

GST UPDATE

(October, 2020)

Directorate of Training, Excise and Taxation Department, Punjab

ABSTRACT OF GST UPDATE

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(I) GIST OF GST NOTIFICATIONS

1. CBIC notifies special procedure for issuance of GST e-Invoices till 31.10.2020

The Government has notified special procedure under Sec 148 of CGST Act 2017 to the registered persons who have prepared tax invoice in a manner other than the manner specified under sub-rule (4) of rule 48 of the CGST Rules 2017. As per this special procedure, during the period from the 1st day of October, 2020 to the 31st day of October, 2020, the said persons shall obtain an Invoice Reference Number (IRN) for such invoice by uploading specified particulars in FORM GST INV-01 on the Common Goods and Services Tax Electronic Portal, within thirty days from the date of such invoice, failing which the same shall not be treated as an invoice.

[Notification No. 73/2020-Central Tax, dated 01.10.2020]

2. GSTR-1 due date for taxpayers with turnover below Rs. 1.5 crore

The Government has prescribed the due date for furnishing FORM GSTR-1 for the tax payers having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year., for quarter October, 2020 to December, 2020 to be 13th January, 2021 and for the quarter January, 2021 to March, 2021 to be 13th April 2021.

[Notification No. 74/2020-Central Tax dated 15.10.2020]

3. GSTR-1 due date for taxpayers with turnover above Rs.1.5 crore

The due date for furnishing FORM GSTR-1 for each of the months from October, 2020 to March, 2021 by tax payers having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year has been extended till the eleventh day of the month succeeding such month.

[Notification No. 75/2020 – Central Tax dated 15.10.2020]

4. GSTR -3B due date for October 2020 to March 2021

The Government notified that GSTR-3B for the period from October 2020 to March 2021. The due date is on or before 22nd day of the month succeeding such month if the taxpayers having an aggregate turnover of up to Rs. 5 crores in the previous FY, whose principal place of business is in the specified States/UTs. Similarly, it is on or before 24th day of the succeeding month if the taxpayers having an aggregate turnover of up to Rs. 5 crores in the previous financial year, whose principal place of business is in certain other States/UTs.

[Notification No. 76/2020-Central Tax dated 15.10.2020]

5. Optional filing of Annual Return extended to FY 2019-20

CBIC extends benefit of optional filing of annual return for registered persons whose aggregate turnover in a financial year does not exceed Rs 2 crore, for FY 2019-20 as well. The benefit was already there for Financial Year 2017-18 and 2018-19. This means that such taxpayers are not required to furnish Annual Return for 2019-20 and they can choose to not to file such return. However, if they want they can definitely file the same.

Filing Nil returns through SMS Facility-Rule 67A of CGST Rules 2017 Amended

- Manner of filing NIL returns/liability/statements vide FORM GSTR 3B, GSTR 1 and CMP 08 through SMS facility
- A registered taxpayer who is required to file NIL returns/liability/statement in required form can file the same through Short Messaging facility (SMS).
- The details send by him through his registered number shall be verified through OTP facility.
- A Nil return or Nil details of outward supplies or Nil statement shall mean a return under section 39 or details of outward supplies under section 37 or statement under rule 62, for a tax period that has nil or no entry in all the Tables in FORM GSTR-3B or FORM GSTR-1 or FORM GST CMP-08, as the case may be.

Relaxation in E-way bill generation –Fourth proviso to Rule 138E

- The Rule 138E (Blocking of E-way bill generation facility if returns are not filed for two consecutive tax periods) has been amended so as to provide relaxation in cases where E-way bills are generated during the period from 20th March 2020 till 15th October 2020, for all such class of person who have not furnished return in FORM GSTR-3B or FORM GSTR-1 or the statement in FORM GST CMP-08 for the tax period from February 2020 to August 2020.

GST DRC-01A- Rule 142(1A) of CGST Rules 2017 Amended

- The proper officer can serve DRC-01 along with notice under Section 73(1) & 74(1) the CGST Act, 2017 specifying the details of amount payable.
- Before serving the said notice the proper officer may shall communicate the details of any tax, interest & penalty as ascertained by the said officer, in Part A of FORM GST DRC – 01A.
- Furnishing information in FORM GST DRC – 01A made discretionary to the proper officer.

[Notification No. 77/2020 – Central Tax dated 15.10.2020]

6. HSN Code Mandatory irrespective of Turnover from 01.04.2021

The 1st Proviso to Rule 46 of CGST Rules 2017 has been amended, vide Notification No.79/2020-CT dated 15-10-2020, for declaration of HSN code in invoice. Under this amended Proviso, *Notification No. 78/2020 – Central Tax, dated 15.10.2020 has been issued to make HSN code mandatory up to 4 digits in the B2B invoices with effect from*

01.04.2021 issued by taxpayers whose aggregate turnover in the preceding financial year is upto Rs. 5 crores. For the taxpayers whose turnover in the preceding financial year is more than Rs. 5 crores, HSN code is mandatory up to 6 digits in invoices with effect from 01.04.2021.

7. GST Audit relaxation to SMEs to continue in FY 2019-20

For the financial year 2018-2019 and 2019-2020, every registered person whose aggregate turnover exceeds five crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C for the said financial year, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.

The Government has made following amendments to CGST Rules, 2017:

(i) The 1st Proviso to Rule 46 of CGST Rules 2017 has been amended to make HSN code of specified No. of digits mandatory for a class of registered persons. For specified class of supply of goods or services, specified number of digits of HSN code shall be required to be mentioned by all registered taxpayers.

(ii) As per existing Rule 67A, a registered taxpayer can file a Nil return under section 39 in FORM GSTR-3B or under section 37 in FORM GSTR-1 by SMS facility. The Rule has been amended to file a Nil statement in FORM CMP-08 for a tax period also by SMS. The details of outward supplies or statement sent through the registered number will be verified by an OTP.

(iii) As per the existing Proviso to Rule 80(3), the taxpayers with turnover above Rs. 5 crores shall get their accounts audited as per Section 35(5) of CGST Act 2017 for FY 2018-19. The Proviso has been amended to make it applicable for FY 2019-20 also.

(iv) The FORM GSTR-1 has been amended: against serial number 12, in the Table, in column 6, in the heading, for the words "Total value", the words "Rate of Tax" shall be substituted.

(v) The Rule 138E (blocking of e-way bill) has been amended so as to provide relaxation in cases where e-way bills are generated during the period from 20 March 2020 till 15th October 2020, for all such class of person who have not furnished return in FORM GSTR-3B or FORM GSTR-1 or the statement in FORM GST CMP-08 for the tax period from February 2020 to August 2020.

[Notification No. 79/2020 – Central Tax Dated: 15.10.2020]

8. CBIC notifies extended due date of GSTR-9, GSTR-9A, GSTR-9C

CBIC extends the due date u/s 44 of CGST Act 2017 for filing of Annual Return (FORM GSTR-9/GSTR-9A) and Reconciliation Statement (FORM GSTR-9C) for Financial Year 2018-19 **from 31st October 2020 to 31st December, 2020.**

[Notification No. 80/2020 – Central Tax Dated: 28.10.2020]

9. CBIC exempt CGST on satellite launch services

To amend **notification No. 12/2017- Central Tax (Rate)** so as to exempt satellite launch services provided by ISRO, Antrix Co. Ltd and NSIL as recommended by GST Council in its 42nd meeting held on 05.10.2020.

[Notification No. 05/2020 – Central Tax (Rate) dated 16.10.2020]

10. HSN Code on GST Tax Invoice Mandatory wef 01st April 2021

Notification 06/2020–Integrated Tax dated 15.10.2020- This notification mandates a registered person to mention the HSN Code for the all products sold the HSN Digits to be mentioned are as under. The **only exemption** is given to the **registered persons having turnover less than 5 Crores** is that they need not mention the HSN code in the Tax Invoice in respect of supplies made to **unregistered persons**.

S.No.	Aggregate Turnover in the preceding Financial Year	Number of Digits of Harmonised System of Nomenclature Code (HSN Code)
1	Up to rupees five crores	4
2	more than rupees five crores	6

[Notification 06/2020–Integrated Tax dated 15.10.2020]

11. CBIC exempt IGST on satellite launch services

To Amend **No.9/2017- Integrated Tax (Rate), dated the 28th June, 2017** So As To Exempt Satellite Launch Services Provided By ISRO, Antrix Co. Ltd And NSIL As Recommended By GST Council In Its 42nd Meeting Held On 05.10.2020.

[Notification No. 05/2020- Integrated Tax (Rate) dated 16.10.2020]

(II) PUNJAB GST NOTIFICATIONS

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

NOTIFICATION

The October, 2020

No. . - In exercise of the powers conferred by sub-section (3) of section 9 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017) and all other powers enabling him in this behalf, the Governor of Punjab, on recommendations of the Council, is pleased to make the following amendment in the Government of Punjab, Department of Excise and Taxation, Notification No.35/ P.A 5/2017/S.9/2017, dated the 30th June, 2017, namely:-

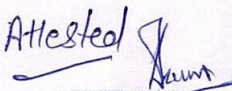

AMENDMENT

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

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

2. This notification shall be deemed to have come into force on and with effect from the 1st day of January, 2020.

A.VENU PRASAD,
Financial Commissioner (Taxation) and Secretary to
Government of Punjab,
Department of Excise and Taxation

Attested

INDEPENDENT GR-1,
O/o FINANCIAL
COMMISSIONER'S SECTT.,
PUNJAB CIVIL SECTT.,
CHANDIGARH.


(III) CENTRAL TAX NOTIFICATIONS

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

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

Notification No. 73/2020 – Central Tax

New Delhi, the 1st October, 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 Central Government, on the recommendations of the Council, hereby notifies the registered persons required to prepare the tax invoice in the manner specified under sub-rule (4) of rule 48 of the Central Goods and Services Tax Rules, 2017, who have prepared tax invoice in a manner other than the said manner, as the class of persons who shall, during the period from the 1st day of October, 2020 to the 31st day of October, 2020, follow the special procedure such that the said persons shall obtain an Invoice Reference Number (IRN) for such invoice by uploading specified particulars in **FORM GST INV-01** on the Common Goods and Services Tax Electronic Portal, within thirty days from the date of such invoice, failing which the same shall not be treated as an invoice.

[F. No. CBEC 20/16/09/2019-GST (Part – I)]

(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. 74/2020 – Central Tax

New Delhi, the 15th October, 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) (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies the registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year, as the class of registered persons who shall follow the special procedure as mentioned below for furnishing the details of outward supply of goods or services or both.

2. The said registered persons shall furnish the details of outward supply of goods or services or both in **FORM GSTR-1** under the Central Goods and Services Tax Rules, 2017, effected during the quarter as specified in column (2) of the Table below till the time period as specified in the corresponding entry in column (3) of the said Table, namely:-

Table

Sl. No.	Quarter for which details in FORM GSTR-1 are furnished	Time period for furnishing details in FORM GSTR-1
(1)	(2)	(3)
1	October, 2020 to December, 2020	13 th January, 2021
2	January, 2021 to March, 2021	13 th April, 2021

3. The time limit for furnishing the details or return, as the case may be, under sub-section (2) of section 38 of the said Act, for the months of October, 2020 to March, 2021 shall be subsequently notified in the Official Gazette.

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

(Pramod Kumar)
Director, Government of India

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

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

Notification No 75/2020 – Central Tax

New Delhi, the 15th October, 2020

G.S.R.....(E). - In exercise of the powers conferred by the second proviso to sub-section (1) of section 37 read with, section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Commissioner, on the recommendations of the Council, hereby extends the time limit for furnishing the details of outward supplies in **FORM GSTR-1** of the Central Goods and Services Tax Rules, 2017, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, for each of the months from October, 2020 to March, 2021 till the eleventh day of the month succeeding such month.

2. The time limit for furnishing the details or return, as the case may be, under sub-section (2) of section 38 of the said Act, for the months of October, 2020 to March, 2021 shall be subsequently notified in the Official Gazette.

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

(Pramod Kumar)
Director, Government of India

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

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

Notification No. 76/2020 – Central Tax

New Delhi, the 15th October, 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) (hereafter in this notification referred to as the said Act), 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 specifies that the return in **FORM GSTR-3B** of the said rules for each of the months from October, 2020 to March, 2021 shall be furnished electronically through the common portal, on or before the twentieth day of the month succeeding such month:

Provided that, for taxpayers having an aggregate turnover of up to 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 months of October, 2020 to March, 2021 shall be furnished electronically through the common portal, on or before the twenty-second day of the month succeeding such month:

Provided further that, for taxpayers having an aggregate turnover of up to 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 months of October, 2020 to March, 2021 shall be furnished electronically through the common portal, on or before the twenty-fourth day of the month succeeding such month.

2. **Payment of taxes for discharge of tax liability as per FORM GSTR-3B.** – Every registered person furnishing the return in **FORM GSTR-3B** of the said rules shall, subject to the provisions of section 49 of the said Act, discharge his liability towards tax by debiting the electronic cash ledger or electronic credit ledger, as the case may be and his liability towards interest, penalty, fees or any other amount payable under the said Act by debiting the electronic cash ledger, not later than the last date, as specified in the first paragraph, on which he is required to furnish the said return.

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

(Pramod Kumar)
Director, Government of India

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

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

Notification No. 77/2020 – Central Tax

New Delhi, the 15th October, 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) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby makes the following amendment in the notification of Government of India in the Ministry of Finance, (Department of Revenue), No. 47/2019 – Central Tax dated the 9th October, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i) vide number G.S.R. 770(E), dated the 9th October, 2019, namely: -

In the said notification in the opening paragraph, for the words and figures “financial years 2017-18 and 2018-19”, the words and figures “financial years 2017-18, 2018-19 and 2019-20” shall be substituted.

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

(Pramod Kumar)
Director, Government of India

Note: The principal notification No. 47/2019 – Central Tax, dated the 9th October, 2019 was published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i) vide number G.S.R. 770(E), dated the 9th October, 2019.

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

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

Notification No. 78/2020 – Central Tax

New Delhi, the 15th October, 2020

G.S.R.....(E).—In exercise of the powers conferred by the first proviso to rule 46 of the Central Goods and Services Tax Rules, 2017, the Central Board of Indirect Taxes and Customs, 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.12/2017 – 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. 660(E), dated the 28th June, 2017, namely:—

In the said notification, with effect from the 01st day of April, 2021, for the Table, the following shall be substituted, namely, -

“Table

Serial Number (1)	Aggregate Turnover in the preceding Financial Year (2)	Number of Digits of Harmonised System of Nomenclature Code (HSN Code) (3)
1.	Up to rupees five crores	4
2.	more than rupees five crores	6

Provided that a registered person having aggregate turnover up to five crores rupees in the previous financial year may not mention the number of digits of HSN Code, as specified in the corresponding entry in column (3) of the said Table in a tax invoice issued by him under the said rules in respect of supplies made to unregistered persons.”.

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

(Prmod Kumar)
Director, Government of India

Note: The principal notification number 12/2017 – 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.660(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. 79 /2020 – Central Tax

New Delhi, the 15th October, 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 recommendations of the Council, hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely: -

1. Short title and commencement. - (1) These rules may be called the Central Goods and Services Tax (Twelveth Amendment) Rules, 2020.

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

2. In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), in rule 46, for the first proviso, the following proviso shall be substituted, namely: -

“Provided that the Board may, on the recommendations of the Council, by notification, specify-

(i) the number of digits of Harmonised System of Nomenclature code for goods or services that a class of registered persons shall be required to mention; or

(ii) a class of supply of goods or services for which specified number of digits of Harmonised System of Nomenclature code shall be required to be mentioned by all registered taxpayers; and

(iii) the class of registered persons that would not be required to mention the Harmonised System of Nomenclature code for goods or services:”.

3. In the said rules, for 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** or a Nil statement in **FORM GST CMP-08** for a tax period, any reference to electronic furnishing shall include furnishing of the said return or the details of outward supplies or statement through a short messaging service

using the registered mobile number and the said return or the details of outward supplies or statement 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 or Nil statement shall mean a return under section 39 or details of outward supplies under section 37 or statement under rule 62, for a tax period that has nil or no entry in all the Tables in **FORM GSTR-3B** or **FORM GSTR-1** or **FORM GST CMP-08**, as the case may be.”.

4. In the said rules, in rule 80, in sub-rule (3), for the proviso, the following proviso shall be substituted, namely: -

“Provided that for the financial year 2018-2019 and 2019-2020, every registered person whose aggregate turnover exceeds five crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in **FORM GSTR-9C** for the said financial year, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner.”.

5. In the said rules, with effect from the 20th day of March, 2020, in rule 138E, after the third proviso, the following proviso shall be inserted, namely: -

“Provided also that the said restriction shall not apply during the period from the 20th day of March, 2020 till the 15th day of October, 2020 in case where the return in **FORM GSTR-3B** or the statement of outward supplies in **FORM GSTR-1** or the statement in **FORM GST CMP-08**, as the case may be, has not been furnished for the period February, 2020 to August, 2020.”.

6. In the said rules, in rule 142, in sub-rule (1A), -

- (i) for the words “proper officer shall”, the words “proper officer may” shall be substituted;
- (ii) for the words “shall communicate”, the word “communicate” shall be substituted.

7. In the said rules, in **FORM GSTR-1**, against serial number 12, in the Table, in column 6, in the heading, for the words “Total value”, the words “Rate of Tax” shall be substituted.

8. In the said rules, for **FORM GSTR-2A**, the following form shall be substituted, namely: -

“FORM GSTR-2A

[See rule 60(1)]

Details of auto drafted supplies

(From GSTR 1, GSTR 5, GSTR-6, GSTR-7, GSTR-8, import of goods and inward supplies of goods received from SEZ units / developers)

Year				
Month				

1.	GSTIN																			
2.	(a)	Legal name of the registered person																		
	(b)	Trade name, if any																		

PART A

(Amount in Rs. all Tables)

3. Inward supplies received from a registered person including supplies attracting reverse charge

GSTIN of supplier	Trade/ Legal name	Invoice details				Rate (%)	Taxable value	Amount of tax				Place of supply (Name of State/UT)	Supply attracting reverse charge (Y/N)	GST TR-1/5 period date	GST R-3B filing status (Yes/No)	Amendment made, if any (GSTIN, Others)	Tax period in which same ended	Effective date of cancellation, if any		
		NT	Ty	D	Value			Integrated tax	Central tax / UT tax	State tax	Ces									
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	

4. Amendment to Inward supplies received from a registered person including supplies attracting reverse charge (Amendment to 3)

Details of original Document	Revised details	Rate (%)	Taxable value	Amount of tax	Place of supply (Name of State/UT)	Supply attracting reverse charge (Y/N)	GST R-1/5 period date	GST R-1/5 filing status (Yes/No)	GST R-3B filing status (Yes/No)	Amendment made, if any (GSTIN, Others)	Tax period in which same ended	Effective date of cancellation, if any

No.	Date	GST IN	Trade / Legal name	No.	Type	Date	Value				Integrated tax	Central tax	State/UT tax	Cess					Others)	any	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22

5. Debit / Credit notes received during current tax period

GST / IN of supplier	Trade / Legal name	Credit / Debit Note Details					Rate (%)	Taxable value	Amount of tax	Place of supply (Name of State/UT)	Supply attract reverse charge (Y/N)	GST 1/5	GST R-1 /5 filing date	GST R-3B filing status (Yes/No)	Amendment, if any (GST IN, Other s)	Tax period in which amended	Effective date of cancellation, if any				
		No.	Date	Type	Value	Inte-grated tax												Central tax	State/UT tax	Cess	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	

6. Amendment to Debit / Credit notes (Amendment to 5)

Details of original document	Revised details							Rate (%)	Taxable value	Amount of tax	Place of supply (Name of State/UT)	Supply attract reverse charge (Y/N)	GST 1/5	GST R-1 /5	GST R-3B filing date	Amendment, if any (GST IN, Others)	Tax period in which amended	Effective date of cancellation, if any	
	Type	Date	GST IN of Supplier	Trade / Legal name	No.	Note type	Date												Value

Deductor / GSTIN of E-Commerce Operator	Name / E-Commerce Operator Name	period of GSTR-7 / GSTR-8 (Original / Amended)	received / Gross value (Original / Revised)	supplies returned	liable for TCS	Integrated tax	Central tax	State /UT tax
1	2	3	4	5	6	7	8	9
9A. TDS								
9B. TCS								

PART- D

10. Import of goods from overseas on bill of entry (including amendments thereof)

ICEGATE Reference date	Bill of entry details				Amount of tax		Amended (Yes/ No)
	Port code	No.	Date	Value	Integrated tax	Cess	
1	2	3	4	5	6	7	8

11. Inward supplies of goods received from SEZ units / developers on bill of entry (including amendments thereof)

GSTIN of the Supplier (SEZ)	Trade / Legal name	ICEGATE Reference date	Bill of Entry details				Amount of tax		Amended (Yes/ No)
			Port code	No.	Date	Value	Integrated tax	Cess	
1	2	3	4	5	6	7	8	9	10

Instructions:

1. Terms Used :-
 - a. ITC – Input tax credit
 - b. ISD – Input Service Distributor
2. **Important Advisory:** FORM GSTR-2A is statement which has been generated on the basis of the information furnished by your suppliers in their respective FORMS GSTR-1,5,6,7 and 8. It is a dynamic statement and is updated on new addition/amendment made by your supplier in near real time. The details added by supplier would reflect in corresponding FORM GSTR-2A of the recipient irrespective of supplier's date of filing.

3. There may be scenarios where a percentage of the applicable rate of tax rate may be notified by the Government. A separate column will be provided for invoices / documents where such rate is applicable.
4. **Table wise instructions:**

<u>Table No. and Heading</u>	<u>Instructions</u>
<p style="text-align: center;">3</p> <p>Inward supplies received from a registered person including supplies attracting reverse charge</p>	<ol style="list-style-type: none"> i. The table consists of all the invoices (including invoices on which reverse charge is applicable) which have been saved / filed by your suppliers in their FORM GSTR-1 and 5. ii. Invoice type : <ol style="list-style-type: none"> a. R- Regular (Other than SEZ supplies and Deemed exports) b. SEZWP- SEZ supplies with payment of tax c. SEZWOP- SEZ supplies without payment of tax d. DE- Deemed exports e. CBW - Intra-State supplies attracting IGST iii. For every invoice, the period and date of FORM GSTR-1/5 in which such invoice has been declared and filed is being provided. It may be noted that the details added by supplier would reflect in corresponding FORM GSTR-2A of the recipient irrespective of supplier's date of filing. For example, if a supplier files his invoice INV-1 dated 10th November 2019 in his FORM GSTR-1 of March 2020, the invoice will be reflected in FORM GSTR-2A of March, 2020 only. Similarly, if the supplier files his FORM GSTR-1 for the month of November on 5th March 2020, the invoice will be reflected in FORM GSTR-2A of November 2019 for the recipient. iv. The status of filing of corresponding FORM GSTR-3B for FORM GSTR-1 will also be provided. v. The table also shows if the invoice or debit note was amended by the supplier and if yes, then the tax period in which such invoice was amended, declared and filed. For example, if a supplier has filed his invoice INV-1 dated 10th November 2019 in his FORM GSTR-1 of November 2019, the invoice will be reflected in FORM GSTR-2A of November, 2019. If the supplier amends this invoice in FORM GSTR-1 of December 2019, the amended invoice will be made available in Table 4 of FORM GSTR-2A of December 2019. The original record present in Table 3 of FORM GSTR-2A of November 2019 for the recipient will now have updated columns of amendment made (GSTIN, others) and tax period of amendment as December 2019. vi. In case, the supplier has cancelled his registration, the effective date of cancellation will be provided.
<p style="text-align: center;">4</p>	<ol style="list-style-type: none"> i. The table consists of amendment to invoices (including

<p>Amendment to Inward supplies received from a registered person including supplies attracting reverse charge (Amendment to table 3)</p>	<p>invoice on which reverse charge is applicable) which have been saved/filed by your suppliers in their FORM GSTR-1 and 5.</p> <p>ii. Tax period in which the invoice was reported originally and type of amendment will also be provided. For example, if a supplier has filed his invoice INV-1 dated 10th November 2019 in his FORM GSTR-1 of November 2019, the invoice will be reflected in FORM GSTR-2A of November, 2019. If the supplier amends this invoice in FORM GSTR-1 of December 2019, the amended invoice will be made available in Table 4 of FORM GSTR-2A of December 2019. The original record present in Table 3 of FORM GSTR-2A of November 2019 for the recipient will now have updated columns of amendment made (GSTIN, others) and tax period of amendment as December 2019.</p>
<p>5 Debit / Credit notes received during current tax period</p>	<p>i. The table consists of the credit and debit notes (including credit/debit notes relating to transactions on which reverse charge is applicable) which have been saved/filed by your suppliers in their FORM GSTR-1 and 5.</p> <p>ii. If the credit/debit note has been amended subsequently, tax period in which the note has been amended will also be provided.</p> <p>iii. Note Type:</p> <ul style="list-style-type: none"> ○ Credit Note ○ Debit Note <p>iv. Note supply type:</p> <ul style="list-style-type: none"> ○ R- Regular (Other than SEZ supplies and Deemed exports) ○ SEZWP- SEZ supplies with payment of tax ○ SEZWOP- SEZ supplies without payment of tax ○ DE- Deemed exports ○ CBW - Intra-State supplies attracting IGST <p>v. For every credit or debit note, the period and date of FORM GSTR-1/5 in which such credit or debit note has been declared and filed is being provided. It may be noted that the details added by supplier would reflect in corresponding FORM GSTR-2A of the recipient irrespective of supplier's filing of FORM GSTR-1. For example, if a supplier files his credit note CN-1 dated 10th November 2019 in his FORM GSTR-1 of March 2020, the credit note will be reflected in FORM GSTR-2A of March, 2020 only. Similarly, if the supplier files his FORM GSTR-1 for the month of November on 5th March 2020, the credit note will be reflected in FORM GSTR-2A of November 2019 for the recipient.</p> <p>vi. The status of filing of corresponding FORM GSTR-3B of suppliers will also be provided.</p> <p>vii. The table also shows if the credit note or debit note has been amended subsequently and if yes, then the tax period in which</p>

	<p>such credit note or debit note was amended, declared and filed.</p> <p>viii. In case, the supplier has cancelled his registration, the effective date of cancellation will be displayed.</p>
6 Amendment to Debit/Credit notes(Amendment to 5)	<p>i. The table consists of the amendments to credit and debit notes (including credit/debit notes on which reverse charge is applicable) which have been saved/filed by your suppliers in their FORM GSTR-1 and 5.</p> <p>ii. Tax period in which the note was reported originally will also be provided.</p>
7 ISD credit received	<p>i. The table consists of the details of the ISD invoices and ISD credit notes which have been saved/filed by an input service distributor in their FORM GSTR-6.</p> <p>ii. Document Type :</p> <ul style="list-style-type: none"> ○ ISD Invoice ○ ISD Credit Note <p>iii. If ISD credit note is issued subsequent to issue of ISD invoice, original invoice number and date will also be shown against such credit note. In case document type is ISD Invoice these columns would be blank</p> <p>iv. For every ISD invoice or ISD credit note, the period and date of FORM GSTR-6 in which such respective invoice or credit note has been declared and filed is being provided.</p> <p>v. The status of eligibility of ITC on ISD invoices as declared in FORM GSTR-6 will be provided.</p> <p>vi. The status of eligibility of ITC on ISD credit notes will be provided.</p>
8 Amendment to ISD credit received	<p>i. The table consists of the details of the amendments to details of the ISD invoices and ISD credit notes which have been saved/filed by an input service distributor in their FORM GSTR-6.</p>
9 TDS / TCS credit received	<p>i. The table consists of the details of TDS and TCS credit from FORM GSTR-7 and FORM GSTR-8 and its amendments in a tax period..</p> <p>ii. A separate facility will be provided on the common portal to accept/ reject TDS and TCS credit.</p>
10 & 11 Details of Import of goods from overseas on bill of entry and from SEZ units and developers and their respective amendments	<p>i. The table consists of details of IGST paid on imports of goods from overseas and SEZ units / developers on bill of entry and amendment thereof.</p> <p>ii. The ICEGATE reference date is the date from which the recipient is eligible to take input tax credit.</p> <p>iii. The table also provides if the Bill of entry was amended.</p> <p>iv. Information is provided in the tables based on data received from ICEGATE. Information on certain imports such as</p>

	courier imports may not be available.
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”.

9. In the said rules, in **FORM GSTR-5**, -

(i) in the table, -

(a) in serial number 2, after entry (c), the following entries shall be inserted, namely: -

“(d)	ARN	Auto Populated
(e)	Date of ARN	Auto Populated.”;

(b) in serial number 10, -

(A) in the heading, after the words, “Total tax liability”, the brackets and words “(including reverse charge liability, if any)”, shall be inserted;

(B) after serial number 10B and the entry relating thereto, the following serial number and entry shall be inserted, namely, -

“10C. On account of inward supplies liable to reverse charge					
					.”;

(ii) in the instructions, -

(a) for paragraph 7, the following paragraph shall be substituted, namely: -

“7. Invoice-level information, rate-wise, pertaining to the tax period should be reported as under:

- (i.) for all B to B supplies (whether inter-State or intra-State), invoice level details should be uploaded in Table 5;
- (ii.) for all inter-state B to C supplies, where invoice value is more than Rs. 2,50,000/- (B to C Large) invoice level detail to be provided in Table 6; and
- (iii.) for all B to C supplies, other than those reported in table 6, shall be reported in Table 7 providing State-wise summary of such supplies.”;

(b) in paragraph 8, in clause (ii), after the words, “invoice value is more than”, the word “rupees”, shall be inserted;

(c) for paragraph 10, the following paragraph shall be substituted, namely: -

“10. Table 10 consists of tax liability on account of outward supplies declared in the current tax period and negative ITC on account of amendment to import of goods in the

current tax period. Inward supplies attracting reverse charge shall be reported in Part C of the table.”.

10. In the said rules, in **FORM GSTR-5A**, -

(i) against serial number 4 and entries relating thereto, the following entries shall be inserted, namely: -

“4(a) ARN:

4(b) Date of ARN:”;

(ii) for serial number 6, the following shall be substituted, namely: -

“6. Calculation of interest, or any other amount

(Amount in Rupees)

Sr. No.	Description	Place of supply (State/UT)	Amount due (Interest/ Other)	
			Integrated tax	Cess
1	2	3	4	5
1.	Interest			
2.	Others			
	Total			

“;

(iii). for serial number 7, the following shall be substituted, namely: -

“7. Tax, interest and any other amount payable and paid

(Amount in Rupees)

Sr. No.	Description	Amount payable		Debit entry no.	Amount paid	
		Integrated tax	Cess		Integrated tax	Cess
1	2	3	4	5	6	7
1.	Tax Liability (based on Table 5 & 5A)					
2.	Interest (based on Table 6)					
3.	Others (based on Table 6)					

“.

11. In the said rules, in **FORM GSTR-9**, -

(i) in the Table, -

(a) against serial number 8C, in column 2, for the entry, the following entry shall be substituted, namely: -

“ITC on inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs) received during the financial year but availed in the next financial year up to specified period”;

(b) against Pt. V, for the heading, the following heading shall be substituted, namely: -

“Particulars of the transactions for the financial year declared in returns of the next financial year till the specified period.”;

(ii) in the instructions, -

(a) after paragraph 2, the following entry shall be inserted, namely,-

“2A. In the Table, against serial numbers 4, 5, 6 and 7, the taxpayers shall report the values pertaining to the financial year only. The value pertaining to the preceding financial year shall not be reported here.”

(b) in paragraph 4, -

(A) after the words, letters and figures, “that additional liability for the FY 2017-18 or FY 2018-19”, the word, letters and figures “or FY 2019-20” shall be inserted;

(B) in the Table, in second column, for the letters, figures and word “FY 2017-18 and 2018-19” wherever they occur, the letters, figures and word “FY 2017-18, 2018-19 and 2019-20” shall be substituted;

(c) in paragraph 5, in the Table, in second column, -

(A) against serial number 6B, after the entries, the following entry shall be inserted, namely: -

“For FY 2019-20, the registered person shall report the breakup of input tax credit as capital goods and have an option to either report the breakup of the remaining amount as inputs and input services or report the entire remaining amount under the “inputs” row only.”;

(B) against serial number 6C and serial number 6D, -

(i) after the entry ending with the words “entire input tax credit under the “inputs” row only.”, the following entry shall be inserted, namely: -

“For FY 2019-20, the registered person shall report the breakup of input tax credit as capital goods and have an option to either report the breakup of the remaining amount as inputs and input services or report the entire remaining amount under the “inputs” row only.”;

(ii) in the entry ending with the words, figures and letters “Table 6C and 6D in Table 6D only.”, for the letters, figures and word “FY 2017-18 and 2018-19”, the letters, figures and word “FY 2017-18, 2018-19 and 2019-20” shall be substituted;

(C) against serial number 6E, after the entry, the following entry shall be inserted, namely: -

“For FY 2019-20, the registered person shall report the breakup of input tax credit as capital goods and have an option to either report the breakup of the remaining amount as inputs and input services or report the entire remaining amount under the “inputs” row only.”;

(D) against serial number 7A, 7B, 7C, 7D, 7E, 7F, 7G and 7H, in the entry, for the letters, figures and word “FY 2017-18 and 2018-19”, the letters, figures and word “FY 2017-18, 2018-19 and 2019-20” shall be substituted.;

(E) against serial number 8A, after the entry, the following entry shall be inserted, namely: -

“For FY 2019-20, it may be noted that the details from **FORM GSTR-2A** generated as on the 1st November, 2020 shall be auto-populated in this table.”;

(F) against serial number 8C, for the entries, the following entry shall be substituted, namely:-

“Aggregate value of input tax credit availed on all inward supplies (except those on which tax is payable on reverse charge basis but includes supply of services received from SEZs) received during the financial year for which the annual return is being filed for but credit on which was availed in the next financial year within the period specified under Section 16(4) of the CGST Act, 2017.”;

(d) in paragraph 7, –

(A) after the words and figures “April 2019 to September 2019.”, the following shall be inserted, namely: -

“For FY 2019-20, Part V consists of particulars of transactions for the previous financial year but paid in the **FORM GSTR-3B** between April 2020 to September 2020.”;

(B) in the Table, in second column, -

(I) against serial number 10 & 11, after the entries, the following entry shall be inserted, namely: -

“For FY 2019-20, Details of additions or amendments to any of the supplies already declared in the returns of the previous financial year but such amendments were furnished in Table 9A, Table 9B and Table 9C of **FORM GSTR-1** of April 2020 to September 2020 shall be declared here.”;

(II) against serial number 12, -

(1) in the entry beginning with the word, letters and figures “For FY 2018-19” after the words “for filling up these details.”, the following entry shall be inserted, namely: -

“For FY 2019-20, Aggregate value of reversal of ITC which was availed in the previous financial year but reversed in returns filed for the months of April 2020 to September 2020 shall be

declared here. Table 4(B) of **FORM GSTR-3B** may be used for filling up these details. For FY 2019-20, the registered person shall have an option to not fill this table.”;

(2) in the entry beginning with the word, letters and figures “For FY 2017-18” and ending with the words “an option to not fill this table.”, for the letters, figures and word “FY 2017-18 and 2018-19”, the letters, figures and word “FY 2017-18, 2018-19 and 2019-20” shall be substituted;

(III) against serial number 13, –

(1) in the entry beginning with the word, letters and figures “For FY 2018-19” after the words, letters and figures “in the annual return for FY 2019-20.”, the following entry shall be inserted, namely: -

“For FY 2019-20, Details of ITC for goods or services received in the previous financial year but ITC for the same was availed in returns filed for the months of April 2020 to September 2020 shall be declared here. Table 4(A) of **FORM GSTR-3B** may be used for filling up these details. However, any ITC which was reversed in the FY 2019-20 as per second proviso to sub-section (2) of section 16 but was reclaimed in FY 2020-21, the details of such ITC reclaimed shall be furnished in the annual return for FY 2020-21.”;

(2) in the entry beginning with the word, letters and figures “For FY 2017-18” and ending with the words “an option to not fill this table.”, for the letters, figures and word “FY 2017-18 and 2018-19”, the letters, figures and word “FY 2017-18, 2018-19 and 2019-20” shall be substituted;

(e) in paragraph 8, in the Table, in second column, for the letters, figures and word “FY 2017-18 and 2018-19” wherever they occur, the letters, figures and word “FY 2017-18, 2018-19 and 2019-20” shall be substituted.

12. In the said rules, in **FORM GSTR-9C**, in the instructions, -

(i) in paragraph 4, in the Table, in second column, for the letters, figures and word “FY 2017-18 and 2018-19” wherever they occur, the letters, figures and word “FY 2017-18, 2018-19 and 2019-20” shall be substituted;

(ii) in paragraph 6, in the Table, in second column, for the letters, figures and word “FY 2017-18 and 2018-19” wherever they occur, the letters, figures and word “FY 2017-18, 2018-19 and 2019-20” shall be substituted.

13. In the said rules, in **FORM GST RFD-01**, in Annexure-1, in Statement-2, in the heading the brackets, word and letters “(accumulated ITC)”, shall be omitted.

14. In the said rules, in **FORM GST ASMT-16**, for the table, the following table shall be substituted, namely: -

“Sr. No.	Tax Rate	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Fee	Others	Total
			From	To								
1	2	3	4	5	6	7	8	9	10	11	12	13
Total												”.

15. In the said rules, in **FORM GST DRC-01**, after entry (c), for the table, the following table shall be substituted, namely: -

“Sr. No.	Tax rate	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Fee	Others	Total
			From	To								
1	2	3	4	5	6	7	8	9	10	11	12	13
Total												”.

16. In the said rules, in **FORM GST DRC-02**, after entry (c), for the table, the following table shall be substituted, namely: -

“Sr. No.	Tax rate	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Intere st	Penalty	Fee	Othe rs	Total
			From	To								
1	2	3	4	5	6	7	8	9	10	11	12	13
Total												“.

17. In the said rules, in **FORM GST DRC-07**, after serial number 5, for the table, the following table shall be substituted, namely: -

“Sr. No.	Tax Rate	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Fee	Others	Total
			From	To								
1	2	3	4	5	6	7	8	9	10	11	12	13
Total												“.

18. In the said rules, in **FORM GST DRC-08**, after serial number 7, for the table, the following table shall be substituted, namely: -

“Sr. No.	Tax Rate	Turnover	Tax Period		Act	POS (Plac+e of Supply)	Tax	Interest	Penalty	Fee	Others	Total
			From	To								
1	2	3	4	5	6	7	8	9	10	11	12	13
Total												“.

19. In the said rules, in **FORM GST DRC-09**, for the table, the following table shall be substituted, namely: -

“Act	Tax/Cess	Interest	Penalty	Fee	Others	Total
1	2	3	4	5	6	7
Integrated tax						
Central tax						
State/UT tax						
Cess						
Total						“.

20. In the said rules, in **FORM GST DRC-24**, for the table, the following table shall be substituted, namely: -

“Act	Tax	Interest	Penalty	Fee	Other Dues	Total Arrears
1	2	3	4	5	6	7
Central tax						
State / UT tax						
Integrated tax						
Cess						“.

21. In the said rules, in **FORM GST DRC-25**, for the table, the following table shall be substituted, namely: -

“Act	Tax		Interest	Penalty	Fee	Other Dues	Total Arrears
1	2		3	4	5	6	7
Central tax							
State / UT tax							
Integrated tax							
Cess							”.

[F. No. CBEC-20/06/09/2019-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. 72/2020-Central Tax, dated the 30th September, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 603(E), dated the 30th September, 2020.

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

Government of India
Ministry of Finance
(Department of Revenue)
Central Board of Indirect Taxes and Customs
Notification No. 80 /2020 – Central Tax

New Delhi, the 28th October, 2020

G.S.R.....(E).– In exercise of the powers conferred by sub-section (1) of section 44 of the Central Goods and Services Tax Act, 2017 (12 of 2017), read with rule 80 of the Central Goods and Services Tax Rules, 2017, the Commissioner, 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. 41/2020 - Central Tax, dated the 5th May, 2020 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 275(E), dated the 5th May, 2020, namely:-

In the said notification, for the figures, letters and word “**31st October, 2020**”, the figures, letters and word “**31st December, 2020**” shall be substituted.

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

(Pramod Kumar)

Director, Government of India

Note: The principal notification No. 41/2020 - Central Tax, dated the 5th May, 2020, was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 275(E), dated the 5th May, 2020 and was last amended *vide* notification No. 69/2020 – Central Tax dated the 30th September, 2020, published *vide* number G.S.R. 595 (E), dated the 30th September, 2020.

(IV) CENTRAL TAX (RATE) NOTIFICATIONS

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

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 05/2020 - Central Tax (Rate)

New Delhi, the 16th October, 2020

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

In the said notification, in the Table, after serial number 19B and the entries relating thereto, the following shall be inserted, namely:-

“19C	9965	Satellite launch services supplied by Indian Space Research Organisation, Antrix Corporation Limited or New Space India Limited.	Nil	Nil.”
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[F. No.354/135/2020 -TRU]

(Pramod Kumar)
Director to the Government of India

Note: The principal notification was published in the Gazette of India, Extraordinary, *vide* notification No. 12/2017 - Central Tax (Rate), dated the 28th June, 2017, *vide* number G.S.R. 691 (E), dated the 28th June, 2017 and was last amended by notification No. 04/2020 - Central Tax (Rate), dated the 30th September, 2020 *vide* number G.S.R. 604(E), dated the 30th September, 2020.

(V) 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. 06/2020 – Integrated Tax

New Delhi, the 15th October, 2020

G.S.R.....(E).—In exercise of the powers conferred by the first proviso to rule 46 of the Central Goods and Services Tax Rules, 2017, read with notification No. 4/2017-Integrated Tax, dated the 28th June, 2017, the Central Board of Indirect Taxes and Customs, 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.5/2017 – 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. 697(E), dated the 28th June, 2017, namely:—

In the said notification, with effect from the 01st day of April, 2021, for the Table, the following shall be substituted, namely, -

“Table

Serial Number (1)	Aggregate Turnover in the preceding Financial Year (2)	Number of Digits of Harmonised System of Nomenclature Code (HSN Code) (3)
1.	Up to rupees five crores	4
2.	more than rupees five crores	6

Provided that a registered person having aggregate turnover up to five crores rupees in the previous financial year may not mention the number of digits of HSN Code, as specified in the corresponding entry in column (3) of the said Table in a tax invoice issued by him under the said rules in respect of supplies made to unregistered persons.”.

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

(Pramod Kumar)
Director, Government of India

Note: The principal notification number 5/2017 – 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.697(E), dated the 28th June, 2017.

(VI) IGST TAX (RATE) NOTIFICATIONS

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

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 05/2020- Integrated Tax (Rate)

New Delhi, the 16th October, 2020

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

In the said notification, in the Table, after serial number 20B and the entries relating thereto, the following shall be inserted, namely:-

“20C	9965	Satellite launch services supplied by Indian Space Research Organisation, Antrix Corporation Limited or New Space India Limited.	Nil	Nil.”
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[F. No.354/135/2020 -TRU]

(Pramod Kumar)
Director to the Government of India

Note: The principal notification was published in the Gazette of India, Extraordinary, *vide* notification No. 9/2017 - Integrated Tax (Rate), dated the 28th June, 2017, *vide* number G.S.R. 684 (E), dated the 28th June, 2017 and was last amended by notification No. 04/2020 - Integrated Tax (Rate), dated the 30th September, 2020 *vide* number G.S.R. 605(E), dated the 30th September, 2020.

(VII) CGST CIRCULARS

Circular No. 142/12/2020- GST

**F. No. CBIC/20/06/14/2020-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing**

New Delhi, the 9th October, 2020

To

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

Madam / Sir,

Subject: Clarification relating to application of sub-rule (4) of rule 36 of the CGST Rules, 2017 for the months of February, 2020 to August, 2020 – reg.

Vide Circular No. 123/42/2019 – GST dated 11th November, 2019, various issues relating to implementation of sub-rule (4) of rule 36 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules) relating to availment of input tax credit (ITC) in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act) were clarified.

2. Keeping the situation prevailing in view of measures taken to contain the spread of COVID-19 pandemic, vide notification No. 30/2020-CT, dated 03.04.2020, it had been prescribed that the condition made under sub-rule (4) of rule 36 of the CGST Rules shall apply cumulatively for the tax period February, March, April, May, June, July and August, 2020 and that 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.

3. To ensure uniformity in the implementation of the said provisions across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the CGST Act hereby clarifies certain issues in succeeding paragraphs.

3.1 **It is re-iterated that the clarifications issued earlier vide Circular No. 123/42/2019 – GST dated 11.11.2019 shall still remain applicable, except for the cumulative application as prescribed in proviso to sub-rule (4) of rule 36 of the CGST Rules.** Accordingly, all the taxpayers are advised to ascertain the details of invoices uploaded by their suppliers under sub-section (1) of section 37 of the CGST Act for the periods of February, March, April, May, June, July and August, 2020, till the due date of furnishing of the statement in **FORM GSTR-1** for the month of September, 2020 as reflected in GSTR-2As.

3.2 Taxpayers shall reconcile the ITC availed in their **FORM GSTR-3Bs** for the period February, 2020 to August, 2020 with the details of invoices uploaded by their suppliers of the said

months, till the due date of furnishing **FORM GSTR-1** for the month of September, 2020. The cumulative amount of ITC availed for the said months in **FORM GSTR-3B** should not exceed 110% of the cumulative value of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37 of the CGST Act, till the due date of furnishing of the statements in **FORM GSTR-1** for the month of September, 2020.

3.3 It may be noted that availability of 110% of the cumulative value of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37 of the CGST Act does not mean that the total credit can exceed the tax amount as reflected in the total invoices for the supplies received by the taxpayer i.e. the maximum credit available in terms of provisions of section 16 of the CGST Act.

3.4 The excess ITC availed arising out of reconciliation during this period, if any, shall be required to be reversed in Table 4(B)(2) of **FORM GSTR-3B**, for the month of September, 2020. Failure to reverse such excess availed ITC on account of cumulative application of sub-rule (4) of rule 36 of the CGST Rules would be treated as availment of ineligible ITC during the month of September, 2020.

4. The manner of cumulative reconciliation for the said months in terms of proviso to sub-rule (4) of rule 36 of the CGST Rules is explained by way of illustration, in a tabulated form, below.

Table I

Tax period	Eligible ITC as per the provisions of Chapter V of the CGST Act and the rules made thereunder, except rule 36(4)	ITC availed by the taxpayer (recipient) in GSTR-3B of the respective months	Invoices on which ITC is eligible and uploaded by the suppliers till due date of FORM GSTR-1 for the tax period of September, 2020	Effect of cumulative application of rule 36(4) on availability of ITC.
Feb, 2020	300	300	270	Maximum eligible ITC in terms of rule 36 (4) is 2450 + [10% of 2450] =2695. Taxpayer had availed ITC of 2750. Therefore, ITC of 55 [2750-2695] would be required to be reversed as mentioned in para 3.4. above.
March, 2020	400	400	380	
April, 2020	500	500	450	
May, 2020	350	350	320	
June, 2020	450	450	400	
July, 2020	550	550	480	
August, 2020	200	200	150	
TOTAL	2750	2750	2450	
ITC Reversal required to the extent of 55				
September, 2020	500	385	350	10% Rule shall apply independently for September, 2020
In the FORM GSTR-3B for the month of September, 2020, the tax payer shall avail ITC of 385 under Table 4(A) and would reverse ITC of 55 under Table 4(B)(2)				

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

6. Difficulty, if any, in implementation of this circular may please be brought to the notice of the Board.

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

(VIII) ADVANCE RULINGS

1. No ITC on medicines used in supply of health care services to inpatients

Case Name : **In re Ambara (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 51/2020

Date of Judgement/Order : 08/10/2020

Q1. Whether input tax credit is required to be restricted on medicines supplied to patients admitted in hospital?

A1. The input tax credit is required to be restricted on medicines used in the supply of health care services provided to inpatients.

Q2. Whether input tax credit is required to be restricted on medicines supplied to patients treated as out patients?

A2. The input tax credit is required to be restricted on medicines used in the supply of health care services provided to outpatients. Further in case medicines are supplied independent of health care services, then the applicant is eligible to claim input tax credit subject to payment of taxes on such independent supply of medicines.

Q3. Whether input tax credit is required to be restricted on medicines supplied to other than patients and out-patients?

A3. The input tax credit is not required to be restricted on medicines supplied to others i.e. customers, who are neither inpatients nor outpatients, as there is no health care services provided and is liable to pay tax on such outward supply of medicines.

Q4. Whether input tax credit is required to be restricted on supply of food and beverages to the patients admitted in hospital?

A4. The input tax credit is to be restricted on supply of food & beverages supplied to inpatients and is part of the health care services.

2. GST on Liaison office in India of Foreign Company

Case Name : **In re Fraunhofer-Gesellschaft Zur Forderung der angewandten Forschung (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 50/2020

Date of Judgement/Order : 08.10.2020

Q. Whether the Activities of a liaison office amount to supply of services, Whether a liaison office is required to be registered under CGST Act, 2017 and Whether liaison office is liable to pay GST?

The applicant, incorporated in Germany, undertakes the business of promoting applied research and hence established their liaison office in Bangalore, India, (herein after referred to as "Applicant" or "Liaison office / LO"), under the permission of RBI vide FE.CO.FID/27803/10.97.856/2013-14 dated 11.06.2014, to act as an extended arm of

the head office and to carry out the activities that are permitted by Reserve Bank of India.

In the instant case the applicant has representational office i.e. LO in Bangalore, India and hence the applicant has an establishment in India. Further the applicant's head office is outside India and hence the applicant's head office has an establishment outside India. Thus the applicant (LO) and their head office (HO) shall be treated as establishments of distinct persons, in terms of Section 8 supra. Therefore the applicant (LO) and their head office (HO) are distinct persons and the activities performed by them can't be called export of services.

The applicant has claimed exemption by virtue of SI. No. 10F of **notification No. 09/2017-Integrated Tax(Rate) dated 28.06.2017** as amended by **Notification No. 15/2018-IT (R) dated 26.07.2018**. The condition mentioned in the Notification for claiming exemption is that the place of supply of service is outside India in accordance with Section 13 of **IGST Act, 2017**.. Since this Authority is not eligible to decide the matter of place of supply as per Section 97 (2) of CGST Act 2017.we will not be able to comment on the claim of exemption, claimed by the applicant. However, we proceed to comment on the submission made by the applicant that they are not an intermediary as per Section 2 (13) of IGST Act, 2017. There is no doubt that the applicant is facilitating supply between the HO and Indian customers. They have a mandate from RBI for this purpose. Further, they are not making any supply on their own, which anyway is a restriction placed upon them by RBI. Their contention that they are not "person" has already been dealt in the above para. We find that they are a distinct legal entity and are aptly covered under the definition of intermediary as per Section 2 (13) of IGST Act, 2017.. Lastly, in regard to the submissions made by the applicant in respect of valuation, we observe that Rule 28 to Rule 31 of the CGST Rules, 2017 have to be resorted for the purpose of determining tax liability.

On the question whether they need to take registration, we observe that the supply of services by the applicant amount to inter-state supply of services in terms of Section 7(5) of the IGST Act, 2017.Further persons making any inter-state taxable supply shall be required to be registered compulsorily in terms of Section 24 of the CGST Act 2017.

3. Pure consultancy services to Municipalities & Corporations are exempt from GST

Case Name : **In re Vimos Technocrats Private Limited (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ARDG 52/2020

Date of Judgement/Order : 9.10.2020

Q1. Whether pure consultancy services provided to the Municipalities and Corporations are exempt from GST as per the serial number 3 of the notification 12/2017-Central tax (Rate) dated 28.06.2017?

A1. Pure consultancy services (without supply of goods) provided by the applicant to the Municipalities and Corporations (local bodies) and State Government

Departments, as enumerated in the application, are exempt from GST as per the serial number 3 of the **notification 12/2017-Central tax (Rate) dated 28.06.2017?**

Q2. Whether pure consultancy services provided to the private individual is taxable? If, yes, what is the rate of tax and relevant notification?

A2. Pure consultancy services provided to the private individuals is taxable at 9% under CGST and 9% under SGST as per the entry No.21 of the **Notification No. 11/2017 Central Tax (Rate) Dated 28/06/2017.**

Q3. Whether the input tax paid on the purchase of capital goods like furniture, computer, lab equipments, drone cameras, total station, auto level instruments, etc., and on certain services can be claimed to the extent of taxable supply of services?

A3. Input tax paid on the purchase of capital goods like furniture, computer, lab equipments, drone camera, total station, auto level instruments, etc., and on certain inputs services shall be restricted to so much of the input tax as is attributable to the taxable supplies made by the applicant as per subsection 2 of section 17 of the CGST Act 2017.

4. Milk with turmeric extracts is classifiable under HSN 0401

Case Name : **In re ITC Limited (GST AAR West Bangal)**

Appeal Number : Advance Ruling Order No. 11/Wbaar/2020-21

Date of Judgement/Order : 12/10/2020

Circular No. 52/26/2018-GST dated 09/08/2018 of TRU, Department of Revenue, Government of India (**Trade Circular No. 11/2018 dated 13/08/2018** of the State Government) already clarifies that milk fortified with vitamins A and D is classifiable under HSN 0401. The above Explanatory Note further explains that such milk remains classified under HSN 0401 even if a small quantity of items containing anti-oxidant properties are added. The applicant's product, therefore, remains classifiable under HSN 0401 even after a small quantity of curcuminoids, having ant-oxidant properties, are added, provided the Analysis Report referred to in para 2.1 is accurate. It follows that the product is exempt under Entry No. 25 of the Exemption Notification.

RULING

The applicant's product, as described in para 2.1 of this order is classifiable under HSN 0401 and is exempt under Serial No. 25 of **Notification No. 2/2017- Central Tax (Rate) dated 28/06/2017** (1126-FT dated 28/06/2017 of the State Notification), as amended from time to time.

This Ruling is valid subject to the provisions under Section 103 until and unless declared void under Section 104(1) of the GST Act.

5. Works contract service of laying pipelines in Bangladesh is not export

Case Name : **In re Maninder Singh (GST AAR West Bengal)**

Appeal Number : Order No. 10/WBAAR/2020-21

Date of Judgement/Order : 12/10/2020

NRL has awarded the contract to the applicant for construction of the pipeline in Bangladesh and pays the consideration. NRL is, therefore, the recipient in terms of section 2(93)(a) of the GST Act.

A strip of land extending over more than a hundred kilometre is not a fixed establishment in terms of section 2(7) of the IGST Act. Location of the recipient in the present context cannot, therefore, be determined by applying the provisions under section 2(14) (b) or (c) of the IGST Act. NRL being registered and resident of India, the location of the recipient of the service shall be in India in terms of section 2(14)(d) of the IGST Act.

The place of supply of the service should, therefore, be determined in terms of proviso to section 12(3)(a) of the IGST Act for carrying out the construction work of immovable property. It shall be in India, being the location of the recipient.

The applicant's service will not, therefore, be the export of service within the meaning of section 2(6) of the IGST Act.

The provisions for deemed export under section 147 of the GST Act is available for supply of goods only. The applicant's supply of service cannot, therefore, be considered 'deemed export' under the GST Act.

This Authority agrees with the submissions of the revenue, as discussed in para no. 3.2 to 3.3 above, which follows once the applicant's supply of works contract service is adjudged a supply within the territory of India.

Although a public sector undertaking NRL is not a Govt Entity as defined in clause 4(x) of the Rate Notification (direct Govt participation in equity is less than 90% in NRL). The concessional rate in terms of Entry No. 3(iii)(c) of the Rate Notification is, therefore, unavailable. It will, therefore, be taxable @ 18% under Entry No. 3(xii) of the Rate Notification.

6. GST exempt on Supply of Kharif Arhar (Tur) & Green Grm crops to NAFED

Case Name : **In re The Karnataka State Co-Operative Marketing Federation Limited (GST AAR Karnataka)**

Appeal Number : Advance Ruling No. KAR ADRG 53/2020

Date of Judgement/Order : 12.10.2020

Q1. Whether the transaction of supplying Kharif Arhar (Tur) Crops and Green Grm crops from farmers to NAFED is a taxable supply ? What is the rate of tax to be charged for sale of Agricultural produce to NAFED, if it is to be treated as taxable supply?

A1. supply of Kharif Arhar (Tur) and Green Gram to NAFED is an exempted supply as per entry No.45 of the **Notification No.2/2017- Central Tax(Rate) dated 28th June, 2017.**

Q2. Whether GST paid on purchase of Gunny bags by KSCMFL eligible to be claimed as Input Tax Credit?

A2. GST paid on purchase of Gunny bags shall not be claimed an input tax credits per subsection 2 of section 17 of the CGST Act 2017.

Q3. Whether provisions of Section 51 and Notification 50/2018 – Central Tax dated 13th September 2018 applicable on KSCMFL i.e. is KSCMFL required to deduct TDS u/s 51 of CGST/KGST Act, 2017 on payments to be made by KSCMFL to NAFED?,

A3. The provisions of TDS as prescribed under section 51 of **CGST/KGST Act, 2017** does not apply to the applicant.

7. Solid Waste Management services classifiable under SAC 9994

Case Name : **In re Zigma Global Environ Solutions Private Limited (GST AAR Tamilnadu)**

Appeal Number : Order No. 35/ARA/2020

Date of Judgement/Order : 21/10/2020

Q. Classification of the services viz ‘Solid waste management – Revamping of existing dumped Garbage in compost yards by Bio -mining process’ provided by the applicant to M/s. Erode City Municipal Corporation, Erode?

A. Solid Waste Management-Revamping of Existing Dumped Garbage in Compost Yards by Bio-Mining process” provided by the applicant to M/s. Erode City Municipal Corporation, Erode is classifiable under SAC 9994 as per the Annexure to **Notification No. 11/2017-C.T.(Rate) dated 28.06.2017** for the reasons discussed in Para 7.

8. Nizam Pakku merits classification under Chapter 08028090

Case Name : **In re Shri Abdul Razak Safiullah (GST AAR Tamilnadu)**

Appeal Number : Order No. 34/ARA/2020

Date of Judgement/Order : 21/10/2020

Q. Whether the ‘Nizam Pakku’ bought and sold by the Applicant, the manufacturing process of which has been explained by them, is classifiable under Chapter heading 0802 8030 of the Customs Tariff and hence attract 2.5 % CGST as per SI.No.28 of Schedule I of **Notification 1/2017 Central Taxes (Rate) Dt. 28.06.2017** and equal rate of SGST?

A. "Nizam Pakku" traded by the applicant merits classification under Chapter 0802 80 90 of the Customs Tariff and attracts 6 % CGST as per SI.No. 15 of Schedule II under **Notification 1/2017-Central Tax (Rate) Dt. 28.06.2017** and 6 % SGST under Notification No. II(2)/CTR/532(d-4)/2017 vide). G.O.(Ms) No: 62 dated 29.06.2017 as amended.

(IX) COURT ORDERS/ JUDGEMENTS

1. GST- Section 83- HC Quashes Provisional Attachment of immovable property

Case Name : **Khushi Sarees Vs State of Gujarat (Gujarat High Court)**

Appeal Number : R/Special Civil Application No. 9807 of 2020

Date of Judgement/Order : 01/10/2020

Section 83 talks about the opinion which is necessary to be formed for the purpose of protecting the interest of the government revenue. Any opinion of the authority to be formed is not subject to objective test. The language leaves no room for the relevance of an official examination as to the sufficiency of the ground on which the authority may act in forming its opinion. But, at the same time, there must be material based on which alone the authority could form its opinion that it has become necessary to order provisional attachment of the goods or the bank account to protect the interest of the government revenue. The existence of relevant material is a precondition to the formation of opinion. The use of the word “may” indicates not only the discretion, but an obligation to consider that a necessity has arisen to pass an order of provisional attachment with a view to protect the interest of the government revenue. Therefore, the opinion to be formed by the Commissioner or take a case by the delegated authority cannot be on imaginary ground, wishful thinking, howsoever laudable that may be. Such a course is impermissible in law. At the cost of repetition, the formation of the opinion, though subjective, must be based on some credible material disclosing that is necessary to provisionally attach the goods or the bank account for the purpose of protecting the interest of the government revenue. The statutory requirement of reasonable belief is to safeguard the citizen from vexatious proceedings. “Belief” is a mental operation of accepting a fact as true, so, without any fact, no belief can be formed. It is equally true that it is not necessary for the authority under the Act to state reasons for its belief. But if it is challenged that he had no reasons to believe, in that case, he must disclose the materials upon which his belief was formed, as it has been held by the Supreme Court in Sheonath Singh’s case [AIR 1971 SC 2451], that the Court can examine the materials to find out whether an honest and reasonable person can base his reasonable belief upon such materials although the sufficiency of the reasons for the belief cannot be investigated by the Court. In the case at hand, Ms. Mehta, the learned A.G.P. appearing for the respondents very fairly submitted that not only the impugned order of provisional attachment is bereft of any reason, but there is nothing on the original file on the basis of which this Court may be in a position to ascertain the genuineness of the belief formed by the authority. The word “necessary” means indispensable, requisite; indispensably requisite, useful, incidental or conducive; essential; unavoidable; impossible to be otherwise; not to be avoided; inevitable. The word “necessary” must be construed in the connection in which it is used. The formation of the opinion by the authority should reflect intense application of mind with reference to the material available on record that it had become necessary to order provisional attachment of the goods or the bank account or other articles which may be useful or relevant to any proceedings under the Act. [see: Bhikhubhai Vitlabhai Patel and others vs. State of Gujarat AIR 2008 SCC 1771].

A Coordinate Bench of this Court, to which one of us J.B. Pardiwala, J. was a party, had the occasion to discuss Section 83 of the Act in the case of Valerius Industries vs. Union of India, Special Civil Application No.13132 of 2019, decided on 28th August, 2019, wherein this Court drew the following conclusion:

“[1] The order of provisional attachment before the assessment order is made, may be justified if the assessing authority or any other authority empowered in law is of the opinion that it is necessary to protect the interest of revenue. However, the subjective satisfaction should be based on some credible materials or information and also should be supported by supervening factor. It is not any and every material, howsoever vague and indefinite or distant remote or far-fetching, which would warrant the formation of the belief.

[2] The power conferred upon the authority under Section 83 of the Act for provisional attachment could be termed as a very drastic and far reaching power. Such power should be used sparingly and only on substantive weighty grounds and reasons.

[3] The power of provisional attachment under Section 83 of the Act should be exercised by the authority only if there is a reasonable apprehension that the assessee may default the ultimate collection of the demand that is likely to be raised on completion of the assessment. It should, therefore, be exercised with extreme care and caution.

[4] The power under Section 83 of the Act for provisional attachment should be exercised only if there is sufficient material on record to justify the satisfaction that the assessee is about to dispose of wholly or any part of his / her property with a view to thwarting the ultimate collection of demand and in order to achieve the said objective, the attachment should be of the properties and to that extent, it is required to achieve this objective.

[5] The power under Section 83 of the Act should neither be used as a tool to harass the assessee nor should it be used in a manner which may have an irreversible detrimental effect on the business of the assessee.

[6] The attachment of bank account and trading assets should be resorted to only as a last resort or measure. The provisional attachment under Section 83 of the Act should not be equated with the attachment in the course of the recovery proceedings.

[7] The authority before exercising power under Section 83 of the Act for provisional attachment should take into consideration two things: (i) whether it is a revenue neutral situation (ii) the statement of “output liability or input credit”. Having regard to the amount paid by reversing the input tax credit if the interest of the revenue is sufficiently secured, then the authority may not be justified in invoking its power under Section 83 of the Act for the purpose of provisional attachment.”

We are of the view that none of the above referred conditions are fulfilled in the present case.

In the result, this writ application stands partly allowed. The relief with regard to the order in Form GST DRC-01A is not granted, whereas the order of provisional attachment of immovable property under Section 83 of the Act is quashed and set aside.

2. High Court Allows to File Revised Returns for FY 2017-18 under DVAT

Case Name : **GSP Power System Pvt. Ltd. Vs Commissioner Of Goods And Services Tax Department Of Trade And Taxes & Anr. (Delhi High Court)**

Appeal Number : W.P.(C) 7411/2020

Date of Judgement/Order : 05/10/2020

In the instant case, petitioner seeks a direction to the respondent authorities to allow the petitioner's revision of returns for the year 2017-18 as per the provisions of DVAT Act and Rules.

High Court states that, no useful purpose would be served by keeping the petition pending. Consequently, this Court directs the respondent to allow the amendment sought by the petitioner in its return of first Quarter for the Financial Year 2017-18. However, this direction shall remain suspended till the Civil Appeals pending before the Supreme Court, taken note of hereinabove, are decided and this direction shall abide by the decision that the Supreme Court renders.

3. Goods & Vehicle cannot be ordered to release as confiscation proceedings is pending: HC

Case Name : **Rajesh Kiran D Vs. Joint Commissioner of State Tax (Gujarat High Court)**

Appeal Number : Special Tax Appeal No. 10336 of 2020

Date of Judgement/Order : 05/10/2020

The matter, as on date, is at the stage of Form GST MOV-10. Thus, the writ applicant has been called upon to show-cause as to why the goods and the vehicle should not be confiscated under **Section 130** of the Act.

The writ applicant is here before this Court with a prayer that the goods and the vehicle may ordered to be released pending the confiscation proceedings. As the confiscation proceedings are pending, we are not inclined to grant any relief as prayed for at this point of time. We expect the writ applicant to participate in the confiscation proceedings and make good his case that no case for confiscation is made out. If the writ applicant wants provisional release of the goods and the vehicle, it is always open for him to prefer an application before the concerned authority under Section 67(6) of the Act, 2017. we may only observe that if such application is filed, then the concerned authority shall look into the same at the earliest and pass an appropriate order in accordance with law.

4. Madras HC permits re-submission of Form GSTR-3B

Case Name : **Sun Dye Chem Vs The Assistant Commissioner (ST) (Madras High Court)**

Appeal Number : W.P. No.29676 of 2019

Date of Judgement/Order : 06/10/2020

A registered person who files a return under Section 39(1) involving intra-State outward supply is to indicate the collection of taxes customer-wise in monthly return in Form GSTR-1 and the details of tax payment therein are auto populated in Form GSTR-2-A of the buyers. Any mismatch between Form GSTR-1 and Form GSTR-2A is to be notified by the recipient by way of a tabulation in Form GSTR-1A. Admittedly, Forms in GSTR-2A and GSTR-1A are yet to be notified as on date. The statutory procedure contemplated for seamless availment is, as on date, unavailable.

Undoubtedly, the petitioner in this case has committed an error in filing of the details relating to credit. What should have figured in the CGST/SGST column has inadvertently been reflected in the ISGT column. It is nobody's case that the error was deliberate and intended to gain any benefit, and in fact, by reason of the error, the customers of the petitioner will be denied credit which they claim to be legitimately entitled to, owing to the fact that the credits stands reflected in the wrong column. It is for this purpose, to ensure that the suppliers do not lose the benefit of the credit, that the present writ petition has been filed.

Admittedly, the 31st of March 2019 was the last date by which rectification of Form – GSTR 1 may be sought. However, and also admittedly, the Forms, by filing of which the petitioner might have noticed the error and sought amendment, viz. GSTR-2A and GSTR-1A are yet to be notified. Had the requisite Forms been notified, the mismatch between the details of credit in the petitioner's and the supplier's returns might well have been noticed and appropriate and timely action taken. The error was noticed only later when the petitioners' customers brought the same to the attention of the petitioner.

In the absence of an enabling mechanism, I am of the view that assessee should not be prejudiced from availing credit that they are otherwise legitimately entitled to. The error committed by the petitioner is an inadvertent human error and the petitioner should be in a position to rectify the same, particularly in the absence of an effective, enabling mechanism under statute.

This writ petition is allowed and the impugned order set aside. The petitioner is permitted to re-submit the annexures to Form GSTR-3B with the correct distribution of credit between IGST, SGST and CGST within a period of four weeks from date of uploading of this order and the respondents shall take the same on file and enable the auto-population of the correct details in the GST portal. No costs.

5. Stay application should be disposed off after considering prima facie merits of case

Case Name : **Ikea Trading (India) Pvt. Ltd.Vs Commissioner of Trade And Tax (Delhi High Court)**

Appeal Number : S.T. Appeal No. 1/2020

Date of Judgement/Order : 07/10/2020

Facts-

Appellant is engaged in local procurement and export of home furnishing products like carpets, dhurries, fabrics, plastic articles, lamps, soft toys. Appellant purchased products from a number of domestic vendors situated outside the state of Delhi against Form H. Such sales and purchases are outside the tax net in terms of section 6(1) of the Central Sales Tax Act.

The Value Added Tax Officer issued default assessment notice for payment of tax, interest and penalty.

Appellant has filed a stay application against the pre-deposit ordered by the department.

Conclusion-

It is a settled principle of law that the Courts must consider the prima facie merits of the case, the balance of convenience, and the possibility of causing irreparable injury to the parties, while considering an application for grant of stay.

It is true that on merely establishing a prima facie case, interim order of protection should not be passed. But if on a cursory glance it appears that the demand raised has no leg to stand, it would be undesirable to require the assessee to pay full or substantive part of the demand.

The Tribunal also has to be mindful of the consequences that would follow from an order that required the Assessee to deposit the whole or part of the demanded amount. While exercising this discretion, the Tribunal should not act in a mechanical manner and exercise discretion after taking into account the totality of circumstances which include the prima facie case of the Appellant.

6. 'High Speed Diesel Oil' includible as commodity in CST registration certificate

Case Name : **Sri Siva Saravana Blue Metals Vs Assistant Commissioner (ST) (Madras High Court)**

Appeal Number : WP No. 14506 of 2020

Date of Judgement/Order : 09/10/2020

The Appellant State and the Revenue Authorities are directed not to restrict the use of 'C' Forms for the inter-State purchases of six commodities by the Respondent/Assessees and other registered Dealers at concessional rate of tax and they are further directed to permit Online downloading of such Declaration in 'C' Forms to such Dealers. The Circular letter of the Commissioner dated 31.5.2018 stands quashed and set aside along with the consequential Notices and Proceedings initiated against all the Assessees throughout the State of Tamil Nadu.

Mrs. Dhanamadhri submits that the State intends to challenge the order in Writ Appeal by way of a Special Leave Petition.

As on date, the order in Writ Appeal is final, and following the rationale thereof, this Writ Petition is allowed. The petitioner is entitled to the inclusion of 'High Speed Diesel

Oil' as a commodity in the registration certificate. Let this exercise be carried out within a period of four (4) weeks from date of uploading of this order. The request of the petitioner for issuance of 'C' Forms is allowed as a consequence thereof. No costs. Connected Miscellaneous Petitions are closed.

7. GST: HC Directed to Released Provisional Attachment of 5 Bank Accounts

Case Name : Jay Ambey Filament Pvt. Ltd Vs Union of India (Gujarat High Court)

Appeal Number : R/Special Civil Appeal No. 11503 of 2020

Date of Judgement/Order : 12/10/2020

The present petition is filed to seek the permission for releasing the provisional attachment of the five banks accounts of a person accused of tax evasion under Section 74(1) of the CGST Act.

High Court states that, the order of provisional attachment before the assessment order is made, may be justified if the assessing authority or any other authority empowered in law is of the opinion that it is necessary to protect the interest of revenue. However, the subjective satisfaction should be based on some credible materials or information and also should be supported by supervening factor. It is not any and every material, howsoever vague and indefinite or distant remote or far-fetching, which would warrant the formation of the belief. The power of provisional attachment under Section 83 of the Act should be exercised by the authority only if there is a reasonable apprehension that the assessee may default the ultimate collection of the demand that is likely to be raised on completion of the assessment. It should, therefore, be exercised with extreme care and caution. The authority before exercising power under Section 83 of the Act for provisional attachment should take into consideration two things: (i) whether it is a revenue neutral situation (ii) the statement of "output liability or input credit". Having regard to the amount paid by reversing the input tax credit if the interest of the revenue is sufficiently secured, then the authority may not be justified in invoking its power under Section 83 of the Act for the purpose of provisional attachment." HC are of the view that none of the above referred conditions are fulfilled in the present case. In the result, this writ application stands allowed. The order of provisional attachment of the five bank accounts of the writ applicant under Section 83 of the Act is quashed and set aside.

8. HC allows to pay GST (Inclusive of Interest & Late Fees) in instalments

Case Name : Malayalam Motors Pvt. Ltd. Vs Assistant State Tax Officer (Kerala High Court)

Appeal Number : WP(C) No. 21490 of 2020

Date of Judgement/Order : 12/10/2020

The High court of Kerala permitted the petitioner to discharge the tax liability, inclusive of any interest and late fee thereon, in equal successive monthly installments.

Please note Section 80 of the **CGST Act, 2017** allows payment of tax due (other than the due self-assessed in any return) in monthly installments not exceeding 24 months. GSTR -1 is not a return. In case of temporary financial distress in the erstwhile Central Excise regime **Circular No. 996/3/2015-CX, dated 28-2-2015** provided for payment of the tax dues in installments.

9. No detention of Goods in Transit for alleged Wrong Classification

Case Name : **Asharaf Ali K. H. Vs Assistant State Tax Officer (Kerala High Court)**

Appeal Number : WP (C). No. 21582 of 2020 (W)

Date of Judgement/Order : 13/10/2020

High Court held that the allegation of mis-classification of goods cannot warrant detention of the goods during transit. If the officer feels that there have been misclassification of the goods, then a report to be prepared and sent to the Assessing Officer, who can consider the said report and objections at the time of finalising the assessment.

10. P&H High Court granted partial relief for deposit of 25% as pre-deposit

Case Name : **Technimont Pvt. Ltd. Vs State of Punjab (Punjab High Court)**

Appeal Number : Civil Writ Petition No. 9717 of 2020

Date of Judgement/Order : 13/10/2020

On perusal of terms and conditions of contract, documents submitted by petitioner including Form 'C' and judgments cited, we are of the opinion that petitioner has prime facie case on merits. The respondent issued Form 'C' for all the years in question and in case of doubt must have stopped as well initiate appropriate steps instead of waiting for framing assessment at fag end of limitation period. It would be harsh if petitioner is required to deposit 25% of tax, interest and penalty. Penalty imposed is 200% and it is a case of interpretation and not fraud.

Keeping in mind that petitioner has prime facie case on merits, we **direct** the petitioner to make pre-deposit of 25% of tax and further some amount towards interest, which would make a total deposit Rs. 7.5 Crore towards the condition of pre-deposit for hearing of the three appeals for assessment years concerned. We make it clear that petitioner shall make deposit of Rs. 7.5 Crore within one month from the date of receipt of certified copy of this order and it would be in respect of Assessment years 2010-11, 2011-12 and 2012-13. On furnishing of proof of deposit, First Appellate Authority i.e. Deputy Excise and Taxation Commissioner (Appeals) shall hear and decide appeals preferably within three (03) months.

11. HC Grants Bail to accused in Wrongful ITC availment case

Case Name : **Sandeep Goyal Vs Union Of India (Rajstan High Court)**

Appeal Number : S. B. Criminal Miscellaneous Fourth Bail Application No.
9096/2020
Date of Judgement/Order : 13/10/2020

Learned counsel for the respondent has opposed the petitions and has submitted that allegations levelled against the petitioners were serious in nature. After thorough investigation of the case it transpired that accused had created 75 fake firms and had issued GST invoices of taxable value of Rs. 1163,13,39,281/-involving GST of Rs. 102,18,27,034/- without any physical movement of goods.

Although in the present case allegations levelled against the petitioners are serious in nature but the fact remains that the petitioners are in custody for the last more than two years and admittedly maximum punishment to be imposed on the accused, if convicted, is five years. Complaint in the present case was filed in the year 2018, whereas, the investigation has been concluded in July, 2020. Now the case is listed before the trial court for recording of pre-charge evidence and the trial may not be concluded at an early date.

Considering the custody period of the petitioners, but without commenting on the merits of the case, it would be just and expedient to order release of the petitioners on bail.

12. HC Rejects Anticipatory Bail to GST Inspector allegedly Involved in Bribery Case

Case Name : **Gauravkumar Sudarshankumar Arora Vs State of Gujarat (Gujarat High Court)**

Appeal Number : R/Criminal Misc. Application No. 4968 of 2020

Date of Judgement/Order : 14/10/2020

In the instant case, the petitioner filed this petition to seek anticipatory bail in case of his arrest in connection with the FIR registered for the offense punishable under Sections 12, 7(a), and 13(2) of the Prevention of Corruption Act, 1988.

The petitioner is GST inspector since 2016. The accused had talked with the informant and it was made to understand that if any legal formalities are not to be done, the informant would pay a sum of Rs.75,000/ to the accused persons. The informant did not want to pay the amount of bribe and, therefore, lodged a complaint with the ACB Police Station, Surendranagar.

High Court states that, classification which is made in Section 6A on the basis of status in the government service is not permissible under Article 14 as it defeats the purpose of finding prima facie truth into the allegations of graft, which amount to an offence under the PC Act, 1988. Can there be sound differentiation between corrupt public servants based on their status? Surely not, because irrespective of their status or position, corrupt public servants are corrupters of public power. The corrupt public servants, whether high or low, are birds of the same feather and must be confronted with the process of investigation and inquiry equally. Based on the position or status

in service, no distinction can be made between public servants against whom there are allegations amounting to an offence under the PC Act, 1988. Corruption is an enemy of the nation and tracking down corrupt public servants and punishing such persons is a necessary mandate of the PC Act, 1988. It is difficult to justify the classification which has been made in Section 6A because the goal of law in the PC Act, 1988 is to meet corruption cases with a very strong hand and all public servants are warned through such a legislative measure that corrupt public servants have to face very serious consequences. In view of the aforesaid discussion, this application to seek anticipatory bail fails and is hereby rejected.

13. HC Refused to Entertain Plea of Rajinikanth against Property Tax Demand for Vacant Marriage Hall

Case Name : **R. Rajinikanth Vs Commissioner (Madras High Court)**

Appeal Number : W.P. No. 14847 of 2020

Date of Judgement/Order : 14/10/2020

The issue under consideration is whether the petition filed for disposal of notice for demanding property tax without waiting for disposal of same case by Municipal Corporation is justified in law?

In the instant case, Municipal Corporation of Chennai issued notice in the name of Rajinikanth for payment of property tax on marriage hall owned by him. According to Rajinikanth, the marriage hall owned by him has remained vacant from March 23 till now due to the **COVID-19** lockdown imposed by the government. As per Section 105 of the Chennai City Municipal Corporation Act provides for remission from tax for properties that remained vacant or unlet.

High Court states that, the Writ Petition is premature, since the petitioner has rushed to the Court within two weeks of issuing the Notice in question to the respondents instead of pursuing its consideration and disposal firstly, with the authorities itself. High Court thus inclined to dismiss this Writ Petition in limine.

14. HC: No entertainment tax on online booking charges for cinema tickets

Case Name : **PVR Ltd. Vs Commercial Tax Officer (Madras High Court)**

Appeal Number : Writ Appeal Nos. 685/2020

Date of Judgement/Order : 15/10/2020

Conclusion: Online booking charges or internet handling charges was not a mandatory payment for gaining entry into the cinema hall, it was an additional payment for extra or other facility provided by the Cinema hall owner thus, the same could not be subjected to entertainment tax.

Held: The issue raised in the case was whether the “online booking charges” charged by a Cinema Hall Owner besides the “cost of ticket” for entry into the cinema hall and enjoy the entertainment in the form of a movie, was a part of taxable receipt by the

Cinema Owner for the purposes of the Tamil Nadu Entertainment Tax Act, 1939. It was held that entertainment tax is a State subject and before the said levy of Entertainment Tax being subsumed under the GST Laws enforced in the country with effect from 1 July 2017, was the payment for admission, which as per the definition given in the Tamil Nadu Entertainment Tax Act, 1939, as amended from time to time in Section 3(7)(c) was that the payment made for any other purpose connected with such entertainment will be taxable under the said Act, only if the person concerned is required to make such payment as a condition for entry. Obviously, the online booking charges or internet handling charges, as the name given by some other cinema theater owners was not a mandatory payment for gaining entry into the cinema hall. It was an additional payment for extra or other facility provided by the Cinema hall owner. The same could be a subject matter of levy of Service Tax by the Parliament in the erstwhile law regime, prior to GST, with effect from 1 July 2017. But the Entertainment Tax being a tax collected by State for the Local Administration or Municipal Administration, is leviable only on cost of ticket which entitles a person to gain entry into the cinema hall or theatre. It was clear that assessee had paid Service Tax under Finance Act 1994 on such 'online booking charge' for the period from 01.07.2012. AO had not only imposed tax at the rate of 30% on the online booking charges to the extent of Rs.41,96,277/- but imposed penalty @ 150% under Section 7(3) to the extent of Rs.62,94,416/-vide Assessment order dated 21 September 2015, for AY 2010-11. Thus, the said reassessment orders for all the years in question for AY 2007-08 to 2014-15 (upto December 2014) could not be sustained

15. ITC of Education Cess, SHEC & KKC cannot be claimed against GST: HC

Case Name : **Assistant Commissioner of CGST and Central Excise Vs Sutherland Global Services Private Limited (Madras High Court)**

Appeal Number : Writ Appeal No. 53 of 2020

Date of Judgement/Order : 16/10/2020

Whether the Assessee is entitled to utilise and set off the accumulated unutilised amount of Education Cess (EC), Secondary and Higher Education Cess (SHEC) and Krishi Kalyan Cess (KKC), all jointly referred to as the "Cess" against the Output GST Tax Liability after the switch over of Indirect Taxation System to GST Regime with effect from 01.07.2017, which GST (Goods and Services Tax) levy subsumed within its fold 16 indirect taxes earlier leviable like Excise Duty, VAT, etc.

Admittedly, since the cross utilization of Education Cess and Secondary and Higher Education Cess was not allowed against Excise Duty and other duties under existing law prior to GST Regime and they could be set off only against the Output Education Cess and Secondary and Higher Education Cess liability, once the levy itself ceased and dropped in 2015, the question of their carry forward and utilization becomes only academic. Sub-section (8) of Section 140 and for that other matter, any of the Sub-sections of Section 140 are not the provisions in watertight compartments and do not operate in silos and a harmonious reading of various Sub-sections of Section 140, together with the three Explanations at the end of Section 140, has to be made by the

Court to give it a purposeful meaning for transition of the Input Tax Credit, against Output GST Liability. The different Sub-sections of Section 140 only identify the class of Assessee; but a common thread of entitlement to carry forward and set off runs through them, of course, subject to Explanations 1, 2 and 3 appended to Section 140 of the Act. If one carefully compares all Sub-sections of Section 140, one can discern that while all other Sub-sections talk of “entitled to take credit”, Sub-section (8) uses the word “allowed to take”. The utilisation of such credit, even if taken in Electronic Ledger and notified in Form TRAN-1, does not guarantee any such right of utilisation independent of other parts of Section 140 specially ignoring Explanation 3. Subsection (8), therefore, cannot be said to be an independent Code of law for the dealers holding centralised registration, as canvassed.

The contention of the learned counsel for the Assessee that the Assessee was having a centralized registration and Input Education Cess and Secondary and Higher Education Cess being CENVAT under Cenvat Rules, 2004, deserve to be carried forward and allowed as set off against GST Liability, merely because it had carried forward the same in the Centralised Electronic Credit Ledger, has no substance. Merely because the revenue authorities, after the cessation of levy of Education Cess and Secondary and Higher Education Cess in the year 2015 did not take any action in the contemporary period, until the impugned communication was issued to the Assessee on 09.02.2018, which triggered the filing of the writ petition and asked the Assessee to reverse that entry in the Electronic Ledger, it does not mean that the Assessee became so entitled to carry forward even a dead claim of unutilised Education Cess and Secondary and Higher Education Cess against the Output GST Liability after 01.07.2017. The set off and such adjustments could be allowed only if it clearly fell within the definition of “Eligible Duties” or “Eligible Taxes and Duties” as defined in Explanations 1 and 2. On the contrary, Explanation 3 clearly excluded Cess to be so eligible for carry forward and set off. Therefore, there is no iota of doubt that Cess of any kind except National Calamity Contingent Duty (NCCD), which was so specified in Explanations 1 and 2 specifically could be allowed to be carried forward and adjusted against Output GST Liability. It may be noted here that this NCCD is allowed to be transitioned not as CENVAT credit, but because it is specifically included as “Eligible Duties” in Explanations 1 and 2 of Section 140 of the Act.

We found considerable force in the contention raised on behalf of the Revenue before us that credit of such Education Cess and Secondary and Higher Education Cess which could not be utilised against the Output Education Cess and Secondary and Higher Education Cess Liability, while the said impost was in force prior to Finance Act, 2015, became a dead claim in the year 2015 itself and therefore, there was no question of allowing a carry forward and set off after a gap of two years against the Output GST Liability with effect from 01.07.2017.

CENVAT credit or Input Tax Credit under the GST Regime is a concession and a facility and not a vested right. Even if one were to rank such a right of CENVAT credit on the pedestal of a statutory right, even that right can be curtailed and regulated by conditions for availing such right. It is clear from the Scheme of Section 140 of the GST Act that the transition and carryforward of the Input Tax Credit of the taxes and duties paid under the earlier Indirect Tax Regimes was subject to conditions and specifications given in Section 140 of the Act and unless specifically allowed. Such

carry forward or set off could not be claimed by any implied intention or so called vested right theory. In our opinion, the unutilised Education Cess and Secondary and Higher Education Cess in the hands of the Assessee had become dead CENVAT Credit claim in the year 2015 itself with these levies dropped by the Finance Act 2015 and therefore, there is no question of it being claimed as a right to be carried forward and set off after 01.07.2017 against Output GST Liability.

The GST Law spared and did not include within its ambit and scope only six commodities which were left out and continued to be covered by the earlier existing laws of Excise Duty and VAT Law and for that purpose, Entry 54 of the State List and Entry 84 of the Union List were also suitably amended by 101st Constitutional Amendment Act. Six items which are not covered by GST are (a) Petroleum Crude, (b) High Speed Diesel, (c) Motor Spirit (commonly known as Petrol), (d) Natural Gas, (e) Aviation Turbine Fuel and (f) Tobacco and Tobacco products. Except the aforesaid 16 taxes and duties specified in different enactments, no other tax or duty were subsumed under the new GST Regime with effect from 01.07.2017.

Obviously, the transition of unutilised Input Tax Credit could be allowed only in respect of taxes and duties which were subsumed in the new GST Law. Admittedly, the three types of Cess involved before us, namely Education Cess, Secondary and Higher Education Cess and Krishi Kalyan Cess were not subsumed in the new GST Laws, either by the Parliament or by the States. Therefore, the question of transitioning them into the GST Regime and giving them credit under against Output GST Liability cannot arise. The plain scheme and object of GST Law cannot be defeated or interjected by allowing such Input Credits in respect of Cess, whether collected as Tax or Duty under the then existing laws and therefore, such set off cannot be allowed.

For these reasons also, in our opinion, the learned Single Judge, with great respects, erred in allowing the claim of the Assessee under Section 140 of the CGST Act. The main pitfalls in the reasoning given by the learned Single Judge are (a) the character of levy in the form of Cess like Education Cess, Secondary and Higher Education Cess and Krishi Kalyan Cess was distinct and stand alone levies and their input credit even under the Cenvat Rules which were applicable mutatis mutandis did not permit any such cross Input Tax Credit, much less conferred a vested right, especially after the levy of these Cesses itself was dropped; (b) Explanation 3 to Section 140 could not be applied in a restricted manner only to the specified Sub-sections of Section 140 of the Act mentioned in the Explanations 1 and 2 and as a tool of interpretation, Explanation 3 would apply to the entire Section 140 of the Act and since it excluded the Cess of any kind for the purpose of Section 140 of the Act, which is not specified therein, the transition, carry forward or adjustment of unutilised Cess of any kind other than specified Cess, viz. National Calamity Contingent Duty (NCCD), against Output GST liability could not arise.

For the aforesaid reasons, we are inclined to allow the appeal of the Revenue and with all due respect for the learned Single Judge, set aside the judgment of the learned Single Judge dated 05.09.2019 and we hold that the Assessee was not entitled to carry forward and set off of unutilised Education Cess, Secondary and Higher Education Cess and Krishi Kalyan Cess against the GST Output Liability with

reference to Section 140 of the **CGST Act, 2017**. The appeal of the Revenue is allowed. CMP No.690 of 2020 is closed. Costs easy.

16. Entry Tax: After Granting Exemption same can't be rejected for Technicalities

Case Name : **SRF Ltd. Vs State of Madhya Pradesh And Others (Madhya Pradesh High Court)**

Appeal Number : Writ Petition No. 9628/2020

Date of Judgement/Order : 16/10/2020

The issue under consideration is whether the petitioner is eligible for exemption from payment of entry tax based on certificates granted under Madhya Pradesh Udyog Nivesh Samvardhan Sahayta Yojna?

High Court states that, in the present case, as the exemption certificate has been granted in the year 2017 only, the petitioner was justified in immediately approaching the Authorities for grant of exemption and his request could not have been turned in the manner and method it has been done by the respondents. The petitioner initially preferred Writ Petition ie., W.P.No. 6666/2010. However, at the relevant point of time, there was no exemption certificate granted in favour of the petitioner and the Writ Petition was withdrawn with liberty to file a fresh Writ Petition. The petitioner has later on preferred Writ Petition ie., W.P. No. 1421/2014, W.P.No. 1323/2015 and 8845/2015 and they were withdrawn only because exemption certificate was issued in favour of the petitioner and the reassessment in respect of 4 years (2007-08 to 2010-11) was pending at the relevant point of time. However, the same has not been done and, therefore, the inaction on the part of the Department is bad in law. The assessment orders passed by the Department for four years ie., 2007-08, 2008-09, 2009-10 and 2010-11 deserves to be set aside and are accordingly hereby set aside. It is nobody's case that the exemption certificate has been withdrawn or was erroneously granted and the respondent State has admitted grant of exemption certificate and, therefore, once exemption certificate was granted, the Department cannot take advantage of technicalities, especially when the certificate itself was granted in the year 2017 with retrospective effect. Resultantly, the present Writ Petition is allowed.

17. Provisional attachment of Bank Account valid upto 1 year: Telangana HC

Case Name : **KMC Constructions Ltd. and Anr. vs. Principal Commissioner of Central Tax and 4 Ors. (Telangana High Court)**

Appeal Number : WP.No.18575 of 2020

Date of Judgement/Order : 20/10/2020

Telangana High Court directs the bank to allow petitioner to operate bank account provisionally attached by Revenue.

Provisional attachment order cannot continue after the expiry of one year.

Continuation as such would be violative of Articles 14, 19(1)(g) and 300A of the Constitution of India and would be wholly without jurisdiction.

Counsel for the petitioners has placed reliance on the decision of the Karnataka High Court in *M/s A.P. Steels and Sri Sanjay Kumar Mishra v. Additional Director General, DGCI, Bangalore Zonal Unit, Bengaluru* wherein the Karnataka High Court had held that provisional attachment of a bank account of a party cannot continue beyond a period of one year prescribed under sub-Section(2) of Section 83 of the Act and it directed the respondents to defreeze the petitioner's bank account within a certain period of time fixed therein.

Similar view has been expressed by the Gujarat High Court in **Namaskar Enterprise v. Commissioner of Goods and Service Tax** 20th October, 2020.

18. Denial of refund of IGST to Advance-Authorisation holders is valid but operates prospectively w.e.f October 23, 2017

Case Name : **Cosmo Films India Vs Union of India & Ors. (Gujarat High Court)**

Appeal Number : R/Special Civil Application No. 15833 of 2018

Date of Judgement/Order : 20/10/2020

The Hon'ble HC, Gujarat in ***Cosmo Films India v. Union of India & Ors. [R/SLP No. 15833/2018 dated October 20, 2020]*** upheld the validity of rule 96(10) of the **Central Goods and Services Tax Rules, 2017 ("CGST Rules")** and rules that notification is required to be made applicable prospectively only w.e.f. October 23, 2017 and not prior thereto from the inception of Rule 96(10) of the CGST Rules w.e.f. July 1, 2017.

Facts:

Cosmo Films India ("**the Petitioner**") is a public limited company engaged in the business of manufacturing and sale of flexible packaging films and holds Advance Authorization Licenses ("**the AA License**") granted in terms of the Foreign Trade Policy, issued and amended from time to time.

The Petitioner was entitled to import raw materials without payment of IGST under the AA License and pay IGST on exports and claim Rebate (Refund) of the IGST so paid on exports. The Petitioner has received benefits of rebate of IGST at the relevant point of time. Thereafter, subrule (10) of Rule 96 of the CGST Rules was amended by **Notification No. 39/2018- Central Tax dated September 4, 2018** with retrospective effect from October 23, 2017, providing that rebate on exports cannot be availed by the Petitioner, if the inputs procured by the Petitioner have enjoyed AA benefits or Deemed Export Benefits under the said notification. Therefore, the Petitioner was unable to utilize the benefit of dutyfree imports under AA Licenses and take the benefit of rebate on exports.

Thereafter, by **Notification No. 53/2018-Central Tax dated October 9, 2018**, sub-clause (a) and (b) of subrule 10 of Rule 96 of the CGST Rules were merged. Thereafter, vide **Notification No. 54/2018-Central Tax dated October 9, 2018 ("Impugned Notification")**, the subrule 10 of Rule 96 of the CGST Rules was again demerged and "with effect from October 23, 2017".

Issue:

Challenged the validity of sub-rule (10) of Rule 96 of CGST Rules substituted vide **Notification No. 54/2018-Central Tax dated October 9, 2018** denying the option to claim rebate to the Petitioner for importing goods under AA licenses.

Held:

The Hon'ble HC, Gujarat in **R/SLP No. 15833/2018 dated October 20, 2020** held as under:

- Rule 96 (10) as it originally existed, when the Rules came into force provided that the persons claiming refund of Integrated Tax (IGST) paid on export of goods or services should not have received supplies on which the supplier has availed the benefit from Government of India, Ministry of Finance.
- On conjoint readings of the provision of Section 16 of the **Integrated Goods and Services Tax Act, 2017** (“IGST Act”), Section 54 of Central Goods and Services Tax Act, 2017 (“CGST Act”), and Rule 96(10) of CGST Rules, which is substituted by Impugned Notification, it is apparent that the person who has availed the benefits of **Notification No. 48/2017- Central Tax dated October 18, 2017** and other Notifications as stated in subrule 10 of Section 96 ibid shall not have the benefit of claiming refund of integrated tax paid on exports of goods or services. The Petitioner has availed benefits under Advance Authorization License scheme as per the **Notification No. 18/2015- Customs dated April 1, 2015** which was amended by **Notification No. 79/2017- Customs dated October 13, 2017** and paid integrated tax on the goods procured by the Petitioners for the export purpose.
- Considering the effect of the Impugned Notification, the contentions raised on behalf of the department that there is no discrimination qua the petitioner is tenable in law, as by the amendment made by Impugned Notification it clearly denied the benefit which is granted to the Petitioner by the **Notification No. 39/2018- Central Tax dated September 4, 2018** was withdrawn as the same was not made applicable from October 23, 2017.
- Recently, vide **Notification No. 16/2020-Central Tax dated March, 23 2020** an amendment has been made by inserting explanation to Rule 96(10) of CGST Rules, 2017 as amended (with retrospective effect from October 23, 2017). By virtue of which the option of claiming refund is not restricted to the exporters who only avails BCD exemption and pays IGST on the raw materials thereby exporters who wants to claim refund under second option can switch over now.
- The above amendment was made retrospectively thereby avoiding the anomaly during the intervention period and exporters who already claimed refund under second option need to payback IGST along with interest and avail ITC, in view of which, the grievance of the Petitioner was therefore taken care of..
- However, it is also made clear that Impugned Notification is required to be made applicable w.e.f. October 23, 2017 and not prior thereto from the inception of the Rule 96(10) of the CGST Act. Therefore, in effect **Notification No. 39/2018- Central Tax dated September 4, 2018** shall remain in force as amended by the Impugned Notification by substituting subrule (10) of Rule 96 of CGST Rules, in consonance with sub-section (3) of Section 54 of the CGST Act and Section 16 of the IGST Act.

- The Impugned Notification is therefore held to be effective w.e.f. October 23, 2017

19. SC grants to Move Representation Seeking Exemption from GST on Disability Aids with GST Council

Case Name : **Nipun Malhotra Vs Union of India (Supreme Court)**

Appeal Number : Writ Petition (Civil) No. 725/2019

Date of Judgement/Order : 26/10/2020

The petition is filed to seek exemption from GST on Disability aids i.e mobility services.

The contention of petitioner is that, a normal person is not required to pay tax for walking. However, a disabled person is required to pay 5% tax for walking. He submitted that most disability equipment's are imposed GST at a rate of 5%. The counsel replied that the decision to impose GST was taken by the **GST Council** and the Ministry of Finance only executed the Council's decision. Therefore, he sought liberty to move a representation before the GST Council seeking waiver of GST on disability products.

Hence, the Supreme Court granted liberty to the petitioner to move a representation with the GST council for no GST on disability products.

20. Interest payable only on Gross GST Liability even Prior to Section 50 Amendment

Case Name : **KLT Automotive and Tubular Products Ltd. Vs Vikram Nankani (Bombay High Court)**

Appeal Number : Writ Petition (L) No. 983 of 2020

Date of Judgement/Order : 27/10/2020

The issue under consideration is whether interest under section 50 of the Central Goods and Service Tax Act, 2017 is to be levied on the gross tax liability?

High Court states that, recommendation was made for making the amendment to section 50 retrospectively with effect from 01.07.2017. It is stated that retrospective amendment in the GST laws would be carried out in the due course through suitable legislation. After issuance of the notification dated 25.08.2020, views were expressed by tax payers that the said notification is contrary to the recommendation of GST Council to charge interest on the net cash tax liability with effect from 01.07.2017. To clarify this position press release was issued on 26.08.2020. However, in order to implement the decision of the GST Council in its true spirit within the present legal framework, the above instructions were issued. Firstly, for the period 01.07.2017 to 31.08.2020, field formations have been instructed to recover interest only on the net cash tax liability i.e., that portion of the tax that has been paid by debiting the electronic cash ledger or is payable through cash ledger. Secondly, in those cases where show cause notices have been issued on gross tax payable, to keep those show cause

notices in the call book till retrospective amendment in section 50 of the Central Goods and Service Tax Act, 2017 is carried out. Therefore, the central issue raised has been answered by the Board in the above administrative instructions dated 18.09.2020 by categorically stating that the interest would be on the net cash tax liability for the period prior to the amendment i.e., from 01.07.2017 to 31.08.2020. Consequently, HC are of the view that no live issue survives for adjudication in this case. Recovery (garnishee) notices issued by the respondents on 16.07.2020 are hereby quashed. Respondents to intimate the petitioner about the quantum of interest payable on account of delayed payment of GST for the period under consideration. Writ petition is accordingly allowed.

21. HC Directed to amend RC & Permit Petitioner to Upload Returns for Past Period to Avail Eligible ITC

Case Name : **Madhav Motors Vs State Tax Officer (Kerala High Court)**

Appeal Number : WP(C).No. 5238 of 2020(D)

Date of Judgement/Order : 27/10/2020

The current petition is filed to seek the permission to upload the returns for the past period to avail eligible Input Tax Credit (ITC).

High Court states that, when the provisional registration granted to the petitioner was not cancelled through the procedure contemplated under the Act and Rules, and the respondents had granted a regular registration on 04.01.2020, the permanent registration must relate back to the date of the provisional registration and the petitioner ought to be entitled to upload the returns for the past period and to avail eligible input tax credit based on the returns uploaded by him. This is more so because it is admittedly the case that there was no formal order canceling the provisional registration, that was communicated to the petitioner in terms of the Act and Rules. Accordingly, HC quash communication, and direct the respondents to amend the Registration Certificate issued to the petitioner so as to make it valid from 01.07.2017, and permit the petitioner to upload the returns for the past period to avail eligible Input Tax Credit (ITC).

22. HC Grant Regular Bail to Petitioner accused of Fraudulently availing ITC

Case Name : **Ganga Ram Vs State of Punjab and another (Punjab & Haryana High Court)**

Appeal Number : Appeal No. CRM-M-27425-2020

Date of Judgement/Order : 28/10/2020

The present petition is filed for seeking bail to the petitioner accused of fraudulently availing ITC without any invoice or bill.

High Court states that, the criminal trial for the offences under Section 132 of the PGST Act, 2017 as also the arrest under Section 69 are without jurisdiction, having no backing of the constitutional provisions. The petitioner has been in custody for a period of 4 months and 14 day. The trial will take time to conclude, especially due to prevailing

situation of Covid-19. In view of the above, the petitioner is not required for further custodial investigation. Thus, the petition is allowed and the petitioner is ordered to be released on regular bail.

23. Compliance of GST (Compensation to States) Act, 2017 is Not Mandatory

Case Name : **G. Sundarrajan Vs Union of India (Madras High Court)**

Appeal Number : WP No. 15079 of 2020

Date of Judgement/Order : 28/10/2020

The issue under consideration is whether compliance of Goods and Services Tax (Compensation to States) Act, 2017 is mandatory?

High Court states that, the mere employment of the word “shall” in Section 7(1) of the **Goods and Services Tax (Compensation to States) Act, 2017** cannot be construed as mandatory in the light of the ratio laid down in the above-cited decisions and it depends upon the context and the purpose of the legislative intent also. The court also noted that the **Goods and Services Tax (Compensation to States) Act, 2017**, does not deal and speak about the consequences of non-compliance of the timeline stipulated under Section 7(2) of the Act and therefore, it can be construed only as directory and not mandatory.

24. Transitional Credit claim on Successful filing of GST TRAN-1 cannot be Rejected Merely due to No Technical Glitches on GSTN

Case Name : **BMW India Financial Services Pvt. Ltd. Vs Union of India (Bombay High Court)**

Appeal Number : WP-LD-VC-85 OF 2020

Date of Judgement/Order : 29/10/2020

The issue under consideration is that despite the admitted successful filing of Form TRAN-1 by the Petitioner, the request of the Petitioner for transitioning of credit has not been approved by the ITGRC merely on the basis that there were no technical glitches on the GSTN side is justified in law?

High Court states that in this case, they are not examining the issue whether the Petitioner is entitled to VAT tax credit as claimed by the Petitioner which will be examined by the authorities. What we are concerned with is that despite the admitted successful filing of Form TRAN-1 by the Petitioner, the request of the Petitioner for transitioning of credit has not been approved by the ITGRC merely on the basis that there were no technical glitches on the GSTN side. There is no further explanation or clarification or evidence on the issue by the Respondents. Even the learned Sr. Counsel for the Respondents has only reiterated this stand during his submission. The whole objective of digitization is to convenience the tax payers and not to harass them. HC are conscious that the GST system is still evolving in its implementation. HC are of the view that merely because there were no technical glitches in the GSTN with respect to the Petitioner’s TRAN-1 which was admittedly filed in time, the claim of the

Petitioner, if it was otherwise eligible in law, cannot be rejected for no apparent fault on the part of the Petitioner. This cannot be the objective of the GST system or digitisation. Such a situation cannot be countenanced as it would be wholly unfair and unjust. HC therefore, of the view that this is a fit case for invocation of our writ jurisdiction. Accordingly, they direct the Respondents to consider the case of the Petitioner and after looking into the merits of the claim and physically or otherwise verifying the amount of VAT as claimed by the Petitioner take such actions as may be necessary for transitioning the credit of such amount into the Petitioner's credit ledger/ electronic credit ledger within four weeks from the date of this order.

25. Anti-Profiteering Investigation Notice cannot be issued without DGAP report

Case Name : **Theco India Pvt. Ltd. Vs Secretary (Madras High Court)**

Appeal Number : W.P. No. 15527 of 2020

Date of Judgement/Order : 29/10/2020

Madras High Court states that Notice for Anti-Profiteering Investigation can't be issued without a report of Director General of Anti-Profiteering (DGAP) followed by the order of the National Anti-Profiteering Authority (NAA). Accordingly, the court granted the interim relief and directed that the petitioner will not be required to furnish the information to DGAP in pursuant to the notice other than the complained product till the next hearing.