

GST UPDATE

(April, 2020)

Directorate of Training, Excise and Taxation Department, Punjab

ABSTRACT OF GST UPDATE

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(I) GIST OF GST NOTIFICATIONS

1. Amendment in CGST Rules (Fourth Amendment) in order to allow opting Composition Scheme for FY 2020-21 till 30.06.2020 and to allow cumulative application of condition in rule 36(4).

Every registered person who wants to **opt for composition scheme** for the F.Y. 2020-21 shall electronically file :-

- an intimation in **FORM GST CMP-02** on or before 30 June, 2020 and
- shall furnish the statement in **FORM GST ITC-03** upto 31 July, 2020.

Rule 36 (4) condition shall apply cumulatively for the period from February, 2020 to August, 2020 and **cumulative tax adjustment effect** to given in **FORM GSTR-3B** of the **September, 2020**.

[Notification No. 30/2020– Central Tax date – 03/04/2020]

2. Conditional lowering of interest rate for tax periods of February, 2020 to April, 2020 (w.e.f 20/03/2020)

Applicable **rate of interest** per annum will be levied as per below if **FORM GSTR-3B** not filed within due date but filed according to condition mentioned :-

S. No	Turnover (INR)	Rate of Interest	Tax Period	Condition if FORM GSTR 3B file on or before :-
1	> 5 Crore	Nil – First 15 days Thereafter – 9%	February, 2020 to April, 2020	24 th June, 2020
2	>1.5 Crore upto 5 Crore	Nil	February, 2020 and March, 2020 April 2020	29 th June, 2020 30 th June, 2020
3	Upto 5 Crore	Nil	February, 2020 March, 2020 April, 2020	30 th June, 2020 03rd July, 2020 06rd July, 2020

[Notification No. 31/2020– Central Tax date – 03/04/2020]

3. Conditional waiver of late fee for delay in furnishing returns in FORM GSTR-3B for tax periods of February, 2020 to April, 2020 (w.e.f 20/03/2020)

Amount of **Late Fess** payable will be waived as per below if **FORM GSTR-3B** not filed with in due date but filed according to condition mentioned :-

S. No	Turnover (INR)	Tax Period	Condition if FORM GSTR 3B file on or before :-
1	> 5 Crore	February, 2020 to April, 2020	24 th June, 2020
2	>1.5 Crore upto 5 Crore	February, 2020 and March, 2020	29 th June, 2020
		April 2020	30 th June, 2020
3	Upto 5 Crore	February, 2020	30 th June, 2020
		March, 2020	03 rd July, 2020
		April, 2020	06 rd July, 2020

[Notification No. 32/2020– Central Tax date – 03/04/2020]

4. Conditional waiver of late fee for delay in furnishing outward statement in FORM GSTR-1 for tax periods of February, 2020 to April, 2020 (w.e.f 20/03/2020)

Amount of **Late Fess** payable will be waived if **FORM GSTR-1** not filed for the months from March, 2020 to May, 2020 and for quarter IV March, 2020 with in due date but filed on or before 30 June, 2020.

[Notification No. 33/2020– Central Tax date – 03/04/2020]

5. Extension in due date of furnishing FORM GST CMP-08 for the quarter ending March, 2020 till 07.07.2020 and filing FORM GSTR-4 for FY 2020-21 till 15.07.2020

For Composition Dealer :-

S.No	FORM	Period	Due Date
1	GST CMP-08 (GST payment)	Quarter IV (March, 2020)	07 th July, 2020
2	GSTR-4 (Annual Details)	F.Y. 2019-20	15 th July, 2020

[Notification No. 34/2020– Central Tax date – 03/04/2020]

6. Extension in due date of compliance which falls during the period from "20.03.2020 to 29.06.2020" till 30.06.2020 and to extend validity of e-way bills

Time limit for **completion or compliance** of any action by any authority which falls between 20 March, 2020 to 29 June, 2020 shall be extended to **30 June, 2020**.

Where **e-way bill** expires in between 20 March, 2020 to 15 April, 2020, such way bill deemed to have been extended till **30 April, 2020**.

[Notification No. 35/2020– Central Tax date – 03/04/2020]

7. Extension in due date for furnishing FORM GSTR-3B for supply made in the month of May, 2020

Due date of furnishing **FORM GSTR-3B** for the month of **May, 2020** as below :-

S.No	Turnover (INR)	State	Due Date
1	> 5 Crore	All State	27 th June, 2020
2	upto 5 Crore	Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep	12th July, 2020
3	Upto 5 Crore	Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi	14th July, 2020

[Notification No. 36/2020– Central Tax date – 03/04/2020]

8. Clarification in respect of various measures announced by the Government for providing relief to the taxpayers in view of spread of Novel Corona Virus (COVID-19)

Special measure taken for Composition Dealer :-

S. No	FORM	Purpose	Tax Period	Due Date
1.	GST CMP – 08	Self assessed tax payment	Quarter IV (January to March 2020)	07th July, 2020
2.	GSTR – 4	Financial Return	F.Y. 2019-20	15th July, 2020
3.	GST CMP – 02	Intimation for opting composition scheme	F.Y. 2020-21	30th June, 2020
4.	GST ITC – 03	Statement of ITC	F.Y. 2020-21	31st July, 2020

Note :- GSTR 9A is annual return which to be filed annually.

Special measure taken for Regular Tax Payer for FORM GSTR – 3B for the months of February, 2020 to April, 2020:-

S.No.	Issue	Clarification
1	Whether due date of furnishing FORM GSTR-3B has been extended ?	Not extended but however lower rate of interest and waiver of late fee would be available only if due tax is paid by filing return in FORM GSTR-3B on or before due dates specified in NN.31.
2	What are the conditions for availing reduced rate of interest ?	Must furnish GSTR-3B as per NN. 31. If not, then 18 % interest shall be payable till the date of return filed. In addition late and penalty also be leviable.
3	Whether due date of furnishing FORM GSTR-1 has been extended?	Under NN. 33 late fees shall be waived off for delay only if, FORM GSTR-1 furnished on or before 30th June, 2020.
4	Whether restriction under rule 36(4) of the CGST Rules would apply during the lockdown period?	Vide NN. 30 said condition shall not apply but said condition shall apply cumulatively for the said period and cumulative adjustment of ITC to be given while furnishing FORM GSTR-3B of September, 2020.

Calculation of reduced interest for the month May, 2020 whose turnover exceed INR 5 Crore.

For May, 2020 GSTR 3B, due date will be **20 June, 2020** vide NN. 29 but due to COVID 19 if, GSTR 3B is filed as per due date specified in NN. 31 i.e. **24 June, 2020**, then only reduced interest and late fees waiver benefit will be available.

S. No	Date of filing	No. of Days	Whether condition fulfilled	Interest
1.	02.05.2020	11	YES	Zero Interest
2.	20.05.2020	30	YES	Zero interest for 15 days + interest rate @9% p.a. for 15 days
3.	20.06.2020	61	YES	Zero interest for 15 days + interest rate@9% p.a. for 46 days
4.	24.06.2020	65	YES	Zero interest for 15 days + interest rate @9% p.a. for 50 days
5.	30.06.2020	71	NO	Interest rate @18% p.a. for 71 days (i.e. no benefit of reduced interest)

[Circular No. 136/06/2020-GST dated 03/04/2020]

9. Circular clarifying issues in respect of challenges faced by registered persons in implementation of provisions of GST issued

The Government has released **Circular no. 137/07/2020-GST** wherein following matters have been clarified:

1. Cancellation of Goods and Service Contract

The treatment under GST have been clarified vide above referred circular in respect of certain transactions of supply of goods and service where the same gets cancelled due to any reason. The same is summarised as follows:

Type of Supply	First Event	Document issued at the time of first event	Cancellation of service or goods return	Treatment under GST
Service	Advance received	Tax invoice issued before supply of service	Contract cancelled before supply of service	a) Credit note u/s 34 is to be issued for reduction in liability and the same shall be declared in monthly return. b) Where there is no output liability against which a credit note can be adjusted, file a claim under "Excess payment of tax, if any" through FORM GST RFD-01.

Service	Advance received	Receipt voucher	Contract cancelled before supply of service	a) Issue refund voucher u/s 31 (3) (e) of the CGST Act read with rule 51 of the CGST Rules and apply for refund of GST paid on such advances by filing FORM GST RFD-01 under the category "Refund of excess payment of tax".
Goods	Goods supplied	Tax invoice	Goods returned	a) Credit note u/s 34 is to be issued for reduction in liability and the same shall be declared in monthly return. b) Where there is no output liability against which a credit note can be adjusted, file a claim under "Excess payment of tax, if any" through FORM GST RFD-01.

2. Extension for filing of LUT

The time limit for filing of LUT for the year 2020-21 shall stand extended to 30.06.2020 and taxpayers may quote the reference no of the LUT for the year 2019-20 in their export documents.

3. Clarification with respect to TDS related issue

Along with due date for filing of FORM GSTR-7, the date of deposit of TDS has been extended till 30.06.2020 without any interest.

4. Deferment of filing of refund claim

Where the date for filing of refund claim was expiring between 20.03.2020 to 29.06.2020, the due date for filing an application for refund has also been extended till 30.06.2020.

[Circular no. 137/07/2020-GST dated 13/04/2020]

(II) 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. 30/2020 – Central Tax

New Delhi, the 3rd April, 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, on the recommendations of the Council, hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely:-

1. (1) These rules may be called the Central Goods and Services Tax (Fourth Amendment) Rules, 2020.

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

2. In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), with effect from the 31st March, 2020, in sub-rule (3) of rule 3, the following proviso shall be inserted, namely:-

“Provided that any registered person who opts to pay tax under section 10 for the financial year 2020-21 shall electronically file an intimation in **FORM GST CMP-02**, duly signed or verified through electronic verification code, on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, on or before 30th day of June, 2020 and shall furnish the statement in **FORM GST ITC-03** in accordance with the provisions of sub-rule (4) of rule 44 upto the 31st day of July, 2020.”.

3. In the said rules, in sub-rule (4) of rule 36, the following proviso shall be inserted, namely:-

“Provided that the said condition shall apply cumulatively for the period February, March, April, May, June, July and August, 2020 and the return in **FORM GSTR-3B** for the

tax period September, 2020 shall be furnished with the cumulative adjustment of input tax credit for the said months in accordance with the condition above.”.

[F. No. CBEC-20/06/04/2020-GST]

(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, published vide number G.S.R. 610(E), dated the 19th June, 2017 and last amended vide notification No. 16/2020 - Central Tax, dated the 23rd March, 2020 published vide number G.S.R. 199 (E), dated the 23rd March, 2020.

[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. 31/2020 – Central Tax

New Delhi, the 3rd April, 2020

G.S.R.....(E).—In exercise of the powers conferred by sub-section (1) of section 50 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), read with section 148 of the said Act, the Central Government, on the recommendations of the Council, hereby makes the following amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No.13/2017 – Central Tax, dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 661(E), dated the 28th June, 2017, namely:—

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

“Provided that, the rate of interest per annum shall be as specified in column (3) of the Table given below, for the class of registered persons, mentioned in the corresponding entry in column (2) of the said Table, who are required to furnish the returns in **FORM GSTR-3B**, but fail to furnish the said return along with payment of tax for the months mentioned in the corresponding entry in column (4) of the said Table by the due date, but furnish the said return according to the condition mentioned in the corresponding entry in column (5) of the said Table, namely:--

Table

S. No. (1)	Class of registered persons (2)	Rate of interest (3)	Tax period (4)	Condition (5)
1.	Taxpayers having an aggregate turnover of more than rupees 5 crores in the	Nil for first 15 days from the due date, and 9	February, 2020, March 2020, April,	If return in FORM GSTR-3B is furnished on or

	preceding financial year	per cent thereafter	2020	before the 24 th day of June, 2020
2	Taxpayers having an aggregate turnover of more than rupees 1.5 crores and up to rupees five crores in the preceding financial year	Nil	February, 2020, March, 2020	If return in FORM GSTR-3B is furnished on or before the 29 th day of June, 2020
April, 2020			If return in FORM GSTR-3B is furnished on or before the 30 th day of June, 2020	
3.	Taxpayers having an aggregate turnover of up to rupees 1.5 crores in the preceding financial year	Nil	February, 2020	If return in FORM GSTR-3B is furnished on or before the 30 th day of June, 2020
March, 2020			If return in FORM GSTR-3B is furnished on or before the 3 rd day of July, 2020	
April, 2020			If return in FORM GSTR-3B is furnished on or before the 6 th day of July, 2020.”.	

2. This notification shall be deemed to have come into force with effect from the 20th day of March, 2020.

[F. No. CBEC-20/06/04/2020-GST]

(Pramod Kumar)
Director, Government of India

Note: The principal notification number 13/2017 – Central Tax, dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.661(E), dated the 28th June, 2017.

[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. 32/2020 – Central Tax

New Delhi, the 3rd April, 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) (hereafter in this notification referred to as the said Act), read with section 148 of the said Act, the Government, on the recommendations of the Council, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 76/2018– Central Tax, dated the 31st December, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub- section (i) vide number G.S.R. 1253(E), dated the 31st December, 2018, namely:–

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

“Provided also that the amount of late fee payable under section 47 shall stand waived for the tax period as specified in column (3) of the Table given below, for the class of registered persons mentioned in the corresponding entry in column (2) of the said Table, who fail to furnish the returns in **FORM GSTR-3B** by the due date, but furnishes the said return according to the condition mentioned in the corresponding entry in column (4) of the said Table, namely:–.

Table

S. No. (1)	Class of registered persons (2)	Tax period (3)	Condition (4)
1.	Taxpayers having an aggregate turnover of more than rupees 5 crores in the preceding financial year	February, 2020, March, 2020 and April, 2020	If return in FORM GSTR-3B is furnished on or before the 24 th day of June, 2020
2	Taxpayers having an aggregate	February, 2020	If return in FORM GSTR-

	turnover of more than rupees 1.5 crores and up to rupees five crores in the preceding financial year	and March, 2020	3B is furnished on or before the 29 th day of June, 2020
		April, 2020	If return in FORM GSTR-3B is furnished on or before the 30 th day of June, 2020
3.	Taxpayers having an aggregate turnover of up to rupees 1.5 crores in the preceding financial year	February, 2020	If return in FORM GSTR-3B is furnished on or before the 30 th day of June, 2020
		March, 2020	If return in FORM GSTR-3B is furnished on or before the 3 rd day of July, 2020
		April, 2020	If return in FORM GSTR-3B is furnished on or before the 6 th day of July, 2020.”.

2. This notification shall be deemed to have come into force with effect from the 20th day of March, 2020.

[F. No. CBEC-20/06/04/2020-GST]

(Pramod Kumar)
Director, Government of India

Note: The principal notification No. 76/2018-Central Tax, dated 31st December, 2018 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 1253(E), dated the 31st December, 2018.

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

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

Notification No. 33/2020 – Central Tax

New Delhi, the 3rd April, 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 Government, on the recommendations of the Council, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 4/2018– Central Tax, dated the 23rd January, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub- section (i) vide number G.S.R. 53(E), dated the 23rd January, 2018, namely:–

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

“Provided also that the amount of late fee payable under section 47 of the said Act shall stand waived for the months of March, 2020, April, 2020 and May, 2020, and for the quarter ending 31st March, 2020, for the registered persons who fail to furnish the details of outward supplies for the said periods in **FORM GSTR-1** by the due date, but furnishes the said details in **FORM GSTR-1**, on or before the 30th day of June, 2020.”.

[F. No. CBEC-20/06/04/2020-GST]

(Pramod Kumar)
Director, Government of India

Note: The principal notification No. 4/2018– Central Tax, dated the 23rd January, 2018, was 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 and was last amended by notification No. 4/2020- Central Tax, dated the 10th January, 2020, published in the Gazette of India, Extraordinary, vide number G.S.R. 26(E) dated the 10th January, 2020.

[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. 34/2020 – Central Tax

New Delhi, the 3rd April, 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 further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 21/2019-Central Tax, dated the 23rd April, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 322(E), dated the 23rd April, 2019, namely:—

In the said notification,-

(i) in the second paragraph, the following proviso shall be inserted, namely: –

“Provided that the said persons shall furnish a statement, containing the details of payment of self-assessed tax in **FORM GST CMP-08** of the Central Goods and Services Tax Rules, 2017, for the quarter ending 31st March, 2020, till the 7th day of July, 2020.”;

(ii) in the third paragraph, the following proviso shall be inserted, namely: –

“Provided that the said persons shall furnish the return in **FORM GSTR-4** of the Central Goods and Services Tax Rules, 2017, for the financial year ending 31st March, 2020, till the 15th day of July, 2020.”.

[F. No. CBEC-20/06/04/2020-GST]

(Pramod Kumar)
Director, Government of India

Note: The principal notification No. 21/2019- Central Tax, dated the 23rd April, 2019, published in the Gazette of India, Extraordinary, vide number G.S.R. 322(E), dated the 23rd April, 2019 and was subsequently 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. 35/2020 – Central Tax

New Delhi, the 3rd April, 2020

G.S.R.....(E).– In exercise of the powers conferred by section 168A of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), and section 21 of Union Territory Goods and Services Tax Act, 2017 (14 of 2017), in view of the spread of pandemic COVID-19 across many countries of the world including India, the Government, on the recommendations of the Council, hereby notifies, as under,-

(i) where, any time limit for completion or compliance of any action, by any authority or by any person, has been specified in, or prescribed or notified under the said Act, which falls during the period from the 20th day of March, 2020 to the 29th day of June, 2020, and where completion or compliance of such action has not been made within such time, then, the time limit for completion or compliance of such action, shall be extended upto the 30th day of June, 2020, including for the purposes of--

- (a) completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval or such other action, by whatever name called, by any authority, commission or tribunal, by whatever name called, under the provisions of the Acts stated above; or
- (b) filing of any appeal, reply or application or furnishing of any report, document, return, statement or such other record, by whatever name called, under the provisions of the Acts stated above;

but, such extension of time shall not be applicable for the compliances of the provisions of the said Act, as mentioned below -

- (a) Chapter IV;
- (b) sub-section (3) of section 10, sections 25, 27, 31, 37, 47, 50, 69, 90, 122, 129;
- (c) section 39, except sub-section (3), (4) and (5);

(d) section 68, in so far as e-way bill is concerned; and

(e) rules made under the provisions specified at clause (a) to (d) above;

(ii) where an e-way bill has been generated under rule 138 of the Central Goods and Services Tax Rules, 2017 and its period of validity expires during the period 20th day of March, 2020 to 15th day of April, 2020, the validity period of such e-way bill shall be deemed to have been extended till the 30th day of April, 2020.

2. This notification shall come into force with effect from the 20th day of March, 2020.

[F. No. CBEC-20/06/04/2020-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. 36/2020 – Central Tax

New Delhi, the 3rd April, 2020

G.S.R...(E).- In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017), read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017 (hereafter in this notification referred to as the said Rules), the Commissioner, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 29/2020 – Central Tax, dated the 23rd March, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub- section (i) vide number G.S.R. 212 (E), dated the 23rd March, 2020, namely:–

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

“Provided also that, for taxpayers having an aggregate turnover of more than rupees 5 crore rupees in the previous financial year, the return in **FORM GSTR-3B** of the said rules for the month of May, 2020 shall be furnished electronically through the common portal, on or before the 27th June, 2020:

Provided also that, for taxpayers having an aggregate turnover of up to rupees five crore rupees in the previous financial year, whose principal place of business is in the States of Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands or Lakshadweep, the return in **FORM GSTR-3B** of the said rules for the month of May, 2020 shall be furnished electronically through the common portal, on or before the 12th day of July, 2020:

Provided also that, for taxpayers having an aggregate turnover of up to rupees five crore rupees in the previous financial year, whose principal place of business is in the States of Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam,

West Bengal, Jharkhand or Odisha, the Union territories of Jammu and Kashmir, Ladakh, Chandigarh or Delhi, the return in **FORM GSTR-3B** of the said rules for the month of May, 2020 shall be furnished electronically through the common portal, on or before the 14th day of July, 2020.”.

[F. No. CBEC-20/06/04/2020-GST]

(Pramod Kumar)
Director, Government of India

Note: The principal notification number 29/2020 – Central Tax, dated the 23rd March, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.212(E), dated the 23rd March, 2020.

[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. 37/2020 – Central Tax

New Delhi, the 28th April, 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) read with clause (c) of rule 9 and rule 25 of the Central Goods and Services Tax (Fourth Amendment) Rules, 2019 (hereinafter referred to as the rules), made vide notification No. 31/2019 – Central Tax, dated the 28th June, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 457(E), dated the 28th June, 2019, the Government, hereby appoints the 21st day of April, 2020, as the date from which the said provisions of the rules, shall come into force.

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

(Pramod Kumar)
Director, Government of India

(III) 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. 3/2020 – Integrated Tax

New Delhi, the 8th April, 2020

G.S.R.....(E).—In exercise of the powers conferred by section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), read with sub-section (1) of section 50 and section 148 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 amendment in notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 6/2017 – Integrated Tax, dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 698(E), dated the 28th June, 2017, namely:—

In the said notification, in the first paragraph, the following provisos shall be inserted, namely:

—

“Provided that, the rate of interest per annum shall be as specified in column (3) of the Table given below, for the class of registered persons, mentioned in the corresponding entry in column (2) of the said Table, who are required to furnish the returns in **FORM GSTR-3B**, but fail to furnish the said return along with payment of tax for the months mentioned in the corresponding entry in column (4) of the said Table by the due date, but furnish the said return according to the condition mentioned in the corresponding entry in column (5) of the said Table, namely:--

Table

S. No. (1)	Class of registered persons (2)	Rate of interest (3)	Tax period (4)	Condition (5)
1.	Taxpayers having an aggregate turnover of more	Nil for first 15 days from the due date, and 9	February, 2020, March	If return in FORM GSTR-3B is furnished on or

	than rupees 5 crores in the preceding financial year	per cent thereafter	2020, April, 2020	before the 24 th day of June, 2020
2	Taxpayers having an aggregate turnover of more than rupees 1.5 crores and up to rupees five crores in the preceding financial year	Nil	February, 2020, March, 2020	If return in FORM GSTR-3B is furnished on or before the 29 th day of June, 2020
April, 2020			If return in FORM GSTR-3B is furnished on or before the 30 th day of June, 2020	
3.	Taxpayers having an aggregate turnover of up to rupees 1.5 crores in the preceding financial year	Nil	February, 2020	If return in FORM GSTR-3B is furnished on or before the 30 th day of June, 2020
March, 2020			If return in FORM GSTR-3B is furnished on or before the 3 rd day of July, 2020	
April, 2020			If return in FORM GSTR-3B is furnished on or before the 6 th day of July, 2020.”.	

2. This notification shall be deemed to have come into force with effect from the 20th day of March, 2020.

[F. No. CBEC-20/06/04/2020-GST]

(Pramod Kumar)
Director, Government of India

Note: The principal notification number 6/2017 – Integrated Tax, dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.698(E), dated the 28th June, 2017.

(IV) CGST CIRCULARS

Circular No. 136/06/2020-GST

**CBEC-20/06/04-2020 -GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing**

New Delhi, dated the 3rd April, 2020

To

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

Madam/Sir,

Subject: Clarification in respect of various measures announced by the Government for providing relief to the taxpayers in view of spread of Novel Corona Virus (COVID-19) - Reg.

The spread of Novel Corona Virus (COVID-19) across many countries of the world, including India, has caused immense loss to the lives of people and resultantly impacted the trade and industry. In view of the emergent situation and challenges faced by taxpayers in meeting the compliance requirements under various provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act"), Government has announced various relief measures relating to statutory and regulatory compliance matters across sectors.

2. Government has issued following notifications in order to provide relief to the taxpayers:

S. No.	Notification	Remarks
1.	Notification No. 30/2020- Central Tax, dated 03.04.2020	Amendment in the CGST Rules so as to allow taxpayers opting for the Composition Scheme for the financial year 2020-21 to file their option in FORM CMP-02 till 30 th June, 2020 and to allow cumulative application of the condition in rule 36(4) for the months of February, 2020 to August, 2020 in the return for tax period of September, 2020.
2.	Notification No. 31/2020- Central Tax, dated 03.04.2020	A lower rate of interest of NIL for first 15 days after the due date of filing return in FORM GSTR-3B and @ 9% thereafter is notified for those registered persons having aggregate turnover above Rs. 5 Crore and NIL rate of interest is notified for those registered persons having aggregate turnover below Rs. 5 Crore in the preceding financial year, for the tax periods of February, 2020 to April, 2020. This lower rate of interest shall be subject to condition that due tax is paid by filing return in FORM GSTR-3B by the date(s) as specified in the Notification.

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3.	Notification No. 32/2020- Central Tax, dated 03.04.2020	Notification under section 128 of CGST Act for waiver of late fee for delay in furnishing returns in FORM GSTR-3B for the tax periods of February, 2020 to April, 2020 provided the return in FORM GSTR-3B by the date as specified in the Notification.
4.	Notification No. 33/2020- Central Tax, dated 03.04.2020	Notification under section 128 of CGST Act for waiver of late fee for delay in furnishing the statement of outward supplies in FORM GSTR-1 for taxpayers for the tax periods March, 2020 to May, 2020 and for quarter ending 31 st March 2020 if the same are furnished on or before 30 th day of June, 2020.
5.	Notification No. 34/2020- Central Tax, dated 03.04.2020	Extension of due date of furnishing statement, containing the details of payment of self-assessed tax in FORM GST CMP-08 for the quarter ending 31 st March, 2020 till the 7 th day of July, 2020 and filing FORM GSTR-4 for the financial year ending 31 st March, 2020 till the 15 th day of July, 2020.
6.	Notification No. 35/2020- Central Tax, dated 03.04.2020	Notification under section 168A of CGST Act for extending due date of compliance which falls during the period from the 20 th day of March, 2020 to the 29 th day of June, to 30 th day of June, 2020.

3. Various issues relating to above mentioned notifications have been examined. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies each of these issues as under:-

S. No.	Issue	Clarification
1.	What are the measures that have been specifically taken for taxpayers who have opted to pay tax under section 10 the CGST Act or those availing the option to pay tax under the notification No. 02/2019- Central Tax (Rate), dated the 7th March, 2019?	1. The said class of taxpayers, as per the notification No. 34/2020- Central Tax, dated 03.04.2020, have been allowed, to,- (i) furnish the statement of details of payment of self-assessed tax in FORM GST CMP-08 for the <u>quarter January to March, 2020</u> by 07.07.2020; and (ii) furnish the return in FORM GSTR-4 for the <u>financial year 2019-20</u> by 15.07.2020. 2. In addition to the above, taxpayers opting for the composition scheme <u>for the financial year 2020-21</u> , have been allowed, as per the notification No. 30/2020- Central Tax, dated 03.04.2020, to,- (i) file an intimation in FORM GST CMP-02 by 30.06.2020; and (ii) furnish the statement in FORM GST ITC-03 till 31.07.2020.
2.	Whether due date of furnishing FORM GSTR-3B for the months of February, March and April, 2020 has been extended ?	1. The due dates for furnishing FORM GSTR-3B for the months of February, March and April, 2020 <u>has not been extended</u> through any of the notifications referred in para 2 above. 2. However, as per notification No. 31/2020- Central Tax, dated 03.04.2020, NIL rate of interest for first 15 days after the due date of filing return in FORM GSTR-3B and <u>reduced</u>

		<p><u>rate of interest @ 9% thereafter has been notified</u> for those registered persons whose aggregate turnover in the preceding financial year is above Rs. 5 Crore. For those registered persons having turnover up to Rs. 5 Crore in the preceding financial year, <u>NIL rate of interest has also been notified.</u></p> <p>3. Further, vide notification as per the notification No. 32/2020- Central Tax, dated 03.04.2020, Government has waived the late fees for delay in furnishing the return in FORM GSTR-3B for the months of February, March and April, 2020.</p> <p>4. The lower rate of interest and waiver of late fee would be available only if due tax is paid by filing return in FORM GSTR-3B by the date(s) as specified in the Notification.</p>																				
<p>3.</p>	<p>What are the conditions attached for availing the reduced rate of interest for the months of February, March and April, 2020, for a registered person whose aggregate turnover in the preceding financial year is above Rs. 5 Crore?</p>	<p>1. As clarified at sl.no. (2) above, the due date for furnishing the return remains unchanged; i.e. 20th day of the month succeeding such month. The rate of interest has been notified as Nil for first 15 days from the due date, and 9 per cent per annum thereafter, for the said months.</p> <p>2. The reduced rate of interest is subject to the condition that the registered person must furnish the returns in FORM GSTR-3B on or before 24th day of June, 2020.</p> <p>3. In case the returns in FORM GSTR-3B for the said months are not furnished on or before 24th day of June, 2020 then interest at 18% per annum shall be payable from the due date of return, till the date on which the return is filed. In addition, regular late fee shall also be leviable for such delay along with liability for penalty.</p>																				
<p>4.</p>	<p>How to calculate the interest for late payment of tax for the months of February, March and April, 2020 for a registered person whose aggregate turnover in preceding financial year is above Rs. 5 Crore?</p>	<p>1. As explained above, the rate of interest has been notified as Nil for first 15 days from the due date, and 9 per cent per annum thereafter, for the said months. The same can be explained through an illustration.</p> <p><i>Illustration:-</i> Calculation of interest for delayed filing of return for the month of March, 2020 (due date of filing being 20.04.2020) may be illustrated as per the below Table:</p> <table border="1" data-bbox="632 1473 1362 2029"> <thead> <tr> <th>S. No.</th> <th>Date of filing GSTR-3B</th> <th>No. of days of delay</th> <th>Whether condition for reduced interest is fulfilled?</th> <th>Interest</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>02.05.2020</td> <td>11</td> <td>Yes</td> <td>Zero interest</td> </tr> <tr> <td>2</td> <td>20.05.2020</td> <td>30</td> <td>Yes</td> <td>Zero interest for 15 days + interest rate @9% p.a. for 15 days</td> </tr> <tr> <td>3</td> <td>20.06.2020</td> <td>61</td> <td>Yes</td> <td>Zero interest for 15 days + interest rate @9% p.a. for 46 days</td> </tr> </tbody> </table>	S. No.	Date of filing GSTR-3B	No. of days of delay	Whether condition for reduced interest is fulfilled?	Interest	1	02.05.2020	11	Yes	Zero interest	2	20.05.2020	30	Yes	Zero interest for 15 days + interest rate @9% p.a. for 15 days	3	20.06.2020	61	Yes	Zero interest for 15 days + interest rate @9% p.a. for 46 days
S. No.	Date of filing GSTR-3B	No. of days of delay	Whether condition for reduced interest is fulfilled?	Interest																		
1	02.05.2020	11	Yes	Zero interest																		
2	20.05.2020	30	Yes	Zero interest for 15 days + interest rate @9% p.a. for 15 days																		
3	20.06.2020	61	Yes	Zero interest for 15 days + interest rate @9% p.a. for 46 days																		

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		4	24.06.2020	65	Yes	Zero interest for 15 days + interest rate @9% p.a. for 50 days
		5	30.06.2020	71	NO	Interest rate @18% p.a. for 71 days (i.e. no benefit of reduced interest)
5.	What are the conditions attached for availing the NIL rate of interest for the months of February, March and April, 2020, for a registered person whose aggregate turnover in preceding financial year is up to Rs. 5 Crore?	<p>1. As clarified at sl.no. (2) above, the due date for furnishing the return remains unchanged. The rate of interest has been notified as Nil for the said months.</p> <p>2. The conditions for availing the NIL rate of interest is that the registered person must furnish the returns in FORM GSTR-3B on or before the date as mentioned in the notification No. 31/2020- Central Tax, dated 03.04.2020.</p> <p>3. In case the return for the said months are not furnished on or before the date mentioned in the notification then interest at 18% per annum shall be charged from the due date of return, till the date on which the return is filed as explained in the illustration at sl.no (4) above, against entry 5. In addition, regular late fee shall also be leviable for such delay along with liability for penalty.</p>				
6.	Whether the due date of furnishing the statement of outward supplies in FORM GSTR-1 under section 37 has been extended for the months of February, March and April 2020?	<p>Under the provisions of section 128 of the CGST Act, in terms of notification No. 33/2020- Central Tax, dated 03.04.2020, late fee leviable under section 47 has been waived for delay in furnishing the statement of outward supplies in FORM GSTR-1 under Section 37, for the tax periods March, 2020, April 2020, May, 2020 and quarter ending 31st March 2020 if the same are furnished on or before the 30th day of June, 2020.</p>				
7.	Whether restriction under rule 36(4) of the CGST Rules would apply during the lockdown period?	<p>Vide notification No. 30/2020- Central Tax, dated 03.04.2020, a proviso has been inserted in CGST Rules 2017 to provide that the said condition shall not apply to input tax credit availed by the registered persons in the returns in FORM GSTR-3B for the months of February, March, April, May, June, July and August, 2020, but that the said condition shall apply cumulatively for the said period and that the return in FORM GSTR-3B for the tax period of September, 2020 shall be furnished with cumulative adjustment of input tax credit for the said months in accordance with the condition under rule 36(4).</p>				
8.	What will be the status of e-way bills which have expired	<p>In terms of notification No. 35/2020- Central Tax, dated 03.04.2020, Issued under the provisions of 168A of the CGST Act, where the validity of an e-way bill generated under rule</p>				

Circular No. 136/06/2020-GST

	during the lockdown period?	138 of the CGST Rules expires during the period 20th day of March, 2020 to 15th day of April, 2020 , the validity period of such e-way bill has been extended till the 30th day of April, 2020 .
9.	What are the measures that have been specifically taken for taxpayers who are required to deduct tax at source under section 51, Input Service Distributors and Non-resident Taxable persons?	Under the provisions of section 168A of the CGST Act, in terms of notification No. 35/2020- Central Tax, dated 03.04.2020, the said class of taxpayers have been allowed to furnish the respective returns specified in sub-sections (3), (4) and (5) of section 39 of the said Act, for the months of March, 2020 to May, 2020 on or before the 30 th day of June, 2020.
10.	What are the measures that have been specifically taken for taxpayers who are required to collect tax at source under section 52?	Under the provisions of section 168A of the CGST Act, in terms of notification No. 35/2020- Central Tax, dated 03.04.2020, the said class of taxpayers have been allowed to furnish the statement specified in section 52, for the months of March, 2020 to May, 2020 on or before the 30 th day of June, 2020.
11.	The time limit for compliance of some of the provisions of the CGST Act is falling during the lock-down period announced by the Government. What should the taxpayer do?	Vide notification No. 35/2020- Central Tax, dated 03.04.2020, issued under the provisions of 168A of the CGST Act, except for few provisions covered in exclusion clause, any time limit for completion or compliance of any action which falls during the period from the 20 th day of March, 2020 to the 29 th day of June, 2020, and where completion or compliance of such action has not been made within such time, has been extended to 30 th day of June, 2020.

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

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

(Yogendra Garg)
Principal Commissioner
y.garg@nic.in

CBEC-20/06/04-2020 -GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, dated the 13th April, 2020

To

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

The Principal Director Generals / Director Generals (All)

Madam/Sir,

Subject: Clarification in respect of certain challenges faced by the registered persons in implementation of provisions of GST Laws-reg.

Circular No.136/06/2020-GST, dated 03.04.2020 had been issued to clarify doubts regarding relief measures taken by the Government for facilitating taxpayers in meeting the compliance requirements under various provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) on account of the measures taken to prevent the spread of Novel Corona Virus (COVID-19). It has been brought to the notice of the Board that certain challenges are being faced by taxpayers in adhering to the compliance requirements under various other provisions of the CGST Act which also need to be clarified.

2. The issues raised have been examined and in order to ensure uniformity in the implementation of the provisions of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies as under:

S. No.	Issue	Clarification
1.	An advance is received by a supplier for a Service contract which subsequently got cancelled. The supplier has issued the invoice before supply of service and paid the GST thereon. Whether he can claim refund of tax paid or is he required to adjust	In case GST is paid by the supplier on advances received for a future event which got cancelled subsequently <u>and for which invoice is issued before supply of service, the supplier</u> is required to issue a “credit note” in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim. However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may

	his tax liability in his returns ?	proceed to file a claim under “Excess payment of tax, if any” through FORM GST RFD-01 .
2.	An advance is received by a supplier for a Service contract which got cancelled subsequently. The supplier has issued receipt voucher and paid the GST on such advance received. Whether he can claim refund of tax paid on advance or he is required to adjust his tax liability in his returns?	<p>In case GST is paid by the supplier on advances received for an event which got cancelled subsequently and for which no invoice has been issued in terms of section 31 (2) of the CGST Act, he is required to issue a “refund voucher” in terms of section 31 (3) (e) of the CGST Act read with rule 51 of the CGST Rules.</p> <p>The taxpayer can apply for refund of GST paid on such advances by filing FORM GST RFD-01 under the category “Refund of excess payment of tax”.</p>
3.	Goods supplied by a supplier under cover of a tax invoice are returned by the recipient. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns ?	<p>In such a case where the goods supplied by a supplier are returned by the recipient and where tax invoice had been issued, the supplier is required to issue a “credit note” in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim in such a case.</p> <p>However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under “Excess payment of tax, if any” through FORM GST RFD-01.</p>
4.	Letter of Undertaking (LUT) furnished for the purposes of zero-rated supplies as per provisions of section 16 of the Integrated Goods and Services Tax Act, 2017 read with rule 96A of the CGST Rules has expired on 31.03.2020. Whether a registered person can still make a zero-rated supply on such LUT and claim refund accordingly or does he have to make	<p>Notification No. 37/2017-Central Tax, dated 04.10.2017, requires LUT to be furnished for a financial year. However, in terms of notification No. 35/2020 Central Tax dated 03.04.2020, where the requirement under the GST Law for furnishing of any report, document, return, statement or such other record falls during between the period from 20.03.2020 to 29.06.2020, has been extended till 30.06.2020.</p> <p>Therefore, in terms of Notification No. 35/2020-Central Tax, time limit for filing of LUT for the year 2020-21 shall stand extended to 30.06.2020 and the taxpayer can continue to make the supply without payment of tax under LUT provided that the FORM GST RFD-11 for 2020-21 is furnished on or before 30.06.2020. Taxpayers may quote the reference no of the LUT for the year 2019-20 in the relevant documents.</p>

	such supplies on payment of IGST and claim refund of such IGST ?	
5.	While making the payment to recipient, amount equivalent to one per cent was deducted as per the provisions of section 51 of Central Goods and Services Tax Act, 2017 i. e. Tax Deducted at Source (TDS). Whether the date of deposit of such payment has also been extended vide notification N. 35/2020-Central Tax dated 03.04.2020?	As per notification No. 35/2020-Central Tax dated 03.04.2020, where the timeline for any compliance required as per sub-section (3) of section 39 and section 51 of the Central Goods and Services Tax Act, 2017 falls during the period from 20.03.2020 to 29.06.2020, the same has been extended till 30.06.2020. Accordingly, the due date for furnishing of return in FORM GSTR-7 along with deposit of tax deducted for the said period has also been extended till 30.06.2020 and no interest under section 50 shall be leviable if tax deducted is deposited by 30.06.2020.
6.	As per section 54 (1), a person is required to make an application before expiry of two years from the relevant date. If in a particular case, date for making an application for refund expires on 31.03.2020, can such person make an application for refund before 29.07.2020?	As per notification No. 35/2020-Central Tax dated 03.04.2020, where the timeline for any compliance required as per sub-section (1) of section 54 of the Central Goods and Services Tax Act, 2017 falls during the period from 20.03.2020 to 29.06.2020, the same has been extended till 30.06.2020. Accordingly, the due date for filing an application for refund falling during the said period has also been extended till 30.06.2020.

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

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

(Yogendra Garg)
Principal Commissioner
y.garg@nic.in

(V) ADVANCE RULINGS

1. ITC on GST charged by Contractor for hiring of buses for transportation of employees

Case Name : **In re YKK India Pvt Ltd (AAAR Haryana)**

Appeal Number : Advance Ruling No. HAR/AAAR/ 2018-19/03

Date of Judgement/Order : 03/04/2019

1. Whether the applicant (YKK) is eligible to take input tax credit on GST charged by the Contractor for hiring of buses for transportation of employees?

Yes, applicant is eligible to take **input tax credit** on GST charged by the Contractor for hiring of buses having approved seating capacity of more than thirteen persons for transportation of employees after amendment in CGST Act, with effect from 30.08.2018. Prior to 30.08.2018 Input Tax Credit on buses was not admissible.

2. Whether the applicant (YKK) is eligible to take input tax credit on GST charged by the Contractor for hiring of cars for transportation of employees?

No, applicant is not eligible to take input tax credit on GST charged by the Contractor for hiring of cars for transportation of employees.

3. Whether the restriction on “Rent a Cab” service specified in Section 17(5)(b)(iii) is applicable to input tax credit on GST charged by the Contractor for hiring of buses for transportation of employees?

Yes, the restrictions on “Rent-a-Cab” service specified in Section 17(5)(b)(iii) at the relevant time is applicable to input tax credit on GST charged by the Contractor for hiring of buses for transportation of employees. However, after amendment in CGST Act, with effect from 30.08.2018, there is no restriction on hiring and renting of motor vehicles having approved seating capacity of more than thirteen persons.

4. Whether the restriction on “Rent a Cab” service specified in Section 17(5)(b)(iii) is applicable to input tax credit on GST charged by the Contractor for hiring of cars for transportation of employees?

Yes, the restrictions on “Rent-a-Cab” service specified in Section 17(5)(b)(iii) is applicable to input tax credit on GST charged by the Contractor for hiring of cars for transportation of employees.

Further even after amendment of CGST Act, with effect from 30.08.2018, input tax credit is not available on GST charged by the contractor for hiring/renting of motor vehicles having approved seating capacity of not more than thirteen persons (including Driver) for transportation of passengers.

2. AAR Ruling on Applicability of GST Composition Scheme & Applicable Tax Rate

Case Name : **In re Empathic Trading Centre (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 28/2020

Date of Judgement/Order : 23/04/2020

1. The applicant is eligible to be in the composition scheme under section 10 of the CGST Act, 2017 if the turnover of services of the applicant does not exceed ten per cent of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher.

2. The applicant is not eligible to opt to pay tax under the **Notification No.2/2019-Central Tax (Rate) dated 07.03.2019** and under the **Notification (02/2019) No. FD 48 CSL 2017 dated 07.03.2019** of the Government of Karnataka as the applicant is registered as a Composition Taxpayer.

3. The rate of tax applicable on the entire value is 3% CGST and 3% KGST and he cannot pay tax at 1% on supply of goods and 6% tax on the supply of services.

3. GST on parched / puffed gram Hurigadale / Putani

Case Name : **In re Sri Bhagyalakshmi Trading Corporation (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 27/2020

Date of Judgement/Order : 23/04/2020

What is the applicable rate of tax (GST) on parched / puffed gram (Hurigadale / Putani)?

The puffed gram, commonly called as “Fried Gram” and as “Hurigadale” or “Putani” in Kannada are

a. Exempt from tax under the CGST Act and Karnataka GST Act if they are not branded and put up in unit containers.

b. Liable to tax at 2.5% under CGST Act and 2.5% under the Karnataka GST Act, if they are branded and put up in unit containers.

4. No GST on Selling of printed religious books

Case Name : **In re Ideal Industrial Synergy Solutions Private Limited (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 26/2019

Date of Judgement/Order : 23/04/2020

Whether selling of religious books attracts GST? If taxable, what would be the rate of GST and HSN Code & If exempted, the category of exempted goods and HSN Code?

The supply of books by the applicant to the religious schools are supply of printed books which is covered under HSN Code 4901 and is exempt from tax as they are covered under following entries

a. Under the CGST Act, entry no. 119 of **Notification No. 2/2017-Central Tax (Rate)dated 28.06.2017**

b. Under the Karnataka Goods and Services Tax Act, entry no.119 of **Notification (02/2017)** No. FD 48 CSL 2017 dated 29.06.2017

c. Under the IGST Act, entry no. 119 of **Notification No. 2/2017 -Integrated Tax (Rate)** dated **28.06.2017**

5. Supply of software not designed specifically for any customer is Supply of goods

Case Name : **In re Solize India Technologies Private Limited (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 25/2020

Date of Judgement/Order : 23/04/2020

1. Whether software supplied by the applicant qualifies to be treated as Computer software resulting in Supply of goods?

The supply of software supplied by the applicant which is not designed and developed specific to any customer and sold without any customisation, qualifies as “supply of goods” and “supply of computer software as goods”.

2. Whether the benefits of Notifications No. 45/2017-Central Tax (Rate) and 47/2017-Integrated Tax (Rate) dated 14.11.17 are applicable to the supplies made to the institutions given in the notification?

The benefits of Notifications No.45/2017-Central Tax (Rate) and Notification No.47/2017-Integrated Tax (Rate) both dated 14.11.2017 are applicable to the supplies made if the same are made to recipients if they are covered under Column (2) and if the conditions as specified in Column (4) of the said Notifications.

6. HLA Typing received from overseas laboratory is health care services & Exempt from IGST

Case Name : **In re DKMS BMST Foundation India (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 24/2020

Date of Judgement/Order : 23/04/2020

1. The services of HLA Typing received by DKMS BMST Foundation India from the overseas laboratory is covered under the definition of “health care services by a clinical establishment” and thereby is exempted from IGST leviable thereon and accordingly not taxable in the hands of the applicant under reverse charge mechanism.

2. The applicant is not liable to pay Integrated Goods and Services Tax on the testing services performed by the overseas laboratory outside India on the Human Buccal Swabs sent by DKMS BMST from India and is already answered in para 1 above.

7. Poha bran classifiable under HSN 23024090- 5% GST Payable

Case Name : **In re Sri Basaveshwara Corporation (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 23/2020

Date of Judgement/Order : 23/04/2020

Rate of tax on sale of Poha Bran or Avalakki Bran or Bran of beaten rice which supplied to cattle feed manufacturing unit?

Poha bran is nothing but rice bran and is by product of Poha or Avalakki manufacturing process from paddy. Both rice bran and poha bran are derived from Paddy and the constituents of both are same. They are given different commercial names due to the different process of manufacture which give rise to them. Both are used as ingredient for manufacturing of cattle feed. The composition of the poha bran contains oil to the extent of 3 to 4 % and fibre to the extent of 35%. Hence poha bran is nothing but Rice bran.

As for as classification of Poha bran is concerned the said goods can be classified under HSN chapter /heading vide HSN 2302 40 00. The present classification applied by the applicant for Poha bran under HSN 2304 00 90 is incorrect as it is applicable to those from soyabean.

Regarding the taxability, The poha bran, which is same as Rice bran as discussed above, is covered under entry no. 103B of Schedule I of **Notification No. 1/2017 – Central Tax (Rate) dated 28.06.2017** as amended by **Notification No. 6/2018 – Central Tax (Rate) dated 25.01.2018** and the same is liable to tax at 2.5% from 25.01.2018 under the CGST Act. Similarly the same is also liable to tax at 2.5% under the KGST Act, 2017 from 25.01.2018.

8. GST Advance ruling cannot be given on matter pending before SC

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

Appeal Number : Advance Ruling No. KAR ADRG 22/2020

Date of Judgement/Order : 23/04/2020

The issue of the exemption activities carried out by the applicant with reference to administration and Pre and Post connection charges towards supply of electricity is pending before Honorable Supreme Court of India vide SLP Diary No.s 24733/2019 dated 09-08-2019. Since the matter is sub-judice therefore advance ruling on aforesaid issue cannot be given.

9. Freight & insurance charges forms part of value of supply of power packs

Case Name : **In re San Engineering & Locomotive Company Ltd. (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 21/2020

Date of Judgement/Order : 23/04/2020

Whether the supply of powerpacks, freight and insurance service and commissioning/ installation services as per the Purchase Order 08/16/2730/1838/f dated 05.11.2016 has to be treated as “Composite Supply” as defined in section 2(30) of CGST Act, 2017 read with section 8(a) of CGST Act, 2017 or freight and insurance service and commissioning / Installation can be treated independent of supply of power packs given that installation and commissioning takes place after 4-5 months of supply of power packs.

Section 15(2) of the CGST Act, 2017 states that the value of supply shall include incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services. Hence the applicant has to transport the goods and deliver the power packs to the recipient and the amount charged to do this is a part of the value of the goods supplied. Hence the freight and insurance charges are part of the value of supply of power packs, since the supply contract is a contract for supply of power packs and the value of the contract is the sum total of the value of the power pack plus all charges charged to the recipient for anything done till the goods are delivered to the recipient.

Even if these supplies, i.e. supply of power pack and supply of freight and insurance are distinct supplies, the same would be covered under the definition of “composite supply” as per section 2(30) of the CGST Act, 2017, as the same are naturally bundled and supplied in conjunction with each other in the ordinary course of business. The principal supply in the case is the supply of power packs. Further section 8 of the CGST Act, 2017 clearly states that the tax liability on a composite supply shall be determined by treating them as a supply of such principal supply. Hence going by this also, the composite supply of power pack and the supply of freight and insurance would be treated as “supply of power packs” only as per section 8 of the CGST Act, 2017.

In view of both the above paras, the supply of power packs and the supply of freight and insurance services involved in such power packs shall be treated as the “supply of power packs” and the applicable tax related to such supply.

10. AAAR quashes AAR ruling considering Change in Law after ruling

Case Name : **In re Hero Solar Energy Pvt. Ltd. (GST AAAR Haryana)**

Appeal Number : Appeal No. HAR/HAAAR/2018-19/04

Date of Judgement/Order : 26/04/2019

The order dated 22.08.2018 of the Advance Ruling Authority is quashed and the applicant may approach the Advance Ruling Authority for taking a decision afresh in accordance with law.

The advance ruling dated 29.08.2018 obtained by the appellant is prior to the amendments made with effect from 01.01.2019 by the Govt. vide notifications ibid dated 31.12.2018 under the CGST /HGST Act, 2017 in the respective entries. There is a change in the rate of tax and the percentage of Goods and Services involved in

Solar Power Generation System (SPGS), after **Notification No. 24/2018,- Central Tax (Rate), dated 31.12.2018** and **Notification No. 27/2018-Central Tax (Rate) dated 31.12.2018**. Therefore, after issuance of above notifications, the facts and circumstances have completely changed with effect from 01.01.2019.

In the changed facts and circumstances of the case, we are of the considered view that the advance ruling granted vide Advance Ruling Order dated 29.08.2018, is no more binding on the applicant or the authorities concerned in terms of Section 103(2) of the CGST and SGST Acts and the applicant may seek Advance Ruling which will be granted afresh by the Advance Ruling authority after considering the notifications mentioned in Para above and after giving opportunity of hearing to the appellant. Thus, the order dated 29.08.2018 of the Advance Ruling Authority is quashed and the applicant may approach the Advance Ruling Authority for taking a decision afresh in accordance with law. It is made clear that this authority has not given any opinion on the merits of the case.

11. GST Payable on auctioning of right to collect charges for vahana pooja

Case Name : **In re Sri Malai Mahadeshwara Swamy Kshethra Development Authority (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 29/2020

Date of Judgement/Order : 28/04/2020

1. Regarding question no.1 related to the auctioning for collection of vehicle entry fees, question no.4 related to auctioning of service of tonsuring the heads of devotees, question no.8 related to the auctioning of right to collect service charges and question no. 10 related to auctioning of the right to collect charges for vahana pooja – are supply of services falling under SAC 9997 and are covered under the entry no.35 of Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 and are liable to CGST at the rate of 9%. Similarly, they are also liable to tax at 9% under KGST under entry no.35 of Notification (11/2017) No. FD 48 CSL 2017 dated 29.06.2017.

2. Regarding question no.2, the sales of prasadam by the applicant, is exempt from tax as per entry no. 98 of the Notification No.2/2017 – Central Tax (Rate) dated 28.06.2017 and entry no.98 of Notification (02/2017) No. FD 48 CSL 2017 dated 29.06.2017. But if goods other than prasadam are sold, they would be liable to tax at appropriate rates applicable to those goods.

3. Regarding question no.3, relating to renting of commercial shops, the services are exempt if the rental value is less than Rs. 10,000-00 per month per shop as they are covered under the entry no. 13 of the Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 and entry no. 13 of the Notification (12/2017) No. FD 48 CSL 2017 dated 29.06.2017. But if the rent per shop is more than Rs. 10,000-00 per month, the same would be liable to tax at 9% CGST under SAC 9972 under entry no. 16 of Notification No.11/2017- Central Tax (Rate) dated 28.06.2017 and at 9% KGST under entry no. 16 of Notification (11/2017) No. FD 48 CSL 2017 dated 29.06.2017.

4. Regarding question no.5 relating to providing of services of accommodation to pilgrims where the charges are less than Rs.1000 per day per room, the same is

exempt vide Notification No. 12/2017 – Central Tax (Rate) dated 28.06.2017 and Notification (12/2017) No. FD 48 CSL 2017 dated 29.06.2017.

5. Regarding question no.6 relating to collection of seva charges and question no.7 relating to the collection of special darshan charges, the same is exempt from CGST and KGST as they are not covered under supply and also exempt as they are covered under entry no 13(a) of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 and Notification (12/2017) No.FD 48 CSL 2017 dated 29.06.2017 respectively.

6. Regarding question no.9, relating to renting out Kalyanamandapams, the same is exempt from CGST and KGST, if the rental is less than Rs. 10000-00 per day, as per entry no 13(b) of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 and Notification (12/2017) No.FD 48 CSL 2017 dated 29.06.2017 respectively.

7. Regarding question no. 11, relating to collecting of entry fees providing access to the temple, the same is liable to tax at 9% under CGST Act and at 9% under KGST Act, as per entry II(ii) of Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 and Notification (11/2017) No. FD 48 CSL 2017 dated 29.06.2017.

8. Regarding question no. 12, relating to future tendering of the right to collect charges and provide services, the same is liable to tax at 9% under CGST Act and at 9% under KGST Act as per entry no.35 of Notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 and Notification (11/2017) No. FD 48 CSL 2017 dated 29.06.2017

(VI) COURT ORDERS/ JUDGEMENTS

1. HC refuses release of Korean Nationals arrested for GST non payment

Case Name : **Choe Jae Won Vs Principal Secretary to the Government (Madras High Court)**

Appeal Number : W.P. No. 7435 of 2020

Date of Judgement/Order : 09/04/2020

Finding justification in the plea made by the learned Government Pleader and considering the fact that, several Non-Bailable Warrants have already been issued to the Petitioners and that, there is every possibility of the Petitioners fleeing away from the clutches of Law, this Court while declining the relief sought by the Petitioners, without prejudice to the rights of the parties in the pending Habeas Corpus Petitions, directs the learned Additional Chief Metropolitan Magistrate (Economic Offences-I), Egmore, Chennai to take up the case in C.C.No.1 of 2020, after normalcy is restored post COVID-19 lockdown, and proceed with the same on a day-to-day basis, without adjourning it beyond ten working days at any point of time.

2. 5% Tax applicable on slice under Haryana VAT: HC

Case Name : **Saluja and Company Vs State of Haryana and others (Punjab & Haryana High Court)**

Appeal Number : VATAP No. 338 of 2019

Date of Judgement/Order : 13/04/2020

Issue- Whether in facts and circumstances of the case, the Tribunal was justified in holding that the Mango Drink under the brand name "Slice" sold by the appellant, does not fall under Entry 100D of Schedule-C of the HVAT Act and is therefore exigible to tax @ 12.5% instead of 5%

Held- High Court accepted the contentions of the appellant that the Entry 100-D of Schedule C to the HVAT Act does not admit of a narrow interpretation particularly when it uses the words 'fruit drinks made of' the fruit in question. Even if one applied the common parlance test, the Appellant is right in contending that Slice does not cease to be a drink made of fruit only because the actual fruit content is 16%. HC held that "Slice" falls under Entry 100D of Schedule-C of the **Haryana Value Added Tax (HVAT) Act, 2003** and 5% tax is applicable.

3. Medical Oxygen IP and Nitrous Oxide IP are medicines: SC

Case Name : **State of Andhra Pradesh Vs Linde India Ltd. (Supreme Court)**

Appeal Number : Civil Appeal No. 2230 of 2020

Date of Judgement/Order : 13/04/2020

The main issue under this appeal is whether 'Medical Oxygen IP' and 'Nitrous Oxide IP' are taxable under Entry 88 of Schedule IV of the **Andhra Pradesh Value Added Tax Act 2005** or as "unclassified goods" under Schedule V . The classification of the two products determines the rate of tax to be levied on them – 4%/5% under Entry 88 or 12.5%/14% under Schedule V.

High court has presented as under regarding this case:

- a) The decision of the Andhra Pradesh High Court in *Inox Air*, in so far as it held that Medical Oxygen IP and Nitrous Oxide IP are covered by the expression “similar articles” in Entry 88, is erroneous. Applying the principle of *ejusdem generis*, it cannot be said that gases are ‘similar articles’ to the other products specified in the entry.
- b) The term ‘used for or in’ employed in Section 3(b)(i) qualifies only ‘substances’ and not ‘medicines’. Consequently, it cannot be used to broaden the scope of Entry 88.
- c) ‘Every substance’ cannot be said to fall within the ambit of Entry 88 merely because it is used for medicinal purposes. For a substance to fall within the ambit of Entry 88, it must accord with the definition stipulated in Section 3(1)(b) of the 1940 Act.

Opposing the above submissions, learned counsel has presented as follows:

- a) Section 3(b)(i) of the 1940 Act defines a ‘drug’ broadly as a medicine or substance used for or in the diagnosis, treatment, mitigation or prevention of any disease or disorder. Medical Oxygen IP and Nitrous Oxide IP are widely known for their curative properties and as medicines in the diagnosis, treatment, mitigation and prevention of diseases and disorders
- b) Medical Oxygen and Nitrous Oxide are included in the Indian Pharmacopoeia which prescribes standards for drugs. The Indian Pharmacopoeia has legal status under Section 16 of the 1940 Act. Consequently, Medical Oxygen and Nitrous Oxide are drugs within the ambit of Section 3(1)(b) of the 1940 Act. As Medical Oxygen IP and Nitrous Oxide IP are ‘medicines’ within the ambit of Section 3(1)(b) of the 1940 Act, they are expressly included in Entry 88 of the 2005 Act
- c) Goods must be classified according to their popular meaning or as they are understood in their commercial sense. Oxygen is used widely as an emergency medicine as well as for the delivery of medical services. Nitrous Oxide is used in surgery and dentistry for anesthetic purposes. Applying the common parlance test, there is no doubt that the products in question are used in the mitigation of diseases and disorders and fall within the ambit of Entry 88 as drugs defined in Section 3(b)(i) of the 1940 Act;

Finally Supreme Court in this appeal concluded that, it was not seriously disputed that Medical Oxygen IP and Nitrous Oxide IP sub-serve a medicinal purpose. There is no doubt that Medical Oxygen IP and Nitrous Oxide IP are medicines used for or in the diagnosis, treatment, mitigation or prevention of any disease or disorder in human beings falling within the ambit of Section 3(b)(i) of the 1940 Act. **SC hold that Medical Oxygen IP and Nitrous Oxide IP fall within the ambit of Section 3(b)(i) of the 1940 Act and are consequently covered in Entry 88 of the 2005 Act.**

Therefore, the appeals are dismissed, although for the reasons highlighted above. There shall be no order as to costs.

4. Books cannot be Rejected for mere Non-Presentation during Survey

Case Name : **Mahesh Coal Traders Vs Commissioner Commercial Tax (Allahabad High Court)**

Appeal Number : Sales/Trade Tax Revision No. 976 of 2013

Date of Judgement/Order : 13/04/2020

Books of accounts were duly presented when the show cause notice was given to the assessee, and no discrepancy was found in the same, but non-presentation of the books of accounts at the time of survey cannot be the sole reason for rejection of the books of accounts.

5. Section 84A of Gujarat VAT Act is declared as ultra vires the Constitution of India

Case Name : **Reliance Industries Ltd. & ors. Vs State of Gujarat (Gujarat High Court)**

Appeal Number : R/Special Civil Application No. 14206 of 2018

Date of Judgement/Order : 16/04/2020

Conclusion: Section 84A of the Gujarat VAT Act is declared as ultra vires and beyond the legislative competence of the State Legislature under Entry 54 of List II of the Seventh Schedule to the Constitution of India and is also declared to be violative of Article 14 of the Constitution of India on the ground of being manifestly arbitrary, unreasonable and oppressive.

Held: Supreme Court passed an order dated 22.09.2017 in an appeal filed by the State this Court by holding that the Input Tax Credit was required to be reduced twice. i.e, to the extent of total 8%, under sub clauses (ii) and (iii) of Section 11(3)(b) of the VAT Act , in such a way that the reduction should not exceed the amount of the Input Tax credit claimed. In view of the aforesaid judgement of the Supreme Court, Additional Commissioner of Commercial Tax issued a revision notice dated 03/06.11.2017 in Form 503 under Sections 75 to revise the Assessment Order for F.Y. 2008-09 made vide order dated 30.03.2013 for reducing the Input Tax Credit to the extent of 8% under the provisions of Section 11(3)(b)(ii) and 11(3)(b)(iii) of the VAT Act. By an order dated 16.03.2018, this Court quashed and set aside the aforesaid revision notice issued by the department under Section 75 on the ground that the said revision notice could not be sustained being beyond the period of limitation provided under Section 75 of the VAT Act. By virtue of the VAT Amendment Act, 2018, Section 84A came to be added in the VAT Act to be operative retrospectively w.e.f 01.04.2006, inter alia, providing for the exclusion of the period spent between the date of the decision of the appellate tribunal and that of the High Court as well as the Supreme Court in computing the period of limitation, referred to in Section 75 of the VAT Act. In the present case, the period commencing from the date of the decision of this Court dated 18.01.2013 rendered against the revenue upto the date of the decision of the Supreme Court i.e., 22.09.2017 being in favour of the revenue, was sought to be excluded by virtue of the above referred retrospective amendment to enable the department to issue a notice for revision for revising the assessment made for the year 2008-09 and thereby removing the basis of the later judgment dated 16.03.2018 of this Court. Assessee challenged to the constitutional validity on the ground that Section 84A of the GVAT Act was ultra vires and beyond

the legislative competence of the State under Entry 54 of List II of the Seventh Schedule to the Constitution of India and also on the ground that Section 84A of the GVAT Act was violative of Article 14 of the Constitution of India. It was held that if the unlimited time period was available to the Revenue for assessment/reassessment/revision in any case based on a decision rendered in the case of any other dealer the same would lead to an irreparable situation section 84A of the Gujarat VAT Act was declared as ultra vires and beyond the legislative competence of the State Legislature under Entry 54 of List II of the Seventh Schedule to the Constitution of India and was also declared to be violative of Article 14 of the Constitution of India on the ground of being manifestly arbitrary, unreasonable and oppressive.

6. No Bail due to COVID-19, if no Covid19 case in Jail & if it is safe

Case Name : Rajinder Bassi and others Vs State of Punjab (Punjab and Haryana High Court)

Appeal Number : CRM-M No. 11954/2020

Date of Judgement/Order : 17/04/2020

No Special Relief in Bail due to COVID-19, if there is no reported case of COVID-19 within the premises of jail and it is relatively safe

In the present case there are allegations on the petitioner of having caused loss to State-Exchequer to the tune of Rs 20 crores appx. by evasion of payment of GST and he has applied for grant of interim bail, mainly on account of the prevalent conditions of spread of COVID-19 virus.

The Hon'ble Supreme Court, vide its order dated 23.3.2020 had directed all the States/Union Territories to consider as to which of the prisoners 'may' be released on interim bail or parole during the pandemic so as to decongest the jails and to prevent outbreak of COVID-19 virus in prisons. They further clarified that the purpose was to prevent the overcrowding of prisons so that in case of an outbreak of coronavirus in the prisons, the spread of the disease is manageable. They make it clear that they have not directed the States/ Union Territories to compulsorily release the prisoners from their respective prisons.

The petitioner in the given case will be going to send in Nabha jail (Bihar) for his imprisonment. Therefore, High Court also draws strength from the fact that State of Bihar has chosen not to release any of the prisoners as the jails are not congested and there was no reported case of corona virus in the jails and the said fact was duly noticed by Supreme Court in its order dated 23.3.2020. Since the Nabha Jail already stands decongested and there is no reported case of COVID-19 within the premises of jail, therefore keeping in view the nature and gravity of offence and the amount involved this Court does not deem it appropriate to grant interim bail to the petitioner. The application, as such, is dismissed.

7. Bail given in GST defaults case on complying with conditions

Case Name : Lalit Kumar Gandhi Vs State of M.P. (Madhya Pradesh High Court)

Appeal Number : MCRC No. 10270/2020

Date of Judgement/Order : 21/04/2020

This is an application made by the applicant under Section 439 Cr.P.C. for grant of bail during trial. The allegation against the applicant is that he had received a sum of about Rs.6,52,00,000/- from the applicant for supply of pesticides and insecticides and as against this he had made the supply worth Rs.4,30,00,000/- only and has not made the supply against the payment of Rs.2,22,50,000/-. Further allegation in the FIR is that though the complainant had approached the applicant for supply of pesticides against remaining payment but the same was avoided and the applicant had also misbehaved with the complainant and by making fabricated invoices and uploading the same on the GST portal, the applicant had committed further offence.

On the query made by this Court that if the applicant is ready to deposit Rs. 1 Crore with the trial Court and secure the remaining amount by furnishing the solvent security, the submission of counsel for the applicant is that the amount of deposit be reduced by 50%.

Having considered the submission made by counsel for the parties and also taking note of the prevailing Covid-19 infection and considering the fact that the applicant is in custody since 28.11.2019 and in the present scenario conclusion of trial is likely to take time and also taking note of the submission of counsel for the applicant in respect of the condition relating to deposit of the amount, it is directed that the applicant-Lalit Kumar Gandhi will be released on bail subject to complying with the conditions

8. Garnishee proceedings cannot be initiated for recovery of GST Interest without adjudication: HC

Case Name : **Mahadeo Construction Co. Vs Union of India (Jharkhand High Court)**

Appeal Number : W.P.(T) No. 3517 of 2019

Date of Judgement/Order : 21/04/2020

High Court held that interest liability under section 50 is although automatic, but it's computation and demand can be raised only after initiation of Adjudication proceedings under Section 73 or 74 in case the assessee disputes the demand of interest.

Whether garnishee proceedings under Section 79 of the CGST Act can be initiated for recovery of interest without adjudicating the liability of interest, when the same is admittedly disputed by the assessee.

Section 79 of the CGST Act empowers the authorities to initiate garnishee proceedings for recovery of tax where "any amount payable by a person to the Government under any of the provisions of the Act and Rules made thereunder is not paid". Since in the preceding paragraphs of our Judgment, we have already held that though the liability of interest is automatic, but the same is required to be adjudicated in the event an assessee disputes the computation or very levability of interest, by initiation of adjudication proceedings under Section 73 or 74 of the CGST Act, in our opinion, till such adjudication is completed by the Proper Officer, the amount of interest cannot be termed as an amount payable under the Act or the

Rules. Thus, without initiation of any adjudication proceedings, no recovery proceeding under Section 79 of the Act can be initiated for recovery of the interest amount.

9. GST Refund cannot be withheld for 'Want of Cross-Verification Details'

Case Name : **ACC Limited Vs Asst Commissioner CT (Telangana High Court)**

Appeal Number : WP No. 943 of 2014

Date of Judgement/Order : 27/04/2020

once the respondents admit the receipt of both the Demand drafts dt.31.5.1988 from the petitioner for the sum of Rs.28,10,432/- , payment by the petitioner is deemed to be complete and the petitioner is absolved of it's obligations; and the withholding of the refund by the respondents on the alleged ground that challans are not traceable in the Sub Treasury of deposit of the Demand Drafts by the Commercial Tax Department, after receipt of the Demand Drafts, i.e cross verification is not possible, cannot be a valid reason at all to withhold the refund of the said sum to the petitioner.

In our opinion, this action of the respondents is also violative of Art.14,19,265 and 300-A of the Constitution of India. The respondents cannot be permitted to take advantage of their own negligence, assuming that the Demand drafts handed over by the petitioner, were not presented and encashed by the respondents.

The provisions of Sections 33E and 33F deal with interest on delayed refund.

Section 33E mandates that if the assessing authority or the licensing authority does not grant the refund within six months from the date on which the claim for refund is made by the assessee or the licensee.

Under Section 33A, the State shall pay the assessee or licensee simple interest @ 12% p.a. on the amount directed to be refunded following the expiry of the period of six months aforesaid to the date of the order granting the refund.

Section 33F enjoins that where a refund is due to the assessee or licensee in pursuance of an order referred to in Section 33B and the assessing or licensing authority does not grant the refund within a period of six months from the date of such order, the State shall pay the assessee or the licensee simple interest @ 12% p.a. on the amount of refund due from the date following the expiry of the period of six months aforesaid to the date on which the refund is granted.

Sub-section (2) of Section 33F deals with the refunds withheld under the provisions of Section 33C and enjoins the State Government to pay interest @ 12% p.a. on the amount of refund ultimately determined to be due as a result of the appeal or further proceedings for the period commencing after the expiry of six months from the date of the order referred to in Section 33C to the date the refund is granted.

In the instant case, the respondents had withheld the refund for 11 years on ground of 'want of cross-verification details' which is not a ground mentioned in Sec.33-C for withholding the refund due to petitioner.

Admittedly no proceeding such as an appeal or revision was pending against the petitioner. So Sec.33 F(2) of the APGST Act is also in applicable.

Also a refund withholding order must invariably specify (as per Sec.33C) the period of time during which it will be in force and a refund cannot be withheld indefinitely as has been done in the instant case.

Sec. 33-E and 33-F of the APGST Act give 6 months time to the respondents to complete the verification and the authorities cannot withhold the refund beyond the said period.

Thus there has been an ex-facie abuse of power by the respondents 1 and 2 in denying refund to the petitioners of the sum of Rs.28,10,432/-.

Therefore the writ petition is allowed with costs of Rs.25,000/- to be paid by the 5th respondent to the petitioner; a Writ of Mandamus is issued declaring that the impugned order dt. 5.5.2009 of the 2nd respondent withholding the refund of Rs.28,10,432/- is arbitrary, illegal and without jurisdiction; the said order is accordingly set aside; and the respondents 1-5 are directed to refund the said amount with interest at 12% p.a from 2.8.1993 to 22.1.2004 as per Sec.33-F of the Act and also at 12% p.a from 5.11.2009 till date as per Sec.33-F of the Act.

10. Movement of goods, from one State to another terminates, where good have been delivered : SC

Case Name : **Commercial Taxes Officer Vs Bombay Machinery Store (Supreme Court)**

Appeal Number : Civil Appeal No. 2217 of 2011

Date of Judgement/Order : 27/04/2020

Movement of goods, from one State to another terminates, where good have been delivered : SC

Tax Administration Authorities cannot give their own interpretation to legislative provisions on the basis of their own perception of trade practise

In the case of **Arjan Dass Gupta** (supra) principle akin to constructive delivery was expounded and we have quoted the relevant passage from that decision earlier in this judgment. In our opinion, however, such construction would not be proper to interpret the provisions of Section 3 of the 1956 Act. A legal fiction is created in first explanation to that Section. That fiction is that the **movement of goods, from one State to another shall terminate, where the good have been delivered to a carrier for transmission, at the time of when delivery is taken from such carrier**. There is no concept of constructive delivery either express or implied in the said provision. On a plain reading of the statute, the movement of the goods, for the purposes of clause (b) of Section 3 of the 1956 Act would terminate only when delivery is taken, having regard to first explanation to that Section. There is no scope of incorporating any further word to qualify the nature and scope of the expression "delivery" within the said section. The legislature has eschewed from giving the said word an expansive meaning. The High Court under the judgment which is assailed in Civil Appeal No.2217 of 2011 rightly held that there is no place for any intendment in taxing statutes. We are of the view that the interpretation of the Division Bench of the Delhi High Court given in the case of **Arjan Dass Gupta** does not lays down correct position of law. In the event, the authorities felt any assessee or dealer was taking unintended benefit under the aforesaid provisions of the 1956 Act, then the proper

course would be legislative amendment. **The Tax Administration Authorities cannot give their own interpretation to legislative provisions on the basis of their own perception of trade practise.** This administrative exercise, in effect, would result in supplying words to legislative provisions, as if to cure omissions of the legislature.