

GST UPDATE

(July, 2020)

Directorate of Training, Excise and Taxation Department, Punjab

ABSTRACT OF GST UPDATE

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(I) GIST OF GST NOTIFICATIONS

1. Rule 67A Manner of furnishing GSTR 3B by SMS facility

CBIC notifies GST Rule 67A which specifies Manner of furnishing of return or details of outward supplies (Form GSTR 3B) by short messaging service (SMS) facility. Central Goods and Services Tax (Eighth Amendment) Rules, 2020.

Filing of Nil GSTR-1 by SMS

Manner of furnishing of GSTR-1 by short messaging service facility:

NIL details of outward supplies under section 37 in GSTR 1 can be filled through short messaging service (SMS). For this, Rule 67A substituted in CGST Rules, 2017 vide Notification No. 58/2020 – Central Tax dated 1st July 2020

Explanation. – For the purpose of this rule, a Nil return or Nil details of outward supplies shall mean a return under section 39 or details of outward supplies under section 37, for a tax period that has nil or no entry in all the Tables in FORM GSTR3B or FORM GSTR-1, as the case may be.

Rule 67A substituted as under:

“67A. Manner of furnishing of return or details of outward supplies by short messaging service facility.- Notwithstanding anything contained in this Chapter, for a registered person who is required to furnish a Nil return under section 39 in FORM GSTR-3B or a Nil details of outward supplies under section 37 in FORM GSTR-1 for a tax period, any reference to electronic furnishing shall include furnishing of the said return or the details of outward supplies through a short messaging service using the registered mobile number and the said return or the details of outward supplies shall be verified by a registered mobile number based One Time Password facility.”

A taxpayer may now file NIL Form GSTR-1, through an SMS, apart from filing it through online mode, on GST Portal. To file NIL Form GSTR-1 through SMS, the taxpayer must fulfil following conditions:

- They must be registered as Normal taxpayer/ Casual taxpayer/ SEZ Unit / SEZ Developer.
- They have valid GSTIN.
- Phone number of Authorized signatory is registered on the GST Portal.
- No data should be in saved or submitted stage for Form GSTR-1 on the GST Portal, related to that respective month.
- NIL Form GSTR-1 can be filed anytime on or after the 1st of the subsequent month for which the return is to be filed.
- Taxpayer should have opted for the filing frequency as either monthly or quarterly. NIL Form GSTR-1 for a tax period must be filed by the taxpayer if:
- There are no Outward Supplies (including supplies on which tax is to be charged on reverse charge basis, zero rated supplies and deemed exports) during the month or quarter for which the return is being filed.

- No Amendments is to be made to any of the supplies declared in an earlier return.
 - No Credit or Debit Notes to be declared/amended.
 - No details of advances received for services to be declared or adjusted.
- Steps to File Nil Form GSTR 1 through SMS is as below:
- Send SMS to 14409 number to file Nil Form GSTR-1 – NIL space Return Type space GSTIN space Return Period
 - For Monthly Filing for Tax Period April 2020: NIL R1 07AQDPP8277H8Z6042020
 - For Quarterly Filing for Tax Period Apr-Jun 2020: NIL R107AQDPP8277H8Z6 062020
 - Send SMS again on the same number 14409 with Verification Code (For Example: Verification Code received here is 324961) to confirm filing of Nil FormGSTR-1.- CNF space Return Type Space Code – CNF R1 324961
 - After successful validation of “Verification Code”, GST Portal will send back ARN to same mobile number and on registered e-mail ID of the taxpayer to intimate successful Nil filing of Form GSTR-1.

All authorized representatives, for a particular GSTIN can file NIL Form GSTR-1 through SMS.

[Notification No. 58/2020 – Central Tax Dated: 1st July, 2020]

2. GSTR-4 due date extended to 31st August 2020 for FY 2019-20

CBIC has vide **Notification No. 59/2020–Central Tax** extended due date of GSTR-4 for Financial Year 2019-20 to 31st August 2020 which earlier was 15th July 2020. **GSTR–4** is a **GST** Return which is required to be filed by a GST composition dealer. A dealer opting for the GST composition scheme is required to furnish only 1 return which is **GSTR 4**. It is to be noted that **GSTR–4** filing is not yet being implemented on GST Portal.

[Notification No. 59/2020 – Central Tax Dated: 13th July, 2020]

3. CBIC notifies revised Format/Schema for e-Invoice under GST

CBIC notifies vide Notification No. 60/2020–Central Tax Dated: 30th July, 2020 revised Format/Schema for e-Invoice under GST by replacing existing FORM GST INV-01 with new FORM GST INV-1.

[Notification No. 60/2020–Central Tax Dated: 30th July, 2020]

4. E-Invoice under GST for turnover above 500 crore, SEZ excluded

e-invoice under GST is applicable for assessee’s having turnover in a financial year above Rs. 500 crore with effect from October 1, 2020 and SEZ units are excluded from e-invoicing.

Irrespective of the turnover, e-invoicing shall not be applicable to the following categories of registered person:

1. SEZ Unit (Exempted vide Notification No. 61/2020-CT dated 30.07.2020)
2. Insurer or a banking company or a financial institution, including a NBFC;
3. A Goods Transport Agency;
4. A registered person supplying passenger transportation service; and
5. A registered person supplying services by way of admission to the exhibition of cinematograph films in multiplex screens.

Q. What's new?

A. Previously, the threshold was INR 100 Crore and SEZ unit was not exempt from e-invoicing.

[Notification No. 61/2020–Central Tax Dated: 30th July, 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. 58/2020 – Central Tax

New Delhi, the 1st July, 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 (Eighth Amendment) Rules, 2020.
(2) They shall come into force from 1st July, 2020.

2. In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), for the rule 67A, the following rule shall be substituted, namely:-

“67A. Manner of furnishing of return or details of outward supplies by short messaging service facility.- Notwithstanding anything contained in this Chapter, for a registered person who is required to furnish a Nil return under section 39 in **FORM GSTR-3B** or a Nil details of outward supplies under section 37 in **FORM GSTR-1** for a tax period, any reference to electronic furnishing shall include furnishing of the said return or the details of outward supplies through a short messaging service using the registered mobile number and the said return or the details of outward supplies shall be verified by a registered mobile number based One Time Password facility.

Explanation. - For the purpose of this rule, a Nil return or Nil details of outward supplies shall mean a return under section 39 or details of outward supplies under section 37, for a tax period

that has nil or no entry in all the Tables in **FORM GSTR-3B** or **FORM GSTR-1**, as the case may be.”.

[F. No. CBEC-20/06/08/2020-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. 50/2020 - Central Tax, dated the 24.06.2020, published vide number G.S.R. 403 (E), dated the 24th June 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. 59/2020 – Central Tax

New Delhi, the 13th July, 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 amendment 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, in the third paragraph, in the first proviso, for the figures, letters and words “15th day of July, 2020”, the figures, letters and words “31st day of August, 2020” shall be substituted.

[F. No. CBEC-20/01/09/2019-GST]

(Gaurav Singh)
Deputy Secretary, 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 last amended by notification No. 34/2020-Central Tax, dated the 3rd April, 2020, published in the Gazette of India, Extraordinary, *vide* number G.S.R. 234(E), dated the 3rd April, 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. 60/2020 – Central Tax**

New Delhi, the 30th July, 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 (Ninth Amendment) Rules, 2020.
(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Central Goods and Services Tax Rules, 2017, for **FORM GST INV-01**, the following form shall be substituted, namely:-

“FORM GST INV – 1
(See Rule 48)

Format/Schema for e-Invoice

Note 1: Cardinality means whether reporting of the item(s) is mandatory or optional as explained below:

0..1: It means that reporting of item is optional and when reported, the same cannot be repeated.

1..1: It means that reporting of item is mandatory but cannot be repeated.

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

0..n: It means that reporting of item is optional but can be repeated more than once if reported. For example, *previous invoice reference is optional but if required one can mention many previous invoice references.*

Note 2: Field specification Number (*Max length: m, n*) indicates ‘m’ places before decimal point and ‘n’ places after decimal point. For example, *Number (Max length: 3,3) will have the format 999.999*

Schema (Version 1.1)							
Sr. No.	Technical name of the field	Cardinality (0..1/ 1..1/ 0..n/ 1..n)	Brief Description of the field	Whether Mandatory/ Optional	Technical Field Specification	Sample Value of the field	Explanatory Notes
1.	Basic Details	1..1		Mandatory			Header for Basic Details
1.0	Version	1..1	Version Number	Mandatory	String (Max. Length:6)	1.1	This is version of the e-invoice schema. It will be used to keep track of version of Invoice specification.
1.1	IRN	1..1	Invoice Reference Number	Mandatory	String (Length: 64)	a5c12dca80e7433217.....ba4013750f2046f229	<p>This will be a unique reference number for the invoice.</p> <p><u>However, the supplier will not be populating this field.</u></p> <p>The registration request may not have this field populated.</p> <p>The Invoice Registration Portal (IRP) will generate this IRN and respond to the registration request.</p> <p>e-invoice is valid only when it has the IRN. Hence, this is marked as mandatory field.</p>
1.2	Supply_Type_Code	1..1	Code for Supply Type	Mandatory	Enumerated List	B2B/B2C/SEZWP/SEZWOP/EXPWP/EXPWOP/DEXP	<p>This will be the code to identify type of supply.</p> <p>B2B: Business to Business</p> <p>B2C: Business to Consumer</p> <p>SEZWP: To SEZ with Payment</p> <p>SEZWOP: To SEZ without Payment</p> <p>EXPWP: Export with Payment</p> <p>EXPWOP: Export without Payment</p> <p>DEXP: Deemed Export</p>
1.3	Document_Type_Code	1..1	Code for Document Type	Mandatory	Enumerated List	INV / CRN / DBN	<p>Type of Document:</p> <p>INV for Invoice,</p> <p>CRN for Credit Note,</p>

							DBN for Debit note.
1.4	Document_Num	1..1	Document Number	Mandatory	String (Max Length:16)	Sa/1/2019	This is as per relevant rule in CGST/SGST/UTGST Rules.
1.5	Document_Date	1..1	Document Date	Mandatory	String (DD/MM/YYYY)	21/07/2019	The date on which the Invoice was issued. Format "DD/MM/YYYY"
1.6	Additional_Currency_Code	0..1	Additional Currency Code	Optional	Enumerated List	USD, EUR	The field is for reporting additional currency, if any, in which all invoice amounts can be given, along with INR. One such additional currency may be used in the invoice, as per list published under ISO 4217 standard. List published and updated from time to time at https://www.icagate.gov.in/Webappl/CUR_ENQ
1.7	Reverse_Charge	0..1	Reverse Charge	Optional	String (Length:1)	Y	Whether the tax liability payable is under Reverse Charge.
1.8	IGST_Applicability_despite_Supplier_and_Recipient_located_in_same_State/UT	0..1	IGST Applicability despite Supplier and Recipient located in same State/UT	Optional	String (Length: 1)	N	To report the scenarios where the supply is chargeable to IGST despite the fact that the Supplier and Recipient are located within same State/UT
2.	Document_Period	0..1		Optional			Header for Document Period
2.1	Document_Period_Start_Date	1..1	Document Period Start Date	Mandatory	String (DD/MM/YYYY)	21/07/2019	This is the start date of the document period (delivery/invoice period). <i>(This field is mandatory only if this section is selected)</i>
2.2	Document_Period_End_Date	1..1	Document Period End Date	Mandatory	String (DD/MM/YYYY)	21/07/2019	This is the end date of the document period (delivery/invoice period). <i>(This field is mandatory only if this section is selected)</i>

3.	Preceding Document / Contract Reference	0..1		Optional			Header for Preceding Document / Contract Reference
3.1	Preceding Document Reference	0..n		Optional			Sub-header for Preceding Document Reference
3.1.1	Preceding_Document_Number	1..1	Preceding Document Number	Mandatory	String (Max length:16)	Sa/1/2019	This is the reference of original document/invoice to be provided optionally in the case of debit or credit notes. Credit/Debit notes, against invoices can also be referred here. <i>(This field is mandatory only if this section is selected)</i>
3.1.2	Preceding_Document_Date	1..1	Date of Preceding Document	Mandatory	String (DD/MM/YYYY)	21/07/2019	Date of preceding document/invoice. <i>(This field is mandatory only if this section is selected)</i>
3.1.3	Other_Reference	0..1	Other Reference	Optional	String (Max length:20)	KOL01	This field is to provide any additional reference e.g. specific branch, their user ID, their employee ID, sales centre reference etc.
3.2	Receipt / Contract References	0..n		Optional			Sub-header for Receipt / Contract References
3.2.1	Receipt_Advice_Reference	0..1	Receipt Advice Reference	Optional	String (Max length:20)	CREDIT30	This reference is kept for user to provide number of their receipt advice to their customer, in lieu of advance.
3.2.2	Receipt_Advice_Date	0..1	Date of Receipt Advice	Optional	String (DD/MM/YYYY)	21/07/2019	Date of issue of receipt advice for advance.
3.2.3	Tender_or_Lot_Reference	0..1	Tender or Lot Reference	Optional	String (Max length:20)	TENDERJAN2020	This reference is kept for mentioning number or details of Lot or Tender, if supplies are made under such Lot or tender.
3.2.4	Contract_Reference	0..1	Contract Reference	Optional	String (Max length:20)	CONT23072019	This reference is kept for mentioning contract number, if supplies are made under any specific Contract
3.2.5	External_Reference	0..1	External Reference	Optional	String (Max length:20)	EXT23222	An additional field for provision of any additional/external reference number for the supply.
3.2.6	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

3.2.7	PO_Ref_Num	0..1	PO Reference Number	Optional	String (Max length:16)	Vendor PO /1	This is the reference number of Purchase Order
3.2.8	PO_Ref_Date	0..1	PO Reference Date	Optional	String (DD/MM/YYYY)	21/07/2019	This is the date of Purchase Order.
4.	Supplier Information	1..1		Mandatory			Header for Supplier Information
4.1	Supplier_Legal_Name	1..1	Supplier Legal Name	Mandatory	String (Max. length:100)	XYZ Ltd.	Legal Name, as appearing in PAN of the Supplier
4.2	Supplier_Trade_Name	0..1	Trade Name of Supplier	Optional	String (Max length:100)	ABC Traders	A name by which the Supplier is known, i.e. Business Name, other than legal name
4.3	Supplier_GSTIN	1..1	GSTIN of Supplier	Mandatory	String (Length:15)	29AADFV7589C1ZX	GSTIN of the Supplier
4.4	Supplier_Address1	1..1	Supplier Address 1	Mandatory	String (Max length:100)	# 1-23-120, Flat No. 3, Nalanda Apartments, MG Road, Vasanth Nagar	Address 1 of the Supplier (Building/Flat no., Road/Street, Locality etc.)
4.5	Supplier_Address2	0..1	Supplier Address 2	Optional	String (Max length:100)	# 1-23-120, Flat No. 3, Nalanda Apartments, MG Road, Vasanth Nagar	Address 2 of the Supplier (Building/Flat no., Road/Street, Locality etc.), if any
4.6	Supplier_Place	1..1	Supplier Place	Mandatory	String (Max length:50)	Bangalore	Location of the Supplier (City/Town/Village)
4.7	Supplier_State_Code	1..1	Supplier State Code	Mandatory	Enumerated List	29	State Code of the Supplier as per GST System List published and updated from time to time at https://www.icegate.gov.in/Webappl/STATE_ENQ
4.8	Supplier_Pincode	1..1	Supplier PIN Code	Mandatory	Number (Length: 6)	560087	PIN Code of the Supplier Locality
4.9	Supplier_Phone	0..1	Supplier Phone	Optional	String (Max length:12)	9999999999	Contact number of the Supplier
4.10	Supplier_Email	0..1	Supplier e-mail	Optional	String (Max length:100)	supplier@abc.com	e-mail ID of the Supplier, as per REGEX (Regular Expressions) pattern

5.	Recipient Information	1..1		Mandatory			Header for Recipient Information
5.1	Recipient_Legal_Name	1..1	Recipient Legal Name	Mandatory	String (Max. length:100)	PQR Pvt. Ltd.	It will be legal name of recipient, as per PAN.
5.2	Recipient_Trade_Name	0..1	Recipient Trade Name	Optional	String (Max length:100)	Adarsha	It will be trade name of recipient, if available.
5.3	Recipient_GSTIN	1..1	GSTIN of Recipient	Mandatory	String (Length:15)	29ABCCR 1832C1ZX , URP	GSTIN of the Recipient, if available. URP: In case of exports or if supplies are made to unregistered persons
5.4	Place_Of_Supply_State_Code	1..1	Place of Supply (State Code)	Mandatory	Enumerated List	29, 96	Code/State Code of Place of Supply as per GST System. List published and updated from time to time at https://www.icegate.gov.in/Webappl/STATE_ENQ
5.5	Recipient_Address1	1..1	Recipient Address 1	Mandatory	String (Max length:100)	# 1-23-120, Flat No. 3, Nalanda Apartments, MG Road, Vasanth Nagar	Address 1 of the Recipient (Building/Flat no., Road/Street, Locality etc.)
5.6	Recipient_Address2	0..1	Recipient Address 2	Optional	String (Max length:100)	# 1-23-120, Flat No. 3, Nalanda Apartments, MG Road, Vasanth Nagar	Address 2, if any, of the Recipient (Building/Flat no., Road/Street, Locality etc.), if any
5.7	Recipient_Place	1..1	Recipient Place	Mandatory	String (Max length:100)	Mysore	Location of the Recipient (City/Town/Village)
5.8	Recipient_State_Code	1..1	Recipient State Code	Mandatory	Enumerated List	29	Code/State Code of the Recipient. List published and updated from time to time at https://www.icegate.gov.in/Webappl/STATE_ENQ

5.9	Recipient_Pincode	0..1	Recipient PIN Code	Optional	Number (Length: 6)	560002	PIN code of the Recipient locality. In case of export, Pincode need not be mentioned.
5.10	Country_Code_of_Export	0..1	Country Code of Export	Optional	Enumerated List	AN	Code of country of export as per ISO 3166-1 alpha-2 / Indian Customs EDI system. List published and updated from time to time at https://www.icegate.gov.in/Webappl/COUNTRY_ENQ
5.11	Recipient_Phone	0..1	Recipient Phone	Optional	String (Max length:12)	0802223323	Contact number of the Recipient
5.12	Recipient_email_ID	0..1	Recipient e-mail ID	Optional	String (Max length:100)	billing@xyz.com	e-mail ID of the Recipient, as per REGEX (Regular Expressions) pattern
6.	Payee Information	0..1		Optional			Header for Payee Information
6.1	Payee_Name	0..1	Payee Name	Optional	String (Max length:100)	Ramesh K	Name of the person to whom payment is to be made
6.2	Payee_Bank_Account_Number	0..1	Payee Bank Account Number	Optional	String (Max length:18)	3868501747262	Bank Account Number of Payee
6.3	Mode_of_Payment	0..1	Mode of Payment	Optional	String (Max length:18)	Direct Transfer	Mode of Payment: Cash/Credit/Direct Transfer etc.
6.4	Bank_Branch_Code	0..1	Bank Branch Code	Optional	String (Max length:11)	SBIN9876543	Indian Financial System Code (IFSC) of Payee's Bank Branch
6.5	Payment_Terms	0..1	Payment Terms	Optional	String (Max length:100)	Text	Terms of Payment, if any, with the Recipient can be provided.
6.6	Payment_Instruction	0..1	Payment Instruction	Optional	String (Max length:100)	Text	Instruction, if any, regarding payment can be provided
6.7	Credit_Transfer_Terms	0..1	Credit Transfer Terms	Optional	String (Max length:100)	Text	Terms to specify credit transfer payments.
6.8	Direct_Debit_Terms	0..1	Direct Debit Terms	Optional	String (Max length:100)	Text	Terms, if any, to specify a direct debit.

6.9	Credit_Days	0..1	Credit Days	Optional	Numeric (Max length:4)	30	Number of days within which payment is due.
7.	Delivery_Information	0..1		Optional			Header for Delivery Information
7.1	Ship_To_Details	0..1	Ship To Details	Optional	<u>Refer A 1.0</u>		Details of location to which the supply has to be delivered.
7.2	Dispatch_From_Details	0..1	Dispatch From Details	Optional	<u>Refer A 1.1</u>		Details of location from where Supply has to be dispatched.
8.	Invoice Item Details	1..n		Mandatory			Header for Invoice Item Details
8.1	Item_List	1..n	Item List	Mandatory	<u>Refer A 1.2</u>		Provides information about the goods and services being invoiced.
9.	Document Total	1..1		Mandatory			Header for Document Total Details
9.1	Document_Total_Details	1..1	Document Total Details	Mandatory	<u>Refer A 1.3</u>		Details of document total including taxes.
10.	Extra Information	0..1		Optional			Header for Extra Information
10.1	Tax_Scheme	1..1	Tax Scheme	Mandatory	String (Max length: 10)	GST	To specify the tax/levy applicable – GST (<i>This field is mandatory only if this section is selected</i>)
10.2	Remarks	0..1	Remarks	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 e.g. reasons for any correction or assignment note in case the invoice has been factored etc.
10.3	Port_Code	0..1	Port Code	Optional	Enumerated List	Alpha numeric	In case of export/supply to SEZ, port code can be mentioned as per Indian Customs EDI System (ICES), if applicable and available at the time of reporting e-invoice. Lists published and updated from time to time at below URLs: EDI Port Codes:

							https://www.icegate.gov.in/Webappl/LOCATION_ENQ Non-EDI Port Codes: https://www.icegate.gov.in/Webappl/nonlocation_det_all.jsp
10.4	Shipping_Bill_Number	0..1	Shipping Bill Number	Optional	String (Max length: 20)	Alpha numeric	In case of export/supply to SEZ, shipping bill number as per Indian Customs EDI System (ICES), can be mentioned, if applicable and available at the time of reporting e-invoice.
10.5	Shipping_Bill_Date	0..1	Shipping Bill Date	Optional	String(DD/MM/YYYY)	03/12/2020	Date of Shipping Bill as per Indian Customs EDI System (ICES)
10.6	Export_Duty_Amount	0..1	Export Duty Amount	Optional	Number (Max Length: 12.2)	1200000.50	Amount of Export Duty in INR, if any, applicable (in case of invoices for export)
10.7	Supplier_Can_Opt_Refund	0..1	Supplier Can Opt Refund	Optional	String (Length: 1)	Y / N	In case of deemed export supplies, this field is for mentioning whether supplier can exercise the option of claiming refund or not.
10.8	ECOM_GSTIN	0..1	e-Commerce Operator's GSTIN	Optional	String (Length: 15)	29ABCCR1832C1CX	GSTIN of e-commerce operator, if supply is made through him/her.
11.	Additional_Supporting_Documents	0..n		Optional			Header for Additional Supporting Documents
11.1	Additional_Supporting_Documents_URL	0..1	Additional Supporting Documents URL	Optional	String (Max length: 100)	http://www.xyz.com/abc	This is to enter URL reference of additional supporting documents, if any.
11.2	Additional_Supporting_Document_s_base64	0..1	Additional Supporting Document in base64	Optional	String (Max length: 1000)	Base 64 encoded Document	This is to add any additional document in PDF/Microsoft Word in Base64 encoded format.
11.3	Additional_Information	0..1	Additional Information	Optional	String (Max length: 1000)	Free text, remarks, identifiers, etc.	Any additional information, names, values, data etc. that is specific for the Supplier-Recipient transaction e.g. CIN, trade-specific information, Drug Licence Reg. No., FOB/CIF etc.
12.	E-way Bill Details	0..1		Optional			Header for e-way Bill Details

12.1	Transporter_ID	0..1	Transporter ID	Optional	String (Length: 15)	29AADFV75 89C1ZO	Registration / Enrolment Number of the transporter <i>(This field is required if Part-A of E-waybill has to be generated)</i>
12.2	Trans_Mode	0..1	Mode of Transportation	Optional	Enumerated List	1/2/3/4	Option to be provided based on mode of transport available on e-Way Bill Portal 1 for Road; 2 for Rail; 3 for Air; 4 for Ship <i>(This field is required if Part-B of e-way bill is also to be generated)</i>
12.3	Trans_Distance	1..1	Distance of Transportation	Mandatory	Number (Max length: 4)	200	Distance of Transportation <i>(This field is mandatory only if this section is selected)</i>
12.4	Transporter_Name	0..1	Transporter Name	Optional	String (Max length: 100)	Sphurthi Transporters	Name of the Transporter
12.5	Trans_Doc_No.	0..1	Transport Document Number	Optional	String (Max length: 15)	As/34/746	Transport Document Number <i>(This field is mandatory if mode of Transport is Rail or Air or Ship)</i>
12.6	Trans_Doc_Date	0..1	Transport Document Date	Optional	String (DD/MM/YYYY)	21/07/2019	Date of Transport document. <i>(This field is mandatory if mode of Transport is Rail or Air or Ship)</i>
12.7	Vehicle_No	0..1	Vehicle Number	Optional	String (Max. length: 20)	KA12KA1234 or KA12K1234 or KA123456 or KAR1234	Vehicle Registration Number <i>(This field is mandatory if mode of Transport is Road)</i>
12.8	Vehicle_Type	0..1	Vehicle Type	Optional	Enumeration List	O / R	To mention nature of vehicle: O: Over-Dimensional Cargo R: Regular <i>(This field is mandatory if Part-B of e-way bill is also to be generated)</i>

A 1.0	Ship To Details	0..1		Optional			Header for Annexure A 1.0: Ship To Details
Sr. No.	Parameter Name	Cardinality	Description	Whether optional or mandatory	Field Specifications	Sample Value	Explanatory Notes
A.1.0.1	ShipTo_Legal_Name	1..1	Ship To Legal Name	Mandatory	String (Max length: 100)	ABC-1 Ltd.	Legal Name of the entity to whom the supplies are shipped to. <i>(This field is mandatory only if this section is selected)</i>
A.1.0.2	ShipTo_Trade_Name	0..1	Ship To Trade Name	Optional	String (Max length: 100)	XYZ-1	Trade Name of the entity to whom the supplies are shipped to.
A.1.0.3	ShipTo_GSTIN	0..1	Ship To GSTIN	Optional	String (Length: 15)	36AABCT2223L1ZF	GSTIN of the entity to whom the supplies are shipped to.
A.1.0.4	ShipTo_Address1	1..1	Ship To Address1	Mandatory	String (Max length: 100)	Flat No. 2, Priya Towers, Omega Road, Srinivasa Nagar	Address 1 of the entity to whom the supplies are shipped to <i>(This field is mandatory only if this section is selected)</i>
A.1.0.5	ShipTo_Address2	0..1	Ship To Address2	Optional	String (Max length: 100)	Flat No. 2, Priya Towers, Omega Road, Srinivasa Nagar	Address 2, if any, of the entity to whom the supplies are shipped to
A.1.0.6	ShipTo_Place	1..1	Ship To Place	Mandatory	String (Max length: 100)	Bangalore	Place (City/Town/Village) of entity to whom the supplies are shipped to. <i>(This field is mandatory only if this section is selected)</i>
A.1.0.7	ShipTo_Pincode	1..1	Ship To Pincode	Mandatory	Number (Max length: 6)	560001	PIN code of the location to which the supplies are shipped to. <i>(This field is mandatory only if this section is selected)</i>
A.1.0.8	Ship_To_State_Code	1..1	Ship To State Code	Mandatory	Enumerated List	29	Code/State Code (as per GST System) to which the supplies are shipped to. List published and updated from time to time at https://www.icegate.gov .

							in/Webappl/STATE_EN Q <i>(This field is mandatory only if this section is selected)</i>
A 1.1	Dispatch From Details	0..1		Optional			Header for Annexure A 1.1: Dispatch From Details Explanatory Notes
Sr. No.	Parameter Name	Cardinality	Description	Whether mandatory or optional	Field Specifications	Sample Value	
A.1.1.1	DispatchFrom_Name	1..1	Dispatch From Name	Mandatory	String (Max length:100)	XYZ-2	Name of the entity from which goods are dispatched. <i>(This field is mandatory only if this section is selected)</i>
A.1.1.2	DispatchFrom_Address1	1..1	Dispatch From Address1	Mandatory	String (Max length: 100)	Building No. 4/2, Flat No. 3, Kakatiya Apartments, Vasanth Nagar	Address 1 of the entity from which goods are dispatched. <i>(This field is mandatory only if this section is selected)</i>
A.1.1.3	DispatchFrom_Address2	0..1	Dispatch From Address2	Optional	String (Max length: 100)	Building No. 4/2, Flat No. 3, Kakatiya Apartments, Vasanth Nagar	Address 2 of the entity from which goods are dispatched.
A.1.1.4	DispatchFrom_Place	1..1	Dispatch From Place	Mandatory	String (Max length: 100)	Bangalore	Place (City/Town/Village) of the entity from which goods are dispatched. <i>(This field is mandatory only if this section is selected)</i>
A.1.1.5	DispatchFrom_State_Code	1..1	Dispatch From State Code	Mandatory	Enumerated List	29	Code/State Code of the entity (as per GST System), from which goods are dispatched. List published and updated from time to time at https://www.icegate.gov.in/Webappl/STATE_EN Q <i>(This field is mandatory only if this section is selected)</i>
A.1.1.6	DispatchFrom_Pincode	1..1	Dispatch From Pincode	Mandatory	Number (Length: 6)	560087	Pincode of the locality of entity from where goods are dispatched.

							<i>(This field is mandatory only if this section is selected)</i>
A 1.2	Item Details	1..n		Mandatory			Header for Annexure A 1.2: Item Details
Sr. No.	Parameter Name	Cardinality	Description	Whether mandatory or optional	Field Specifications	Sample Value	Explanatory Notes
A.1.2.1	SI_No.	1..1	Serial Number	Mandatory	String (Max length: 6)	1,2,3	Serial number of the item
A.1.2.2	Item_Description	0..1	Item Description	Optional	String (Max length: 300)	Mobile	Description of the item
A.1.2.3	Is_Service	1..1	Service	Mandatory	String (Length: 1)	Y/N	Specify whether supply is service or not.
A.1.2.4	HSN_Code	1..1	HSN Code	Mandatory	String (Max length: 8)	1122	To enter applicable HSN / SAC Code of Goods / Service
A.1.2.5	Batch Details	0..1		Optional	<u>Refer A 1.4</u>		<i>Some manufacturers may mention batch details (in Section A 1.4)</i>
A.1.2.6	Barcode	0..1	Barcode	Optional	String (Max length: 30)	b123	Barcode, if any, of the item.
A.1.2.7	Quantity	0..1	Quantity	Optional	Number (Max length: 10,3)	10	The quantity of items to be mentioned in the invoice. <i>This is mandatory only in case of goods.</i>
A.1.2.8	Free_Qty	0..1	Free Quantity	Optional	Number (Max length: 10,3)	99	Quantity of item(s), if any, given free of charge (FOC)
A.1.2.9	Unit_Of_Measurement	0..1	Unit of Measurement	Optional	String (Max length: 8)	Box	The Unit of Measurement (UOM), if any, applicable on invoiced goods.
A.1.2.10	Item_Price	1..1	Item Price	Mandatory	Number (Max length : 12,3)	500.5	Price per unit item.
A.1.2.11	Gross_Amount	1..1	Gross Amount	Mandatory	Number (Max length : 12,2)	5000	The gross price of an item (cost multiplied by quantity - rounded off to 2 decimal), exclusive of taxes.
A.1.2.12	Item_Discount_Amount	0..1	Item Discount Amount	Optional	Number (Max length: 12,2)	10.25	Discount amount, if any, for the item.
A.1.2.13	Pre_Tax_Value	0..1	Pre-Tax Value	Optional	Number (Max length: 12,2)	99.00	If pre-tax value is different from taxable value, mention the pre-tax value and taxable values separately. In some cases, the pre-tax value may be different from taxable value.

							<p>For example, where old goods are exchanged for new ones (e.g. new phone supplied for INR 20,000 along with exchange of old phone, then pre-tax value would be INR 20,000 and taxable value would be INR 24,000, assuming exchange value of old phone is 4,000.</p> <p>Another example is in the case of real estate where pre-tax value may be different from taxable value.</p>
A.1.2.14	Item_Taxable_Value	1..1	Item Taxable Value	Mandatory	Number (Max length: 12,2)	5000	This is the value on which tax is computed. Value cannot be negative.
A.1.2.15	GST_Rate	1..1	GST Rate	Mandatory	Number (Max length: 3,3)	5	The GST rate, represented as percentage that applies to the invoiced item. It will be IGST rate or sum of CGST & SGST Rates.
A.1.2.16	IGST_Amt	0..1	IGST Amount	Optional	Number (Max Length: 12,2)	999.45	Amount of IGST payable per item (rounded off to 2 decimals). If IGST is reported, then CGST & SGST/UTGST will be blank. For taxable supplies, either IGST or CGST &SGST/UTGST should be reported.
A.1.2.17	CGST_Amt	0..1	CGST Amount	Optional	Number (Max Length: 12,2)	650.00	Amount of CGST payable per item (rounded off to 2 decimals). If CGST is reported, then SGST/UTGST has to be reported and IGST will be blank.
A.1.2.18	SGST_UTGST_Amt	0..1	SGST/UTGST Amount	Optional	Number (Max length: 12,2)	650.00	Amount of SGST/UTGST payable per item(rounded off to 2 decimals). If SGST/UTGST is reported, then CGST must be reported and IGST will be blank.
A1.2.19	Comp_Cess_Rate_Ad_valorem	0..1	Compensation Cess Rate, Ad_Valorem	Optional	Number (Max length: 3,3)	2.5%	<i>Ad valorem</i> Rate of GST Compensation Cess, applicable, if any
A1.2.20	Comp_Cess_Amt_Ad_Valorem	0..1	Compensation Cess Amount, Ad Valorem	Optional	Number (Max length: 12,2)	56.00	GST Compensation Cess amount, ad valorem (rounded off to 2 decimals) <i>(based on value of the item)</i>

A1.2. 21	Comp_Cess _Amt_Non _Ad_Valo rem	0..1	Compensation Cess Amount, Non ad valorem	Optional	Number (Max length:12,2)	23.00	GST Compensation Cess amount, computed on the basis other than value of item (<i>i.e. specific cess amount computed based on quantity, number etc.</i>)
A1.2. 22	State_Cess _Rate_ad_v alorem	0..1	State Cess Rate, Ad Valorem	Optional	Number (Max length: 3,3)	1.5 %	<i>Ad valorem</i> Rate of State/UT Cess, applicable, if any
A1.2. 23	State_Cess _Amt_Ad_ Valorem	0..1	State Cess Amount, ad valorem	Optional	Number (Max length: 12,2)	43.00	State/UT Cess amount, ad valorem (<i>based on value of the item</i>)
A1.2. 24	State_Cess _Amt_Non _Ad_Valo rem	0..1	State Cess Amount, <i>non ad valorem</i>	Optional	Number (Max length: 12,2)	12.00	State/UT Cess amount, computed on the basis other than value of item (<i>i.e. specific cess amount computed based on quantity, number etc.</i>)
A.1.2 .25	Other_Char ges_Item_L evel	0..1	Other Charges (item level)	Optional	Number (Max length: 12,2)	874.95	Any other charges applicable at item level. These may not be part of taxable value, e.g. in case of pure agent reimbursement.
A.1.2 .26	Purchase_O rder_Line_ Reference	0..1	Purchase Order Line Reference	Optional	String (Max length: 50)	746/ABC/01	Reference of Purchase Order Line
A.1.2 .27	Item_Total _Amt	1..1	Item Total Amount	Mandato ry	Number (Max length: 12,2)	5000	The item total value that includes all taxes, cesses, as well as other charges. However, this value excludes discount, if any.
A.1.2 .28	Origin_Cou ntry_Code	0..1	Code of Country of Origin	Optional	Enumerated List	DZ	This is to specify country of origin of the item, e.g. mobile phone sold in India could be manufactured in other country; Code of country of export as per ISO 3166-1 alpha-2 / Indian Customs EDI system (ICES). List published and updated from time to time at https://www.icegate.gov.in/Webappl/COUNTRY_ENQ
A.1.2 .29	Unique_Se rial_Numb er	0..1	Unique Serial Number	Optional	String (Max length: 20)	553	Serial number, in case of each item having a unique number.
A.1.2 .30	Product_At tribute_Det ails	0..n	Optional	<u>Refer A 1.5</u>			Attribute details of product

A.1.3 Sr. No.	Document Total Details Parameter Name	1..1 Cardinality	Description	Mandatory Whether mandatory or optional	Field Specifications	Sample Value	Header for Annexure A 1.3: Document Total Details Explanatory Notes
A.1.3.1	Taxable_Value_Total	1..1	Total Taxable Value	Mandatory	Number (Max length: 14,2)	768439.35	This is the sum of the taxable values of all the items in the document.
A.1.3.2	IGST_Amt_Total	0..1	Total IGST Amount	Optional	Number (Max length : 14,2)	265.50	Total IGST amount for the invoice. Appropriate taxes based on rule will be applicable. For example, either of CGST & SGST/UTGST or IGST will be mandatory. <i>As this is conditional mandatory, it is marked as 'optional'</i>
A.1.3.3	CGST_Amt_Total	0..1	Total CGST Amount	Optional	Number (Max length: 14,2)	65.45	Total CGST amount for the invoice. Appropriate taxes based on rule will be applicable. For example, either of CGST & SGST/UTGST or IGST will be mandatory. <i>As this is conditional mandatory, it is marked as 'optional'</i>
A.1.3.4	SGST_UTGST_Amt_Total	0..1	Total SGST/UTGST Amount	Optional	Number (Max length : 14,2)	65.45	Total SGST/UTGST amount for the invoice. Appropriate taxes based on rule will be applicable. For example, either of CGST & SGST/UTGST or IGST will be mandatory. <i>As it is conditional mandatory, it is marked as 'optional'</i>
A.1.3.5	Comp_Cesses_Amt_Total	0..1	Total Compensation Cess Amount	Optional	Number (Max length : 14,2)	24.95	Total GST Compensation Cess amount for the invoice (<i>ad valorem as well as non-ad valorem</i>)

A.1.3.6	State_Cess_Amt_Total	0..1	Total State Cess Amount	Optional	Number (Max length : 14,2)	5.45	Total State cess amount for the invoice (<i>ad valorem as well as non-ad valorem</i>)
A.1.3.7	Discount_Amt_Invoice_Level	0..1	Invoice Level Discount Amount	Optional	Number (Max length: 14,2)	100.00	This is Discount Amount, if any, applicable on total invoice value
A.1.3.8	Other_Charges_Invoice_Level	0..1	Other Charges (Invoice Level)	Optional	Number(Max length: 14,2)	200.00	This is Other charges, if any, applicable on total invoice value
A.1.3.9	Round_Off_Amount	0..1	Round Off Amount	Optional	Number (Max length: 2,2)	31.21	This is round off amount of total invoice value
A.1.3.10	Total_Invoice_Value_INR	1..1	Total Invoice Value in INR	Mandatory	Number (Max length: 14,2)	745249678.50	The total value of invoice including taxes/GST and rounded to two decimals maximum.
A.1.3.11	Total_Invoice_Value_FCNR	0..1	Total Invoice Value in FCNR	Optional	Number (Max length: 14,2)	\$5729.65	The total value of invoice in Additional Currency
A.1.3.12	Paid_Amount	0..1	Paid Amount	Optional	Number (Max length:14,2)	8463.50	The amount, if any, which has been paid in advance. It must be rounded to maximum 2 decimals.
A.1.3.13	Amount_Due	0..1	Amount Due	Optional	Number (Max length:14,2)	98789.50	The outstanding amount due for payment. It must be rounded to maximum 2 decimals.
A 1.4	Batch Details	0..1		Optional			Header for Annexure A 1.4: Batch Details
Sr. No.	Parameter Name	Cardinality	Description	Whether mandatory or optional	Field Specifications	Sample Value	Explanatory Notes
A.1.4.1	Batch_Number	1..1	Batch Number	Mandatory	String (Max Length: 20)	673927	Certain set of manufacturers may mention batch number details. (<i>This field is mandatory only if this section is selected</i>)
A.1.4.2	Batch_Expiry_Date	0..1	Batch Expiry Date	Optional	String (DD/MM/YYYY)	21/11/2019	Expiry Date of the Batch, if any
A.1.4.3	Warranty_Date	0..1	Warranty Date	Optional	String (DD/MM/YYYY)	21/11/2019	Warranty date for the Item, if any.

A 1.5	Attribute Details of Item	0..n		Optional			Header for Annexure A 1.5: Attribute Details of Item
Sr. No.	Parameter Name	Cardinality	Description	Whether mandatory or optional	Field Specifications	Sample Value	Explanatory notes
A.1.5.1	Attribute_ Name	0..1	Attribute Name	Optional	String (Max Length: 100)	Colour	Attribute Name of the item.
A.1.5.2	Attribute_ Value	0..1	Attribute Value	Optional	String (Max Length: 100)	Red, green, etc.	Attribute Value of item.”.

[F. No. CBEC-20/13/01/2019-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. 58/2020 - Central Tax, dated the 01st July, 2020, published vide number G.S.R. 426(E), dated the 01st July, 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. 61/2020 – Central Tax

New Delhi, the 30th July, 2020

G.S.R.....(E).—In exercise of the powers conferred by sub-rule (4) of rule 48 of the Central Goods and Services Tax Rules, 2017, the Government, on the recommendations of the Council, hereby makes the following amendments in notification of the Government of India in the Ministry of Finance (Department of Revenue), No.13/2020 – Central Tax, dated the 21st March, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 196(E), dated the 21st March, 2020, namely:—

In the said notification, in the first paragraph,

- (i) before the words “those referred to in sub-rules”, the words “a Special Economic Zone unit and” shall be inserted;
- (ii) for the words “one hundred crore rupees”, the words “five hundred crore rupees” shall be substituted.

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

(Pramod Kumar)

Director, Government of India

Note: The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide notification No. 13/2020-Central Tax, dated the 21st March, 2020, published vide number G.S.R. 196(E), dated the 21st March, 2020.

(III) ADVANCE RULINGS

1. AAR can reject an application if same issue already pending with it

Case Name : **In re Vardhan Holidays (GST AAR Uttarakhand)**

Appeal Number : Advance Ruling 03/2020-21

Date of Judgement/Order : 08/07/2020

AAR authority shall not admit the application where the question raised in the application is pending or decided in any proceedings of an applicant under any of the provisions of this Act. No application shall be rejected under this sub section unless the opportunity of hearing given to the applicant. Where the application is rejected reasons of such rejection shall be specified in the order.

We find that as per applicant's argument their application can be admitted in as much as no case is pending before Hon'ble Court in the name of the applicant on the issue in hand. In this context we find that applicant has been defined under Section 95(c) of the Act which means any person registered or desirous of obtaining registration under this Act. Thus in light of said definition we do not find force in the applicant's argument in as much as the "applicant" means any person registered under this Act and it could be best interpreted that the legislative intent in its wisdom is to draft the relevant proviso to empower the Authority to reject the application in the cases where there is repeated filing of the application before the Authority on the same issue which is either pending for decision or already decided.

In light of above discussion, we observe that all the cases mentioned above are pending in respective courts on the same issue and thus matter is sub-judice. Accordingly, application filed by the applicant on same issue is rejected in terms of the provisions of Section 98(2) of the Act.

2. GST on Railway Parts supplied for supply to Railway

Case Name : **In re Prragathi Steel Castings Pvt. Ltd. (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 40/2020

Date of Judgement/Order : 30/07/2020

Railway parts such as Couplers, Knuckle, Locks, Toggle, Yoke etc., manufactured and supplied by applicant to buyer Sanrok Enterprises (who in turn supply to Indian Railways after assembly) be classified under HSN 8607 or to be classified under HSN 7325 as other cast articles of Iron or Steel?

Railway parts such as Couplers, Knuckle, Locks, Toggle, Yoke etc., manufactured and supplied by the applicant to M/s Sanrok Enterprises (who in turn supply to Indian Railways after assembly) are classifiable under HSN 8607. The applicable rate of GST on the impugned goods is 5% in terms of entry number 241 of Schedule I to the **Notification No.1/2017-Central Tax (Rate) dated 28.06.2017**, till 29.09.2019 and effective from 30.09.2019, the rate of GST is 12%, in terms of entry number 205 G of

Schedule II to the **Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017**, as amended by **Notification No.14/2019 – Central Tax(Rate) dated 30.09.2019**, with no refund of unutilized input tax credit, in terms of SI.No.14 of **Notification No.5/2017-Central Tax (Rate) dated 28.06.2017**.

(IV) COURT ORDERS/ JUDGEMENTS

1. HC dismisses plea seeking GST search in presence of advocate of petitioner

Case Name : **Subhash Joshi & another Vs Director General of GST Intelligence (DGGI) & Ors. (Madhya Pradesh High Court)**

Appeal Number : WP No. 9184 of 2020

Date of Judgement/Order : 03/07/2020

Submission of counsel for petitioner is that the search should be carried out in the presence of the Advocate, but counsel for petitioner has failed to point out any statutory provision or any such legal right in favour of the petitioner.

HC held that that as no legal right has been pointed out, the submission of the counsel for petitioner to carry out the search and seizure operation in the presence of the petitioner cannot be accepted.

2. Bail to CA who formed firms which later allegedly claimed fake ITC

Case Name : **Anup Ashopa Vs Union of India (Rajasthan High Court)**

Appeal Number : S.B. Criminal Miscellaneous Bail Application No. 4028/2020

Date of Judgement/Order : 07/07/2020

High Court allowed bail application of the petitioner who is a Chartered Accountant. The allegation against the petitioner who is a Chartered Accountant is of making fake firms who later on claimed input tax credit. Bail is subject to the conditions that he should furnished a personal bond in the sum of Rs.1,00,000/- together with two sureties in the sum of Rs.50,000/- each.

3. HC allows to Make Copies of Seized Documents | Section 67(5) | CGST Act 2017

Case Name : **J. S. Pigments Private Ltd. Vs. State of West Bengal & Ors. (Calcutta High Court)**

Appeal Number : MAT 460 of 2020

Date of Judgement/Order : 08/07/2020

Hon'ble Division Bench of Calcutta High Court Allowed the Petitioner to Approach the Authorities to Make Copies of Seized Documents under Section 67(5) of the CGST Act, 2017 and Reply to Show Cause Notice thereafter.

4. SC removed allegations levied on Tax Officer & set aside order for recovery of costs from personal resources

Case Name : **Sujata K.C. Vs Kalyani Motors (Pvt.) Ltd. & Ors. (Supreme Court)**

Appeal Number : Special Leave Petition (Civil) Diary No(S).8987/2020

Date of Judgement/Order : 09/07/2020

In present case, an order of reassessment passed by the petitioner in her capacity as Deputy Commissioner of Commercial Taxes was challenged by the assessee. The Single Judge of the High Court set aside the order of reassessment, holding that the order was not consistent with the provisions of a notification. The order of the Single Judge, on merits, is not the subject matter of the present proceedings. However, the Single Judge, while setting aside the reassessment imposed costs of Rs 50,000 and directed that the costs be recovered from the petitioner from her personal resources. The petitioner challenged the order of the Single Judge.

Supreme Court states that they have find from the record that the learned Single Judge had no reasonable justification to hold that the petitioner had passed a whimsical order and that it suffered from malice in fact and in law. These observations were unnecessary for the adjudication of the merits of the dispute raised by the assessee. The conduct of the petitioner was not in question. Even assuming that an order passed by the assessing officer was erroneous, there was no reason for the High Court to make the observations, which they have quoted earlier, and direct the imposition of costs personally against the petitioner. SC therefore direct that the observations of the Single Judge against the petitioner shall stand expunged. Similarly, the direction for recovery of costs from the personal resources of the petitioner shall stand set aside.

5. Transitional Credit eligible only when claimed within time: HC

Case Name : **P.R. Mani Electronics Vs Union of India (Madras High Court)**

Appeal Number : WP No. 8890 of 2020

Date of Judgement/Order : 13/07/2020

Section 140 of the CGST Act read with Rule 117 of the CGST Rules enables a registered person to carry forward the accumulated ITC under erstwhile tax legislations and claim the same under the CGST Act. In effect, it is a transitional provision as is evident both from Section 140 and Rule 117. In light of the judgment of the Supreme Court in **Jayam**, the contention of the learned counsel for the Petitioner to the effect that ITC is the property of the Petitioner cannot be countenanced and ITC has to be construed as a concession. In addition, it is evident that ITC cannot be availed of without complying with the conditions prescribed in relation thereto. Prior to the amendment to Section 140 of the CGST Act, the power to frame rules fixing a time limit was arguably not traceable to the unamended Section 140 of the CGST Act, which contained the words “in such manner as may be prescribed”, because such words have been construed by the Supreme Court in cases such as **Sales Tax Officer Ponkuppam v. K.I. Abraham [(1967) 3 SCR 518]** as not conferring the power to prescribe a time limit. Nevertheless, in our view, it was and continues to be traceable to Section 164, which is widely worded and imposes no fetters on rule making powers except that such rules should be for the purpose of giving effect to the provisions of the CGST Act. *A fortiori*, upon amendment of Section 140 by introducing the words “within such time”, the power to frame rules fixing time limits to avail Transitional ITC

is settled conclusively. In **SKH Sheet Metals**, the Delhi High Court concluded, in paragraph 26, that the statute had not fixed a time limit for transitioning credit by also referring to the repeated extensions of time. Given the fact that the power to prescribe a time limit is expressly incorporated in Section 140, which deals with Transitional ITC, and Rule 117 fixes such a time limit, we are unable to subscribe to this view. The fact that such time limit may be extended under circumstances specified in Rule 117, including Rule 117A, does not lead to the sequitur that there is no time limit for transitioning credit. In this context, reference may be made to Section 16(4) of the CGST Act which provides as follows:

“Section 16(4): A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under Section 39 for the month of September following the end of the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier.”

The above provision is indicative of the legislative intent to impose time limits for availing ITC. Besides, Section 19(3)(d) of the TNVAT Act itself imposed a time limit for availing ITC and further provided that it would lapse upon expiry of such time limit. In our view, keeping the above statutory backdrop in mind, in the context of Transitional ITC, the case for a time limit is compelling and disregarding the time limit and permitting a party to avail Transitional ITC, in perpetuity, would render the provision unworkable. In this regard, we concur with the conclusion of the Bombay High Court in **Nelco** that both ITC and Transitional ITC cannot be availed of except within the stipulated time limit. Such time limits may, however, be extended through statutory intervention. As stated earlier, in **SKH Sheet Metals**, the Delhi High Court observed that ITC is the heart and soul of GST legislations in as much as such legislations are designed to prevent the cascading of taxes. There can be no quarrel with this conceptual position; however, it is not a logical corollary thereof that time limits for availing ITC and, in particular, Transitional ITC, are inimical to the object and purpose of the statute.

In judgments such as **Union of India A.K. Pandey [(2009) 10 SCC 552]** and **Bachhan Devi v. Nagar Nigam [(2008) 12 SCC 372]**, the Supreme Court held that the use of words such as “shall” or “may” are not conclusive or determinative of the mandatory or permissive nature of a provision. In **C. Bright v. The District Collector, [2019 SCC Online Mad 2460]**, after considering a number of judgments of the Supreme Court, a Division Bench of this Court captured the relevant factors to determine whether a provision is directory or mandatory, illustratively, in paragraph 20. In summary, those factors are: the use of peremptory or negative language, which raises a rebuttable presumption that the provision is mandatory; the object and purpose of the statute and the provision concerned; the stipulation or otherwise of the consequences of non-compliance; whether substantive rights are affected by non-compliance; whether the time limits are in relation to the exercise of rights or availing of concessions; or whether they relate to the performance of statutory duties. In this case, the peremptory word “shall” is used. The relevant rule deals with the time limit for availing Transitional ITC by carrying it forward from the credit balance under tax legislations which have been repealed and replaced by the CGST Act. Thus, the object and purpose of Section 140 clearly

warrants the necessity to be finite. ITC has been held to be a concession and not a vested right. In effect, it is a time limit relating to the availing of a concession or benefit. If construed as mandatory, the substantive rights of the assesseees would be impacted; equally, if construed as directory, it would adversely impact the Government's revenue interest, including the predictability thereof. On weighing all the relevant factors, which may be not be conclusive in isolation, in the balance, we conclude that the time limit is mandatory and not directory.

We also note that Rule 117 specifies that the return in Form GST TRAN – 1 is required to be filed electronically on the common portal. This requirement is not satisfied by handing over the form in person to the Sales Tax Collection Inspector, Tiruvannamalai. Consequently, in our view, the Petitioner has completely failed to make out a case to direct the Respondents to permit the Petitioner to file Form GST TRAN -1 and claim the Transitional ITC of Rs.4,70,008/-. Needless to say, if any dispensations are granted by the tax authorities with regard to availing of Transitional ITC, whether by filing Form GST TRAN-1 or otherwise, and to which the Petitioner may be entitled, this order will not preclude the Petitioner from making a claim for Transitional ITC.

6. Transitional Credit Issue- Decide on Taxpayer representation: HC

Case Name : **Ankit Babeley Vs. State of M.P. & Ors. (Madhya Pradesh High Court)**

Appeal Number : WP No. 4974 of 2020

Date of Judgement/Order : 15/07/2020

Petitioner was unable to file Trans-1 within permissible time and requested to allow the petitioner to file the same so as to enable him to claim transitional credit of eligible duties in respect of inputs held in stock on the appointed day in terms of Section 140(3) of the Act. It was urged that no heed was paid by the respondents. Accordingly, a prayer was made that respondents be directed to consider and decide the said representation.

Learned counsel appearing for the respondents did not object to the said prayer and stated that if the said representation is pending, the same will be decided by the respondents in accordance with law.

After perusing the writ petition and hearing learned counsel for the parties, without expressing any opinion on the merits of the controversy, we dispose of the writ petition with a direction to the respondent No.2, 3 and 4, as the case may be, to take a decision on the representation (Annexure P/7) filed by the petitioner within fifteen days by passing a speaking order after affording an opportunity of hearing to the petitioner or his representative through video conferencing, in accordance with law.

7. Refer issue of granting time to file Transitional credit claim to GST council

Case Name : **Dhamtari Krishi Kendra Vs Union of India (Chhattisgarh High Court)**

Appeal Number : WP(T) No. 70 of 2019

Date of Judgement/Order : 17/07/2020

The Chhattisgarh High Court has asked the local GST Commissioner to refer the matter of granting more time to file claim for transitional credit to those assesseees who could not do it in time due to technical glitches to the GST Council.

Under the GST Law, Section 117(1)A, the GST Council has been empowered to extend the date for submission of the declaration electronically in Form GST TRAN-1 in respect of those 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 the Council has made a recommendation for such extension. If required, the Commissioner can refer the matter to the GST Council with its report for taking appropriate sanction/recommendations from the GST Council.

Keeping in view the fact that the petitioner had timely intimated the department in respect of the technical glitch, in addition he had also promptly submitted his forms manually as well as had sent it by registered post; he had also approached the High Court immediately in the year 2018 itself which was refused by the Commissioner on 14.09.2018 thereafter again the petitioner has filed this present writ petition also immediately, thus, the petitioner has been promptly pursuing his claim all along thereafter on the basis of the recommendation, referred by the Commissioner to the GST council, appropriate decision may be taken at the earliest.

Considering the element of time which has consumed in the course of litigation, it is expected that the Commissioner, Commercial Tax shall take a decision at the earliest preferably within an outer limit of 60 days from the date of receipt of copy of this order.

In the event, if the Commissioner, Commercial Tax makes a reference to the GST Council, it is expected that the Council also, in turn, takes an early decision on the reference made by the Commissioner preferably within a period of 90 days from the date of receipt of reference by the Commissioner.

8. HC cannot be approached without exhausting the remedy of appeal if order is Appealable

Case Name : **Saraf Industries Vs Assistant Commissioner (Delhi High Court)**

Appeal Number : W.P.(C) No. 4338 of 2020

Date of Judgement/Order : 20/07/2020

We are not inclined to entertain the present petition when the petitioner has an equally alternate efficacious remedy of preferring an appeal before the Additional Commissioner, GST. The present petition is accordingly disposed of with liberty granted to the petitioner to seek its remedies against the impugned order before the Appellate Authority, alongwith an application for condonation of delay. It is made clear that delay alone will not be a ground for the Appellate Authority to reject the appeal that may be preferred by the petitioner on merits. The petitioner is permitted to rely on the interim order dated 21.01.2020, passed by a Coordinate Bench in W.P.(C)

No.627/2020, which shall be duly taken into consideration by the Appellate Authority and a speaking order shall be passed thereafter.

9. GST Anti-profiteering- Delhi HC stays NAA order asking Reckitt to deposit Rs 63 lakh

Case Name : **Reckitt Benckiser India Private Limited Vs Union of India And Ors (Delhi High Court)**

Appeal Number : W.P.(C) 4345/2020

Date of Judgement/Order : 20/07/2020

In the latest anti profiteering case of pharma major Reckitt Benckiser over alleged profiteering of 63 lakh from the sale of Dettol handwash between 2017 to 2019, Hon'ble Delhi High court has stayed the order of National anti-profiteering authority for deposit of alleged profiteering amount in the consumer welfare fund. Read NAA order: **Benefit of tax reduction to the customers should be passed only by way of Rate Reduction: NAA**

Background

Earlier, the Director General of Anti-Profiteering, in its investigation, had found that Reckitt Benckiser had between November 2017 and March 2019 profited by Rs 63,14,901 by not passing on to consumers the benefit of GST reduction.

In its plea, Reckitt Benckiser has contended that it had passed on the benefit of GST reduction by way of "grammage increase". While rejecting the defence regarding 'grammage increase', NAA stated that costs could not have been suddenly increased on the intervening night of 14/15.11.2017 . Further, once the rate reduction has occurred which could have forced increase in prices.

National Anti-profiteering Authority ("NAA") in its order dated 19 March 2020 order, directed the Reckitt Benckiser to deposit the amount. The NAA had further asked Reckitt Benckiser to show cause why the penalty should not be imposed upon it in accordance with the provisions of the Central Goods and Services Tax (CGST) Act.

Order by Hon'able Delhi High court vide it's order dated 20 July 2020

In this respect the Hon'ble Delhi High Court during hearing of the case via video conferencing dated 20 July 2020 has put a stay on the NAA order directing Reckitt Benckiser to deposit in the consumer welfare fund over Rs 63 lakh it allegedly profited from the sale of Dettol handwash between 2017 to 2019.

However, Justice Rajiv Sahai Endlaw remarks that such stay shall come into operation subject to the deposit of said amount within two weeks made it clear the stay would come into operation only if the pharma major deposits the amount with NAA within two weeks. Issues Notice to Revenue and lists the matter on August 24, 2020.

10. HC accepts writ despite receipt of Bid by GST department for Sale of goods & vehicle

Case Name : **Sawariya Traders Vs Sate of Gujarat (Gujarat High Court)**

Appeal Number : R/Special Civil Application No. 8316 of 2020

Date of Judgement/Order : 20/07/2020

In this case after the final order of confiscation of the goods and the conveyance was passed, few more developments took place. The authority concerned decided to put the goods and the vehicle to public auction for the purpose of realising the amount towards tax, penalty and fine. In this regard a public advertisement came to be issued inviting bids from interested parties by determining the off-set price at Rs.46 Lac.

the learned AGP appearing for the State respondents pointed out that this writ application may not be entertained as the writ applicants have come at the last minute more particularly when the bids are to be finalized today. Mr Devnani would submit that the total liability of the writ applicants as on date is around Rs.36 Lac, whereas the State is getting an amount of Rs.46 Lac in the auction proceedings, being the off-set price fixed for the purpose of auction.

The learned counsel appearing for the writ applicants after taking appropriate instructions from his clients makes a statement that Rs.18 Lac shall be deposited with the respondent No.3 and the balance amount of Rs.18 Lac shall be paid by way of a Bank Guarantee of any Nationalized bank.

As the writ applicants are ready and willing to deposit the amount towards their liability, we are inclined to pass the following order :

(i) The writ applicants shall deposit 50% of Rs.36 Lac with the respondent No.3 and the balance amount of Rs.18 Lac shall be paid by way of a Bank Guarantee of any nationalized bank. This shall be done within a period of two weeks from today.

(ii) If the amount of Rs.36 Lac as referred to above is paid to the respondent No.3 then the conveyance as well as the goods shall be immediately released in favour of the writ applicants.

(iii) It shall be open for the writ applicants to prefer an appropriate appeal before the appellate authority under Section 107 of the Act, if they intend to question the legality and validity of the order of confiscation passed in Form MOV-11. If any such appeal is preferred, the appellate authority shall hear the same in accordance with law.

(iv) We clarify that we have not expressed any opinion on the merits of the case. We have passed this order keeping in mind that the goods are of perishable nature and are lying with the respondent No.3 since the month of September, 2019.

11. HC allows Samsonite to pay profiteered amount in 6 monthly instalments

Case Name : **M/s. Samsonite South Asia Pvt. Ltd. Vs Union of India & Ors. (Delhi High Court)**

Appeal Number : W.P. (C) No. 4131/2020

Date of Judgement/Order : 20/07/2020

In this case although learned counsel for respondent-Authority objects to the grant of instalments to the petitioner Samsonite South Asia Pvt. Ltd. , yet this Court keeping in view the **COVID-19 pandemic** situation, directs the petitioner to deposit the principal profiteered amount i.e. Rs.21,81,20,748/- in six equated monthly instalments.

12. HC declines to Grant stay on Recovery of Profiteered Amount

Case Name : **Apex Meadows Pvt. Ltd. Vs Union of India & Ors. (Delhi High Court)**

Appeal Number : W.P.(C) No. 4348/2020

Date of Judgement/Order : 20/07/2020

The counsel for the petitioner states that out of Rs.3,45,22,974/-, benefit of an amount of Rs.1.53 crores has already been given to the flat buyers and now only the balance amount of Rs. 1.92 crores approx. remains. He states that in several other matters pending before this Court, stay has been granted, subject to deposit of 10% only of the amount. It is contended that the petitioner has already given benefit to the flat buyers of much more than 10% of the assessed amount and thus the recovery of the balance amount be stayed.

Held by HC

We are however of the opinion that granting an absolute stay with respect to the balance amount of Rs. 1.92 crores approx. may result in the flat buyers of the petitioner being left without a flat as well as without the benefit of the amounts which have already been ordered to be refunded to them. We are therefore not inclined to grant stay of recovery of the balance amount. We however grant eight weeks' time to the petitioner to deposit the balance amount in this Court, if the proof of having already given benefit of an amount of Rs.1.53 crores is furnished to the authority concerned. Subject to the said proof being furnished and such deposit being made, there shall be stay of recovery of the said amount of Rs.3,45,22,974/-. However, there shall be a stay of proceedings for recovery of penalty.

13. Appeal preferred on merits cannot be rejected merely due to delay: HC

Case Name : **Sachin Enterprise Vs Assistant Commissioner (Delhi High Court)**

Appeal Number : W.P.(C) No. 4368/2020

Date of Judgement/Order : 21/07/2020

Keeping in view the aforesaid order dated 20th July, 2020 passed by a Coordinate Division Bench, we are not inclined to entertain the present petition when the petitioner has an equally alternate efficacious remedy of preferring an appeal before the Additional Commissioner, GST. The present petition is accordingly disposed of with liberty granted to the petitioner to seek its remedies against the impugned order before the Appellate Authority, along with an application for condonation of delay. It is made

clear that delay alone will not be a ground for the Appellate Authority to reject the appeal that may be preferred by the petitioner on merits. The petitioner is permitted to rely on the interim order dated 21st January, 2020, passed by a Division Bench of this Court in W.P. (C) No. 627/2020, which shall be duly taken into consideration by the Appellate Authority. The Appellate Authority shall dispose of the appeal by way of a speaking order within eight weeks of its filing.

14. GST: No coercive steps for recovery without following adjudication process: HC

Case Name : **Rishi Bansal Vs Union of India (Delhi High Court)**

Appeal Number : WP (C) No. 4409 of 2020

Date of Judgement/Order : 22/07/2020

The petition has been listed before this Bench by the Registry in view of the urgency expressed therein. The same has been heard by way of video conferencing.

Present writ petition has been filed challenging the letter dated 11th June, 2020 and summon dated 06th July, 2020 issued by respondent No.3 whereby the petitioner has been asked to deposit Rs.2,69,21,228/- being alleged as inadmissible input tax credit and file DRC-03 challan without initiating any adjudication process either under Section 73 or Section 74 of Central Goods and Services Tax Act, 2017 (for short "CGST Act").

Learned counsel for petitioner states that the alleged amount is being asked to be deposited without issuing any show cause notice or mentioning any tax period. He further submits that to pressurize the petitioner, a summon dated 06th July, 2020 under Section 70 has been issued to the petitioner asking him to appear for recording of his statement and for submitting DRC-03 for Rs.2,69,21,228/-.

Issue notice.

Mr. Ravi Prakash, learned counsel accepts notice on behalf of respondent no. 1. Mr. Harpreet Singh, learned counsel accepts notice on behalf of respondent nos. 2 and 3. Mr. Anuj Aggarwal, learned counsel accepts notice on behalf of respondent no. 4.

Mr. Harpreet Singh, learned counsel for respondent nos. 2 and 3 states that the intent behind issuing the impugned letter dated 11th June, 2020 was to give an opportunity to the petitioner to come forward and either explain the transaction or deposit the tax with minimum interest and penalty under Section 74(5) of the CGST Act without going through the adjudication procedure. He clarifies that if after the investigation the respondent is not satisfied with the petitioner's response, it shall follow the adjudication process for recovery.

The aforesaid statement made by learned counsel for respondent nos. 2 and 3 is accepted by this Court and said respondents are held bound by the same. It is clarified, as a matter of abundant caution, that as the demand is disputed by the petitioner, no coercive steps shall be taken for recovery of the said demand without following the adjudication process. However, the petitioner is directed to appear before the respondent nos. 2 and 3 and cooperate in the investigation process.

Keeping in view the aforesaid, learned counsel for petitioner states that he does not wish to press the writ petition any further. Consequently, writ petition and application stand disposed of.

15. Deficiency in GST refund application cannot be raised at belated stage

Case Name : **Jain International Vs Commissioner of Delhi Goods (Delhi High Court)**

Appeal Number : WP (C) No. 4205/2020

Date of Judgement/Order : 22/07/2020

Admittedly, till date the petitioner's refund application dated 4th November, 2019 has not been processed. As neither any acknowledgment in FORM GST RFD-02 has been issued nor any deficiency memo has been issued in RFD-03 within time line of fifteen days, the refund application would be presumed to be complete in all respects in accordance with subrule (2), (3) and (4) of Rule 89 of CGST/DGST Rules.

To allow the respondent to issue a deficiency memo today would amount to enabling the Respondent to process the refund application beyond the statutory timelines as provided under Rule 90 of the CGST Rules, referred above. This could then also be construed as rejection of the petitioner's initial application for refund as the petitioner would thereafter have to file a fresh refund application after rectifying the alleged deficiencies. This would not only delay the petitioner's right to seek refund, but also impair petitioner's right to claim interest from the relevant date of filing of the original application for refund as provided under the Rules.

Moreover, the respondent's prayer to raise a deficiency memo is a hyper-technical plea as admittedly, all the relevant documents have been annexed with the present writ petition and the respondent is satisfied about their authenticity.

Consequently, this Court is of the view that the respondent has lost the right to point out any deficiency, in the petitioner's refund application, at this belated stage.

Accordingly, this Court directs the respondent to pay to the petitioner the refund along with interest in accordance with law within two weeks.

16. COVID-19: HC allows 6 Month to pay tax dues: Defreezes bank account

Case Name : **Shree M. Revathi Printers Vs DCIT (Madras High Court)**

Appeal Number : W.P.No. 7811 of 2020

Date of Judgement/Order : 22/07/2020

High Court states that by taking into consideration the situation of COVID-19 pandemic, court directed officer to de-freeze the bank account maintained by the petitioner. Further Court leeway 6 months' time to the petition to pay the balance amount of tax and if in case the petitioner fails to make full payment within the above stipulated period, it is open to the respondent to resort to the remedy available under law to recover the said amount.

17. Delhi HC grant Refund along with Interest in case of Zero Rated Supply after 15 days

Case Name : **Jian International Vs Commissioner of Delhi Goods And Services Tax (Delhi High Court)**

Appeal Number : W.P. (C) 4205/2020

Date of Judgement/Order : 22/07/2020

The issue under consideration is whether the non issuance of refund after 7 days from the date of acknowledgment in case of zero rated supply u/s 90 is justified in law?

In the present case, despite the period of fifteen days from the date of filing of the refund application having expired on 19th November, 2019, the respondent has till date neither pointed out any deficiency/discrepancy in FORM GST RFD-03 nor it has issued any acknowledgement in FORM GST RFD-02.

High Court states that till date the petitioner's refund application dated 4th November, 2019 has not been processed. As neither any acknowledgment in FORM GST RFD-02 has been issued nor any deficiency memo has been issued in RFD-03 within time line of fifteen days, the refund application would be presumed to be complete in all respects in accordance with sub- rule (2), (3) and (4) of Rule 89 of CGST/DGST rules. Accordingly, this Court directs the respondent to pay to the petitioner the refund along with interest in accordance with law within two weeks.

18. Denial of ITC (inverted duty structure) invalid; Rule 89(5) ultra vires section 54(3) Provisions: Gujarat HC

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

Appeal Number : R/Special Civil Application No. 2792 of 2019

Date of Judgement/Order : 24/07/2020

High Court held that by prescribing the formula in Sub-rule 5 of Rule 89 of the CGGST Rules,2017 to exclude refund of tax paid on 'input service' as part of the refund of unutilised input tax credit is contrary to the provisions of Sub-section 3 of Section 54 of the CGST Act,2017 which provides for claim of refund of 'any unutilised input tax credit'. The word "Input tax credit" is defined in Section 2(63) means the credit of input tax. The word "input tax" is defined in Section 2(62), whereas the word "input" is defined in Section 2(59) means any goods other than capital goods and "input service" as per Section 2(60) means any service used or intended to be used by a supplier. Whereas "input tax" as defined in section 2(62) means the tax charged on any supply of goods or services or both made to any registered person. Thus "input" and "input service" are both part of the "input tax" and "input tax credit". Therefore, as per provision of sub-section 3 of Section 54 of the CGST Act,2017, the legislature has provided that registered person may claim refund of "any unutilised input tax", therefore, by way of Rule 89(5)of the CGST Rules,2017, such claim of the refund cannot be restricted only to "input" excluding the "input services" from the

purview of “Input tax credit”. Moreover, clause (i) of proviso to Sub-section 3 of Section 54 also refers to both supply of goods or services and not only supply of goods as per amended Rule 89(5) of the CGST, Rules 2017.

In view of the above analysis of the provisions of the Act and Rules keeping in mind scheme and object of the CGST Act, the intent of the Government by framing the Rule restricting the statutory provision cannot be the intent of law as interpreted in the **Circular No.79/53/2018- GST dated 31.12.2018** to deny the registered person refund of tax paid on “input services’ as part of refund of unutilised input tax credit.

We are of the opinion that Explanation (a) to Rule 89(5) which denies the refund of “unutilised input tax” paid on “input services” as part of “input tax credit” accumulated on account of inverted duty structure is ultra vires the provision of Section 54(3) of the CGST Act, 2017.

In view of the above, Explanation (a) to the Rule 89(5) is read down to the extent that Explanation (a) which defines “Net Input Tax Credit’ means “input tax credit” only. The said explanation (a) of Rule 89(5) of the CGST Rules is held to be contrary to the provisions of Section 54(3) of the CGST Act. In fact the Net ITC should mean “input tax credit” availed on “inputs” and “input services” as defined under the Act.

The respondents are therefore, directed to allow the claim of the refund made by the petitioners considering the unutilised input tax credit of “input services” as part of the “net input tax credit”(Net ITC) for the purpose of calculation of the refund of the claim as per Rule 89(5) of the CGST Rules,2017 for claiming refund under Sub-section 3 of Section 54 CGST Act,2017.

19. Rajasthan HC Grants Interim Relief To J.K. Cement in High VAT/CST demand case

Case Name : **J. K. Cement Ltd. Vs State of Rajasthan (Rajasthan High Court, Jodhpur)**

Appeal Number : S.B. Civil Writ Petition No. 5699/2020

Date of Judgement/Order : 24/07/2020

Commercial Tax Department of State of Rajasthan issued Notices and Summons to the cement manufacturing company, JK Cement Ltd. for reopening of the assessment for Financial Years 2014-15, 2015-16, 2016-17, 2017-18 under Rajasthan Value Added Tax, 2003 and **Central Sales Tax Act, 1956**. The Commercial Tax Department issued Notices to the Company on 06.07.2020 for different financial years while considering the issuance of Diesel to its work agencies to be sale under the Act and on that pretext, the Company be imposed with huge tax, interest and penalty, thereupon, for the sale consideration received by company.

Being aggrieved, the Company preferred writ petitions before the Rajasthan High Court at Jodhpur while assailing the validity of Notices and Summons issued by the Tax Department which are in due ignorance of law and with legal mala fide and ignoring the earlier concluded assessment for same financial years.

Senior Advocate Mr. Ravi Bhansali assisted by Mr. Ramit Mehta and Mr. Saurabh Maheshwari appeared for the petitioners and advanced arguments that the Notices under challenge are without jurisdiction and on misconceptions of the Department. The petitioner company provides Diesel to the work agencies under arrangement and does not charge any single amount for the same. The Department has wrongly and without any material evidence concluded in Notice that the petitioner company makes sale to other business entities while collecting consideration. It was specifically argued that the petitioner company does not charge and collect even a single penny and thus, it is grossly wrong on part of the Department to assume such arrangement to be Sale and reopen the settled assessment while imposing tax, interest and penalty.

The bunch of the writ petitions was heard at length by the Hon'ble Mr. Justice Pushpendra Singh Bhati and vide order dated 24.07.2020, the Hon'ble Court duly stayed the effect and operations of the impugned notices while issuing notices to the Respondent arrayed in the writ petitions and matter be kept after 6 weeks.

20. File section 67(6) Application for provisional release of vehicle: HC

Case Name : **Kiran Choubey W/O Shri Narendra Choubey Vs State of Gujarat (Gujarat High Court)**

Appeal Number : R/Special Civil Application No. 8488 of 2020

Date of Judgement/Order : 24/07/2020

It appears that final order in Form MOV-11 has been passed. Thus, the truck has been ordered to be confiscated under the provisions of Section 130 of the **CGST Act 2017**.

As a final order of confiscation has been passed and the same being an appealable order, we relegate the writ applicant to file a statutory appeal as provided under Section 107 of the Act. Along with the appeal, it shall be open for the writ applicant to prefer a Miscellaneous Application under section 67(6) of the Act 2017 for provisional release of the vehicle pending the final disposal of the appeal.

We may only say that if any such application under section 67(6) of the Act is filed by the writ applicant, then the authority concerned shall look into the same at the earliest and pass an appropriate order in accordance with law. With the above, this writ application stands disposed of.

21. HC allows Patanjali to deposit profiteered amount in 6 installments

Case Name : **Patanjali Ayurved Ltd Vs Union Of India & Ors. (Delhi High Court)**

Appeal Number : W.P. (C) 4375/2020 & CM APPL. 15751/2020

Date of Judgement/Order : 24/07/2020

High Court initiated the penalty proceeding against Patanjali Ayurved Ltd for allegedly profiteering through sale of its products. Further, due to COVID-19 pandemic high

court approves that Patanjali can deposits the amount of penalty in question in the consumer welfare fund in six monthly instalments.

22. Countrywide cartel specializing in defrauding GST system seems to be operating: HC

Case Name : **Amit Beriwal Vs State of Odisha (Orissa High Court)**

Appeal Number : BLAPL No. 2217 of 2020

Date of Judgement/Order : 27/07/2020

This Court is well aware of the complications thrown in by the new GST regime and the problems posed in its It seems a countrywide cartel specializing in defrauding the GST system is operating to bring the economy to its knees. These complications created by the unscrupulous fraudsters, one would fear, could lead to arrest of innocent businessmen and traders. However, a reading of the GST code would make it abundantly clear that it is rooted with several checks and balances to ensure that the initiation of prosecution or an arrest is to be made only after following due and elaborate process.

One cannot lose sight of the fact that the Governments are making their best efforts to enhance the **ease of doing business**, to reduce the burden on the tax payers, to make the procedures simpler with the use of new technologies. The Government officials have also been making all efforts to ensure efficient collection of tax, so that the burden on the genuine tax payers can be reduced. All these efforts cannot be permitted to be sabotaged by such criminals who prey on the public exchequer. The text book notion of tax collection needs to be overhauled by conjuring with the emerging technologies so as to get rid of practical hiccups.

At this juncture, it may be apposite to note that in the year 2018-19, 1620 cases involving a sum of Rs. 11251.23 crores, were registered with respect to fake invoice(s) involving fraudulent **Input Tax Credit** in GST by the Central GST alone²⁷ Further, during the year 20 19-20 (till 25.06.20 19), 535 cases involving a sum of Rs.2565.40 crores were These numbers are quite alarming and effective measures, in terms of ensuring increased bandwidth of efficiency of the tax officials, have to be devised to streamline the system, to ensure that the ITC is not misused.

In view of the discussions made in the above contextual orbit, considering submissions made and taking into account a holistic view of the facts and circumstances in the instant case, this Court is not inclined to release the accused Petitioner on bail at this stage.

23. MP HC Grant Bail to Pakistani National accused of GST evasion

Case Name : **Amit Bothra Vs. State of MP (Madhya Pradesh High Court)**

Appeal Number : MCRC No. 21628 of 2020

Date of Judgement/Order : 27/07/2020

In the present case, the applicant is facing trial for offences punishable under section 132(1)(a)(i) of the GST Act and under Section 409, 467, 471, 120-B of the IPC. The applicant, Sanjay Matta who is a Pakistani national faces an allegation that he is indulged in clandestine clearance of mouth freshener, commonly known as 'Pan Masala', without payment of GST. The Counsel for the applicant prayed for bail being granted to the applicant on the grounds that the petitioners were earlier paying GST honestly and are also ready to pay the same in future. However, due to unprecedented circumstances of spread of COVID-19 pandemic and complete lockdown pursuant thereto; there was some delay in paperwork and submission of the invoices etc. It was further contended that though under pressure, they have already paid Rs. 7 crores and are still ready to pay the deficit, if any, found due on the final assessment.

High Court states that on careful consideration of nature and gravity of the allegation made against the petitioners and the specific evidence collected in respect of these allegations, elaborate discussion of which would not be apt as it may adversely affect the interest of either party, the specific facts put-forth by the learned senior counsels for the petitioners and their reply and other facts and circumstances of the case, in the considered opinion of this court, the case for granting bail is made out. Therefore, without commenting on the merits of the case, both the petitions stand allowed. The appellant be released from custody on their furnishing a personal bond in the sum of Rs. 5,00,000/- (Rupees Five Lakhs Only) each with separate sureties to the satisfaction of the Trial Court.

24. Transitional Credit Issue- HC decides to wait for SC judgment in Brand Equity case

Case Name : **U.C. Infosystems Pvt. Ltd. Vs Union of India (Delhi High Court)**
Appeal Number : W.P. (C) No. 4608/2020
Date of Judgement/Order : 28/07/2020

Learned counsel for the petitioner states that the petitioner tried to file TRAN -1 form within the time provided under Rule 117 as well as the extended time given by this Court vide judgment dated 05th May, 2020 in Brand Equity Treaties Ltd. Vs. UOI, W.P.(C) No.11040/2018. However, due to the technical glitches at the end of the respondents, petitioner was unable to file the same.

It was decided to await the judgment of the Supreme Court in **Union of India Vs. Brand Equity Treaties Limited & Ors.**, SLP (C) 7425-7428/2020, list on 16th September, 2020.

25. Rajasthan HC allows petitioner to apply to GST Council to get CENVAT credit benefit

Case Name : **Trivedi Ventures LLP Vs Union of India (Rajasthan High Court)**
Appeal Number : D.B. Civil Writ Petition No. 4182/2020
Date of Judgement/Order : 30/07/2020

Plea of Petitioner was to enable the petitioners to avail Transitional Credit in Electronic Credit Ledger. It was also prayed that the respondents should give effect to Form GST Tran-1 that had been manually submitted to the respondent-department to avail relevant Legitimate Input Tax Credit.

While deciding on a Bunch of Appeals, Hon'ble Rajasthan High Court held that they grant liberty to the petitioners to make an application before GST Council through Standing Counsel, who is further requested to hand over the same to the jurisdictional officer for forwarding the same to the GST Council to issue requisite certificate of recommendation alongwith requisite particulars, evidence and a certified copy of the order instantly and such decision be taken forthwith and if the petitioners' assertion is found to be correct, the GST Council shall issue necessary recommendation to the Commissioner to enable the petitioners to get the benefit of CENVAT credit within the stipulated time as stipulated by the Union of India.