in respect of supply of goods or services has not been actually paid to the Government by the supplier of goods or services. The petitioner has also challenged the demand of reversal of ITC along with interest only on the basis of allegation that registration has been obtained by some of the supplier of goods on the basis of fake identity proofs and that none of the supplier is found in their Principal Place of business.

The matter was argued by Advocate Vinay Shraff with Advocate Rajarshi Chatterjee and Advocate Himangshu Ray on the ground that denying ITC to a buyer of goods and services would tantamount to treating both the 'guilty purchasers' and the 'innocent purchasers' at par whereas they constitute two different classes. The petition further stated that denying ITC to a buyer of goods or services for default of the supplier of goods or services would tantamount to shifting the incidence of tax from the supplier to the buyer, over whom it has no control whatsoever, is arbitrary and irrational & therefore violative of the Article 14, Article 19(1)(g) and Article 300A of the Constitution of India. It would also clearly frustrate the underlying objective of removal of cascading effect of tax as stated in the Statement of object and reasons of the **Constitution (One Hundred And Twenty-Second Amendment) Bill, 2014**. On the second issue in the petition, it was stated that in the absence of any finding about petitioners mala fide intention, connivance or wrongful association with the suppliers, no liability can be imposed on it on the principle of vicarious liability on account of fraudulent conduct of the suppliers, who have obtained registration on the basis of fictitious documents.

3. Section 83 of CGST Act- Power to provisionally attach bank accounts

Case Name : **Kaish Impex Private Limited Vs UOI (Bombay High Court)**

Appeal Number : Writ Petition No. 3145 of 2019

Date of Judgement/Order : 17/01/2020

Section 83 read with Rule 159(1), and the form GST DRC-22, lay down a scheme as to how provisional attachment in certain cases is to be levied. Section 83 though uses

the phrase '*pendency of any proceedings*', the proceedings are referable to section 62, 63, 64, 67, 73 and 74 of the Act and none other. The bank account of the taxable person can be attached against whom the proceedings under the sections mentioned above are initiated. Section 83 does not provide for an automatic extension to any other taxable person from an inquiry specifically launched against a taxable person under these provisions. Section 83 read with section 159(2), and the form GST DRC-22 show that a proceeding has to be initiated against a specific taxable person, an opinion has to be formed that to protect the interest of Revenue an order of provisional attachment is necessary. The format of the order, i.e. the form GST DRC-22 also specifies the particulars of a registered taxable person and which proceedings have been launched against the aforesaid taxable person indicating a nexus between the proceedings to be initiated against a taxable person and provisional attachment of bank account of such taxable person.

Power to provisionally attach bank accounts is a drastic power. Considering the consequences that ensue from provisional attachment of bank accounts, the Courts have repeatedly emphasized that this power is not to be routinely exercised. Under Section 83, the legislature has no doubt conferred power on the authorities to provisionally attach bank accounts to safeguard government revenue, but the same is within well-defined ambit. Only upon contingencies provided therein that the power under section 83 can be exercised. This power is to be used in only limited circumstances and it is not an omnibus power.

It is therefore not possible to accept the submission of the Respondents that even though specified proceedings have been launched against one taxable person, bank account of another taxable person can be provisionally attached merely based on the summons issued under section 70 to him.

In view of our discussion as above, we hold that the order dated 22 October 2019 provisionally attaching the bank account of the Petitioner was without jurisdiction and is liable to be quashed and set aside.

4. Rajasthan HC grants bail to CA accused of wrongly availing ITC

Case Name : **Paridhi Jain Vs State (Rajasthan High Court)**

Appeal Number : S.B. Criminal Miscellaneous Bail Application No. 742/2020

Date of Judgement/Order : 20/01/2020

HC held that Having regard to the facts and circumstances of the case and upon a consideration of the arguments advanced and the fact that the petitioner being a practising Chartered Accountant and a lady of 27 years is facing incarceration for last more than one month and in view of the undertaking submitted by the petitioner to fully cooperate with the investigating agency and provide the information/documents asked for by the investigating agency, this Court is of the opinion that the bail applications filed by the petitioner deserve to be accepted.

5. Filing of GST refund for tax periods spread across two financial years cannot be restricted

Case Name : **Pitambra Books Pvt. Ltd. Vs Union of India & Ors. (Delhi High Court)**
Appeal Number : W.P.(C) 627/2020
Date of Judgement/Order : 21/01/2020

The present petition *inter-alia* impugns **Circular No. 37/11/2018-GST dated 15.03.2018** and **Circular No. 125/44/19-GST dated 18.11.2019**. Mr. Puneet Agrawal, learned counsel for the petitioner submits that owing to the restrictions imposed in the aforesaid circulars, Petitioner has been deprived of the benefit of availing refund claim of the unutilised input tax credit for the period from April, 2018 to June, 2018. This is causing serious financial hardship as more than Rs.30 crores of accrued and unutilised input tax credit, that is eligible for refund is now lying stuck. The implementation of the aforesaid circulars on the GSTN portal has occasioned the disablement of the option for filing the refund of tax. He submits that the problem stems from paragraph 8 of impugned **circular no. 125/44/2013/GST dated 18th November, 2019**, which inhibits refund claims for a period of two separate (not successive) financial years. He argues that this is in contravention of Section 44 as also Rule 89 of the IGST rules.

Held by High Court

At this stage, we are of the *prima facie* view that by way of the impugned circulars, though the respondents recognise the difficulties faced by the exporters and have permitted them to file refund claim for one calendar month/quarter or by clubbing successive calendar months/quarters, yet the restriction pertaining to the spread of refund claim across different financial years is arbitrary. There is no rationale or justification for such a constraint.

In the instant case, where exports are not made in the same financial year, question arises as to whether Respondents can restrict the filing of the refund for tax periods spread across two financial years and deprive the petitioner of its valuable right accrued in his favour. In exports, availability of the rotation of funds is essential for the business to thrive. Moreover, businesses do not run according to the whims of the executive authorities. The business world cannot be told when to place orders for exports; when to manufacture the goods for export; and; when to actually undertake the exports. Respondents' impugned circulars have thus blocked the capital of the petitioner and the unutilised ITC and it has accumulated huge amount of unutilised ITC to the tune of Rs.30 crores.

Merely because the petitioner made exports in the month of June, 2018, we do not see any justification to deny the refund of the ITC which have accumulated in the previous financial years. The entire concept of refund of ITC relating to zero rated supply would be obliterated in case the respondents are permitted to put any limitation and condition that takes away petitioner's right to claim refund of all the taxes paid on the domestic purchases used for the purpose of zero rated supplies.

The incentive given to the exporters would lose its meaning and this would cause grave hardship to the exporters who are earning valuable foreign exchange for the

country. The Respondents cannot, artificially by acting contrary to the fundamental spirit and object of the law, contrive ways to deny the benefit, which the substantive provisions of the law confer on the tax payers.

Thus, in our considered opinion, the petitioner has a strong *prima facie* case, and we cannot deny the petitioner of its right to claim refund which is visible from the mechanism provided under the Act. The impugned circulars take away the vested right of the taxpayer that has accrued in the relevant period. It would be profitable to refer to the judgment in this Court in Pioneer India Electronics (P) Ltd. vs. Union of India & Anr. ILR (2014) II DELHI 791 wherein impugned Circular stipulating that section 27 of the Customs Act had no application was quashed, holding that Circulars can supplant but not supplement the law. Circulars might mitigate rigours of law by granting administrative relief beyond relevant provisions of the statute, however, Central Government is not empowered to withdraw benefits or impose stricter conditions than postulated by the law.

Having regard to the aforementioned circumstances, till the next date of hearing, we stay the rigour of paragraph 8 of **Circular No. 125/44/2019-GST dated 18.11.2019** and also direct the Respondents to either open the online portal so as to enable the petitioner to file the tax refund electronically, or to accept the same manually within 4 weeks from today.

6. Rajasthan HC denies Bail to accused in Fake GST Invoice Case

Case Name : **Saurabh Chhajer Vs State of Rajasthan (Rajasthan High Court)**

Appeal Number : S.B. Criminal Miscellaneous Bail Application No. 16734 of 2019

Date of Judgement/Order : 22/01/2020

1. Petitioner has filed` this second bail application under Section 439 of Cr.P.C.
2. Complaint No. 34/2019 is pending before the Court of Chief Metropolitan Magistrate (Economic Offences) Jaipur Metropolitan, for offence under Sections 132(1), (b), (c), (f), (g), (k), (i) of **Central Goods and Service Tax Act, 2017**_read with Section 69 of CGST Act punishable under Section 132(1) (i) and (iv) of Central Goods and Service Tax Act, 2017 read with 132(5) of CGST Act.
3. It is contended by counsel for the petitioner that there is no evidence that fake firms were created by the petitioner. Department has not cared to interrogate the persons to whom alleged input tax credit was transferred. It is also contended that the offence is triable by First Class Magistrate. There are fourteen witnesses and statement of only two witnesses have been recorded.
4. Learned counsel appearing for Union of India has vehemently opposed the bail application. It is contended that petitioner has created fake firms and has fraudulently, transferred input tax to as many as 470 beneficiary parties. Out of which, fifty five parties took fraudulent input tax credit and have now reversed those entries. It is contended that total loss caused to the exchequer is to the tune of Rs. Thirty three crore, out of which, Rs. Thirteen crore has been recovered so far. It is also contended that petitioner avoided service of summons and was arrested from Ajmer.

5. I have considered the contentions.

6. Considering the contention put forth by learned counsel appearing for Union of India, I am not inclined to all the second bail application.

7. Accordingly the second bail application is dismissed.

7. Delhi HC unsatisfied with non-operationalisation of GSTR-9/9A/9C form for FY 2018-19

Case Name : **Sales Tax Bar Association (Regd.) & Anr Vs Union of India (Delhi High Court)**

Appeal Number : W.P.(C) 9575/2017

Date of Judgement/Order : 23/01/2020

Learned counsel for the petitioner also submits that in respect of the financial year 2018-19, the GSTR 9, GSTR 9A and GSTR 9C Form have still not been uploaded and, consequently, even though the last date of filing of the same was 31.12.2019, the assesseees have not been able to upload the Form. The date of filing of the same now stands extended till 31.03.2020.

We fail to appreciate as to why the respondents should not make Forms available and operationalise them well in advance, so that the assesseees are able to file their returns in **Form GSTR 9, GSTR 9A and GSTR 9C** promptly, at the earliest. Financial year, in respect of each year, ends on 31st March and it should be possible for the assesseees to upload their Forms soon thereafter. They should not have to wait for filing of the returns in the prescribed forms till the last date. In the present case, it appears that the respondents have been revising the Forms and in respect of the financial year 2018-19, the requisite forms have not yet been operationalised. Therefore, even those assesseees, who could have, and may have attempted to upload their annual returns in the prescribed Forms for the financial year 2018-19, have been prevented from doing so. This situation is completely unsatisfactory.

Learned counsel for the respondents have sought to justify the non-operationalisation of the requisite return form for the financial year 2018-19, on the ground that they have extended the last date for filing of the Annual Return for the financial year 2017-18 up to 31.01.2020, and so as to prevent confusion in the mind of the assesseees, they would operationalise forms for the financial year 2018-19 from 01.02.2020. We are not satisfied with this explanation, since it should be possible to upload the returns for both the years 2017-18 and 2018-19 simultaneously.

8. GST not leviable on Ocean Freight for transportation of goods by foreign seller: HC

Case Name : **Mohit Minerals Pvt. Ltd. Vs Union of India (Gujarat High Court)**

Appeal Number : Special Civil Application No. 726 of 2018

Date of Judgement/Order : 23/01/2020

In all the captioned writ-applications, the writ-applicants have challenged the levy of the IGST on the estimated component of the Ocean Freight paid for the transportation of the goods by the foreign seller as sought to be levied and collected from the writ-applicants as the importer of the goods.

The Central Government has introduced the **Notification No. 8 of 2017 – Integrated Tax (Rate) dated 28th June 2017**, wherein vide Entry No.9, the Central Government has notified that the IGST at the rate of 5% will be leviable on the service of transport of goods in a vessel including the services provided or agreed to be provided by a person located in a non-taxable territory to a person located in a non-taxable territory by way of transportation of goods by a vessel from a place outside India upto the customs stations of clearance in India.

The Central Government, thereafter, issued the **Notification No. 10 of 2017 – Integrated Tax (Rate) dated 28th June 2017**, by which the Central Government has notified that for the said category of service provided at Serial No.10 to the said Notification, the importer as defined in clause 2(26) of the Customs Act located in the taxable territory shall be the recipient of service.

On Appeal High Court held that no GST is leviable under the Integrated Goods and Services Tax Act, 2007, on the ocean freight for the services provided by a person located in a non-taxable territory by way of transportation of goods by a vessel from a place outside India upto the customs station of clearance in India and the levy and collection of tax of such ocean freight under the impugned Notification **Notification No.8 of 2017 – Integrated Tax (Rate) dated 28th June 2017** and **Notification No. 10 of 2017 – Integrated Tax (Rate) dated 28th June 2017** is not permissible in law.