



Weekly GST Communique



6 Days **GST COURSE** on

GST On Exports, Deemed Exports, SEZ, Imports,
&
Merchandise Exports,
Inverted Duty Structure
(including Refunds)



CA. Bimal Jain

Starts from 21st November 2020
(Every Tuesday and Saturday)
3:00 PM to 5:30 PM

GST Course on Export & Import by CA Bimal Jain

Course Highlights: 6 Live Sessions of 2.30 Hours Each with Questions and Answers, Course Start from 21st Nov 2020 i.e. Saturday, Every Tuesday and Saturday (3.00 to 5.30 PM), BGM will be provided on the downloadable basis, Access of Video: 36 Hours or two Month, whichever expires earlier

For Registration:- <https://www.a2ztaxcorp.in/product/gst-course-new/>

 Know More Details about Course:- <https://youtu.be/A6kRmrejGs0>

For more details, Call us at: +91 8076563802 or E-Mail us at: info@a2ztaxcorp.com

GST

Important Judgments of the week

- ITC disallowance to buyer for seller's default to pay taxes 'unsustainable'
- Commissioner can authorize 'arrest' prior to completion of adjudication/assessment

Important Circular of the week

- CBIC issued clarifications regarding availment of exemption on temporary import of durable containers

Important Press Releases of the week

- Telangana decides to go for Option-1 to meet the GST implementation shortfall
- One held for fraudulently passing Input Tax Credit of Rs 13.08 crore by DGGI Rohtak
- Inter state fake invoice racket busted by DGGI involving fraudulent ITC of Rs. 26.09 Crore
- Arrest of a prominent builder in a case of availment of fraudulent Input Tax Credit of Rs. 4.86 Crore on fake invoices
- DGGI arrested Proprietor of Trading Firm for availment of ITC of Rs. 3.51 Crore on fake invoices

Important Updates of the week

- E-way bill generation facility to be blocked for all taxpayers who failed to file GSTR-3B/GST CMP-08 for two or more tax periods; effective from Dec 01, 2020
- GSTN issued FAQs on viewing Orders of Unblocking of E-Way Bill Generation Facility
- GSTN issued updates regarding mandatory e-invoicing for taxpayers with aggregate turnover exceeding Rs. 100 crore effective from January 01, 2021
- 15th Finance Commission submitted report for FY 2020-21 highlighting implementation challenges
- GSTN: Salient features of Quarterly Return filing & Monthly Payment of Taxes (QRMP) Scheme

Video of the week

- A Glance of GST Exports Course by CA Bimal Jain

Income Tax

Important Update of the week

- CBDT has issued refunds of over Rs. 1,36,066 crore to more than 40.19 lakh taxpayers between April 01, 2020 to November 17, 2020

Important News of the week

- Vivad Se Vishwas scheme garners Rs 72,480 crore tax to government so far

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GST

Important Judgments of the week

ITC disallowance to buyer for seller's default to pay taxes 'unsustainable'



The Hon'ble Madras High Court in the case of *M/s. Sri Ranganathar Valves Private Limited v. The Assistant Commissioner (CT) (FAC) Velandipalayam Assessment Circle, Coimbatore [W.P. No. 38488 of 2015 dated September 2, 2020]* has held that Input Tax Credit ("ITC") restriction in the hands of buyer, on the ground of tax collected but remaining unpaid to the Government by the seller "cannot be sustained" and "requires re-consideration" while disposing the writ in respect of restriction of the amount of ITC claimed for the months of December 2013 to May 2014.

Facts:

M/s. Sri Ranganathar Valves Private Limited ("**Petitioner/Assessee**") filed the Writ Petition w.r.t. restriction of the amount of ITC claimed for the months of December 2013 to May 2014 for separate orders for every month. The restriction of the amount of ITC has been done predominantly on the head of (a) Prior sufferance of Taxes; (b) ITC on reversal on wastage; and (c) Ineligible claim of ITC on goods.

The Assessing Officer was of the view that some of the sellers from whom the Petitioner had purchased the goods had not paid taxes to the Government and restricted the Petitioner to claim the amount of ITC of Rs. 22,54,760/- for prior sufferance of taxes.

Issue:

Whether restriction on the amount of ITC be imposed for prior sufferance of taxes?

Held:

The Hon'ble Madras High Court in *W.P. No. 38488 of 2015, dated September 2, 2020* held as under:

- Held that ITC restriction on the ground of tax collected but remaining unpaid to the Government “cannot be sustained” and “requires re-consideration”. Relying on the case of ***M/s. Shri Ranganathar Valves Private Limited v. Assistant Commissioner (CT), (FAC), Velandipalayam Assessment Circle, Coimbatore [P. Nos. 41670 to 41680 of 2016 dated November 28, 2016]***, in which the restriction of the amount of ITC for ineligible claim of ITC on goods has been dealt with, directed the Assessing Officer (AO) to issue a show cause notice to the Assessee calling for his objections with regard to “ITC on reversal on wastage” and “Ineligible claim of ITC on goods”.
- The Hon’ble Court also relied on ***Assistant Commissioner (CT), presently Thiruverkadu Assessment Circle, Kolathur, Chennai v. Infiniti Wholesale Ltd. [[2017] 99 VST 341 (Mad)]***, wherein this Court held that ITC cannot be disallowed on the ground that the seller has not paid taxes to the Government, when the purchaser is able to prove that the seller has collected the tax and issued invoices to the purchaser. As such, restriction of the amount of ITC on this ground, cannot be sustained and requires re-consideration.
- Remanded the issue with regard to restriction of the amount of ITC for prior sufferance of taxes back to the Assessing Officer for fresh consideration.

Our comments:

Under GST provisions, Section 16(2)(c) of the Central Goods and Service Tax Act, 2017 (“**CGST Act**”) has been into controversy for a long while, which imposes a restriction on the buyer to avail ITC only when the tax on the transaction has been paid to the government, which states as below:

Section 16(2)(c) of the CGST Act states as below:

“Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

*subject to the provisions of section 41 or section 43A, the tax charged in respect of such supply **has been actually paid to the Government**, either in cash or through utilisation of input tax credit admissible in respect of the said supply;”*

It provides for a condition wherein the recipient would only be entitled to ITC if the tax charged in respect of such supply has been actually paid by the supplier to the government.

In Pre-GST, the Hon’ble Apex Court in the case of ***Commissioner of Central Excise, Jalandhar v. M/s. Kay Kay Industries [Civil Appeal No. 7031 of 2009, dated August 26, 2013]*** held that the CENVAT credit is allowable to the assessee even if the supplier had not discharged its duty. Manufacturer cannot determine whether his supplier has discharged excise duty on the goods which are supplied to the manufacturer by him. Credit cannot be denied on mere non payment by the supplier. In order to avail CENVAT credit, assessee not expected to verify with Department whether supplier had paid duty on inputs or not and **this would be practically impossible and would lead to transactions getting delayed.**

Further, the Hon’ble Delhi HC in the case of ***Arise India Ltd. v. Commissioner of Tax [W.P.(C) 2106/2015 dated October 26, 2017]*** discussed the issue at length and held that **it is an impossible task for the buyer to determine which seller would not deposit the tax collected to the Government.** The Court read down Section 9(2)(g) of the Delhi Value Added Tax Act (“**DVAT Act**”) and noted that the benefit of ITC is denied to a bona fide purchaser. The reason of the default of the selling dealer over whom such purchasing dealer has no control. It should not be made the responsibility of the purchasing dealer to ensure that the tax is deposited

by the selling dealer when the transaction is bona fide. This measure qua the purchasing dealer is arbitrary, irrational and unduly harsh and, therefore, violative of Article 14 of the Constitution of India. The HC opined that the only scenario where such provision can apply is when the revenue authorities have some material to show that the buyer and the seller have colluded in order to swindle the Government. However, where the seller has not deposited tax, the authorities should proceed against the seller and not the buyer. **The SLP in this case preferred by the Revenue was subsequently dismissed by the Apex Court stating that it was not inclined to interfere with the HC order.**

Furthermore, this practice of denying credit for non-payment of taxes by a supplier had been prevailing from the Value Added Tax (“VAT”) era, which is unfair and inimical to the businesses and not justifiable to put a legit taxpayers in a trouble while completing the ongoing process of collecting taxes by the authorities. The GST law not only denies credit to the buyer, but it also requires the buyer to reverse ITC along with interest if the seller has not deposited the taxes. Therefore, the buyer has been put at a situation where one is required to determine whether the intentions of the merchants are in the opportune spot or not. This expectation from the buyer needs to be amended and it needs to be assessed that till what extent the buyer should be responsible for no fault on his part. This provisions seriously required reconsideration & corresponding amendment in the GST law to provide real ease of business.

Commissioner can authorize ‘arrest’ prior to completion of adjudication/assessment



The Hon’ble HC, Gujarat in ***Vimal Yashwant Giri Goswami & Others v. State of Gujarat [R/SLP No. 13679/2019 dated 20.10.2020]*** held that the power to arrest as provided under Section 69 read with Section 132 of CGST Act can be invoked by Commissioner prior to the completion of adjudication/assessment and determination of liability.

Facts:

The Vimal Yashwant Giri Goswami (“**the Petitioner**”) is engaged in the business of trading and/or supply of the stainless steel and scrap thereof. The authority visited the premises of the Petitioner to carry out search

proceedings and issued a summon to appear before the authority with the provisional balance sheet. The Petitioner did not appear and the authority completed the search and seized the purchase and sale files, laptop, etc. The Petitioner filed writ petition apprehending that if they approached the authority, they would be arrested under Section 69 of the CGST Act.

Issue:

Whether Commissioner can authorize arrest prior to completion of adjudication/assessment.

Held:

Hon'ble HC, Gujarat in ***R/SLP No. 13679/2019 dated 20.10.2020*** held as under:

- Power to arrest as provided under Section 69 read with Section 132 of CGST Act can be invoked by Commissioner prior to the completion of adjudication/assessment and determination of liability as per provisions of CGST Act.
- The expression 'reason to believe' under Section 69 ibid contemplate an objective determination based on intelligence, care and deliberation involving judicial review as distinguished from a purely subjective consideration and hence, Commissioner is not required to conclude that person sought to be arrested is guilty of any offence.
- Further, states that it cannot be said that by invoking the power under Section 69 of the CGST Act, punishment prescribed under the Section 132 is inflicted.
- Furthermore, states following to be kept in mind while arresting under sec 69 ibid:
 - The formation of the opinion, though subjective, must be based on some credible material disclosing that is necessary to arrest the person concerned alleged to have committed the offence as specified under sec 132 ibid.
 - Power conferred upon the authority under sec 69 ibid for arrest 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.
 - The powers of arrest should not be used as a tool to harass the assessee nor it should be used in any manner which may have an irreversible detrimental effect on the business of the assessee.
 - The Commissioner must be able to justify the arrest apart from his power to do so as it can cause 'incalculable harm to the reputation and self-esteem of a person'.
 - Arrest memo is a key safeguard against illegal arrest and a crucial component of the legal procedure of arrest, thus requires GST Department to prescribe a standardized format for the arrest memo.
- While making an arrest, an authorised officer under section 69 of the CGST Act is not obliged in law to comply with the provisions of Sections 154 to 157 of the Code of Criminal Procedure, 1973.
- Section 69(3) of the CGST Act does not confer upon the GST officers the powers of the officer in charge of a police station in respect of the investigation and report, however, clarified that this does not necessarily mean that a person alleged to have committed a non-cognizable and bailable offence cannot be arrested without a warrant issued by the Magistrate.
- Safeguards pertaining to arrest as laid down by Hon'ble SC in ***K. Basu v. State of West Bengal reported in [1997 (1) SCC 416]*** would be applicable to GST officers as well as a person who will be interrogated under Section 70 of CGST Act.

Our comments:

A coordinate Bench of HC, Gujarat in ***Vimal Yashwant Giri Goswami v. State of Gujarat [R/SLP No. 13679/2019 dated 07.08.2019]*** opined on the powers of arrest under Section 69 of CGST Act citing that same *“are to be exercised with lot of care and circumspection”*.

To know more about **“Whether Arrest can be made prior to Adjudication & Assessment in GST”** kindly watch video by CA Bimal Jain: https://www.youtube.com/watch?v=TKBPh_etIdU&t=10s

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Important Circular of the week

CBIC issued clarifications regarding availment of exemption on temporary import of durable containers



The CBIC vide **Circular No. 51/2020-Customs dated November 20, 2020** issued clarifications regarding availment of exemption on temporary import of durable containers.

Kind attention is invited to Notification No.104/94-Cus., dated 16.03.1994 (as amended) which grants exemption to import of containers of durable nature, from the whole of the duty of customs and the whole of the integrated tax leviable. The exemption is subject to the condition that such containers are re-exported within 6 months from the date of importation and that the importer executes a bond and furnishes documentary evidence to the satisfaction of the Assistant Commissioner/Deputy Commissioner to safeguard the duty in the event of non-compliance.

A representation has been received in Board regarding the eligibility of the exemption available under No.104/94-Cus. dated 16.03.1994, for durable containers which do not conform to the standard marine container dimensions, but which are intended for temporary import and eventual re-export. There is also a perceived ambiguity regarding procedural and system readiness regarding the import and re-export of such durable containers, which are not explicitly covered by the guidelines as provided under Circular No.31/2005-Cus., dated 25.07.2005.

The issue has been examined. Regarding the eligibility of the duty exemption, reference is invited to Board Circulars No.69/2002-Customs, dated 25.10.2002 and No.73/2002-Customs, dated 07.11.2002. These said circulars clarify that "As per the meanings assigned to the words 'durable' and 'container' in various Dictionaries, it would appear that any goods (containers) used for packaging or transporting other goods, and capable of being used several times, would fall in the category of 'containers of durable nature'. Further, 'durable containers' covers within its ambit "any type of reusable packaging containers such as cases, boxes, cartons, trays, etc., made up of metals or plastics". Thus, it is hereby reiterated that containers that satisfy following conditions are eligible for the said duty exemption:

a) that are durable,

- b) capable of being re-used multiple times,
- c) capable of being identified at the time of re-export viz. a viz. the imported containers, and
- d) satisfy all the other stipulated conditions in the notification.

The procedure to be followed for import and re-export of marine containers would continue to be governed by guidelines provided in Circular No. 31/2005-Cus., dated 25.07.2005.

For durable containers which do not conform to the standard marine container dimensions, but which are intended for temporary import and eventual re-export, the procedure to be followed is given below:-

a) When empty containers are imported into India - The empty containers shall be required to be declared as an item in the bill of entry filed under section 46 of the Customs Act, 1962. The containers would be eligible for exemption from all the applicable customs duties as per Notification No.104/94-Cus., dated 16.03.1994, as amended, subject to fulfilment of conditions therein. However, the bond for re-export and the security if applicable shall be required to be furnished at the time of import in the Customs System. Importers are advised to register the same as continuity bond for ease of compliance.

b) When empty containers are moved out of India by sea or air - The empty containers shall be required to be declared as an item in the shipping bill filed under Section 50 of the Customs Act, 1962. The unique identifier for the containers would require to be verified at the time of the export by Customs.

c) When containers are imported laden with import cargo - In addition to the declaration of items as per the invoice, such containers shall also be required to be declared as a separate item in the bill of entry filed under section 46 of the Customs Act, 1962. While applicable duties on the imported cargo shall be required to be duly discharged as per the applicable tariff rates under the Customs Tariff Act, 1975, the containers would be eligible for duty exemption as per Notification No.104/94-Cus., dated 16.03.1994, as amended, subject to fulfilment of conditions therein. After Customs clearance, the empty containers can be moved, subject to the conditions of the bond and the security if applicable.

d) When containers are exported with export cargo - The durable container shall be required to be filed as separate item (either in the same invoice or in different invoice as per commercial agreement) in addition to the export laden cargo under Section 50 of the Customs Act, 1962, for the goods meant for export. The stuffing of the export cargo at the airport or the exporter's premises would not be relevant to Customs, as long as the Unique Identifier for the container is verifiable at any time of the export by Customs. The export cargo and the declaration in the shipping bill will be subjected to assessment and examination as per instructions in the Customs Automated System.

e) Conditions of bond - A continuity re-export bond and security, if applicable at the port of import shall be required to be furnished by the importer for the durable containers that are temporarily imported. The processes involved in imports of durable containers for re-export within the stipulated period including facility of partial crediting the bond after export are available in the Customs Automated System.

The Circular can be accessed at: <https://www.cbic.gov.in/resources/htdocs-cbec/customs/cs-circulars/cs-circulars-2020/Circular-No-51-2020-updated.pdf;jsessionid=1FF2082F5540FC7FAA0376A4F550A817>

Important Press Releases of the week

Telangana decides to go for Option-1 to meet the GST implementation shortfall



The Government of Telangana has communicated its acceptance for Option-1 out of the two options suggested by the Ministry of Finance to meet the shortfall in revenue arising out of GST implementation. The State has now joined 22 other States and 3 Union Territories (Delhi, Jammu & Kashmir and Puducherry) who have opted for Option-1.

The States who choose Option-1 are getting the amount of shortfall arising out of GST implementation through a special borrowing window put in place by the Government of India. **The window has been operationalised now and the Government of India already borrowed an amount of Rs.18,000 crore on behalf of the States in three instalments and has passed it on to 22 States and 3 Union Territories on 23rd October, 2020, 2nd November, 2020 and 9th November, 2020.** Now the Government of Telangana will receive funds raised through this window. The next instalment of borrowings is likely to be released on 23rd November, 2020.

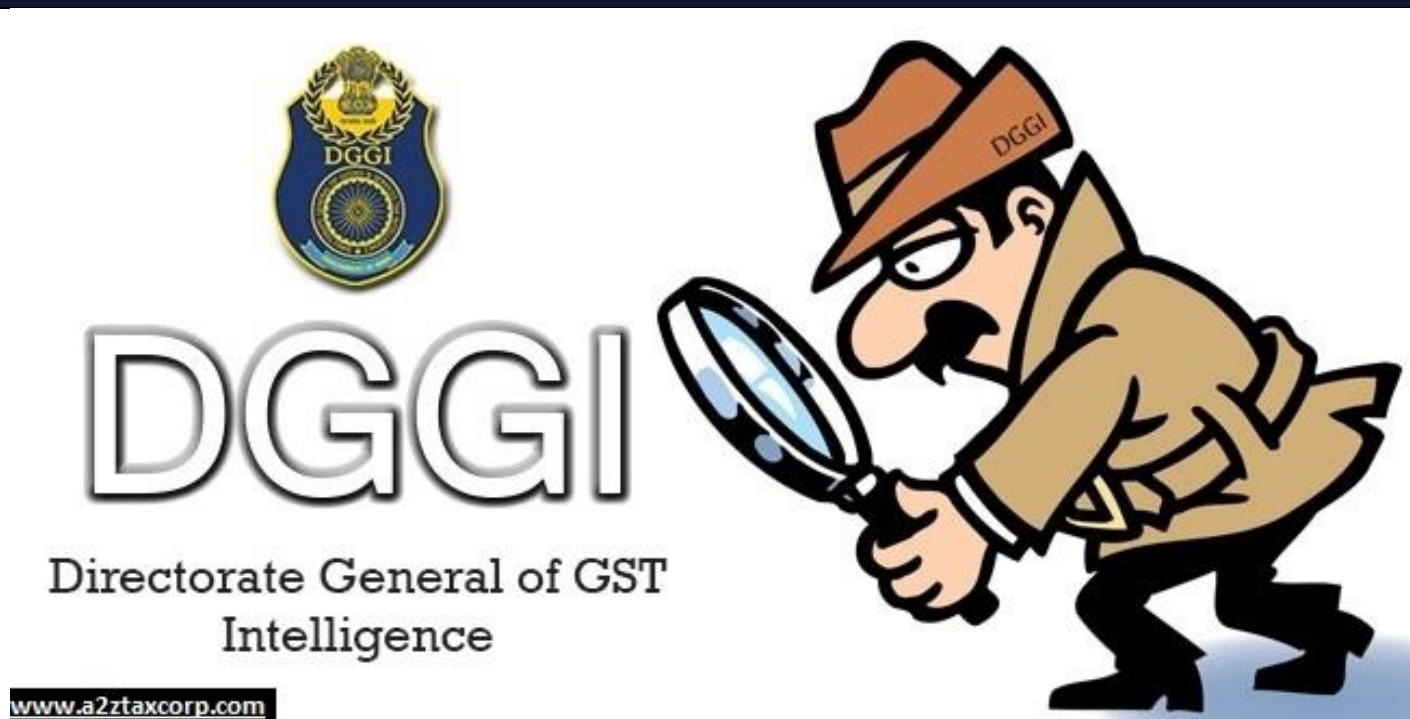
Under the terms of Option-1, besides getting the facility of a special window for borrowings to meet the shortfall arising out of GST implementation, States are also entitled to get unconditional permission to borrow the final instalment of 0.50% of Gross State Domestic Product (GSDP) out of the 2% additional borrowings permitted by the Government of India, under Atmnirbhar Abhiyaan on 17th May, 2020. **This is over and above the Special Window of Rs.1.1 lakh crores. On receipt of the choice of Option-1 from the Government of Telangana, the Government of India has today granted the State Government of Telangana additional borrowing permission of Rs.5,017 crore (0.5% of Telangana's GSDP).**

States who have opted for Option-1 are – Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Goa, Gujarat, Haryana, Himachal Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Rajasthan, Sikkim, Telangana, Tripura, Tamil Nadu, Uttar Pradesh, and Uttarakhand, along with the three Union Territories of Delhi, Jammu & Kashmir and Puducherry. The amount of additional

borrowing permission granted to these States and the amount of funds raised through special window and released to the 22 States and 3 UTs so far is annexed.

The Press Release can be accessed at: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1673501>

One held for fraudulently passing Input Tax Credit of Rs 13.08 crore by DGGI Rohtak



The Directorate General of GST Intelligence (DGGI), Rohtak Regional Unit, (under Gurugram Zonal Unit) has arrested one person namely, Sh. Satinder Kumar Singla, of Hisar who was found involved in issuing fake invoices from various firms without actual movement of goods having taxable value of Rs. 75 crore (approx.) and fraudulently passing ITC amounting to Rs. 13.08 crore.

He passed on such fraudulent ITC to some of the buyers who availed of the same to discharge their GST liability against their outward supplies with an ulterior motive to defraud the Government exchequer. During the course of investigation, Shri Satinder Kumar Singla has admitted his involvement in issuing only invoices without actual movement of goods for earning commission and some of the cash entries in the records resumed pertained to such commission.

Thus, Shri Satinder Kumar Singla has committed offences under the provisions of the Central Goods & Services Tax Act (CGST), 2017. Consequently, Shri Satinder Kumar Singla was arrested on 12.11.2020 under Section 69 of the CGST Act, 2017, following which he was produced before the Chief Judicial Magistrate (CJM), Rohtak. The CJM, Rohtak, has consigned Sh. Satinder Singhal to judicial custody of 14 days. Further investigations in the matter are in the progress.

The Press Release can be accessed at: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1672747>

Inter state fake invoice racket busted by DGGI involving fraudulent ITC of Rs. 26.09 Crore

An Inter State fake invoice racket with fake transactions valued at over Rs. 131 Crore involving 3 Taxpayers, one based in Maharashtra and 2 based in Karnataka, was busted by the officers DGGI, Nagpur Zonal Unit yesterday.

On the basis of intelligence developed using online tools, searches were conducted in remote areas of Chandrapur District against a Taxpayer involved in issuance of fake invoices and availment of fraudulent ITC.

The searches revealed that the Taxpayer was fake and non-existent. Further investigations revealed that the documents uploaded on the GST Portal as proof of address by the Taxpayers like electricity bills etc. were all forged and fabricated.

The investigations also revealed the details of 2 more Taxpayers based in Karnataka who were a part of this racket as they were found to have taken GST registration on the same date, had declared the same e Mail addresses in REG 01 and were sole suppliers/buyers of each other.

- - Total fraudulent ITC detected = Rs. 26.09 Crore
- - Total entities involved = 3
- - Services involved = Works Contract services, Labour Supply

The matter has been taken up with the jurisdictional DGGI, Zonal Units for apprehending the kingpin who is reportedly based in Karnataka.

The Press Release can be accessed at: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1673705>

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Arrest of a prominent builder in a case of availment of fraudulent Input Tax Credit of Rs. 4.86 Crore on fake invoices



The officials of DGGI, Nashik Regional Unit of DGGI, Nagpur Zonal Unit arrested a prominent builder of Nashik in an ongoing investigation regarding availment of fraudulent Input Tax Credit on fake invoices.

Information had been received by DGGI that the Builder was availing fraudulent Input Tax Credit on fake invoices issued by non-existent entities and was utilizing this fake Credit for discharging its outward GST liabilities.

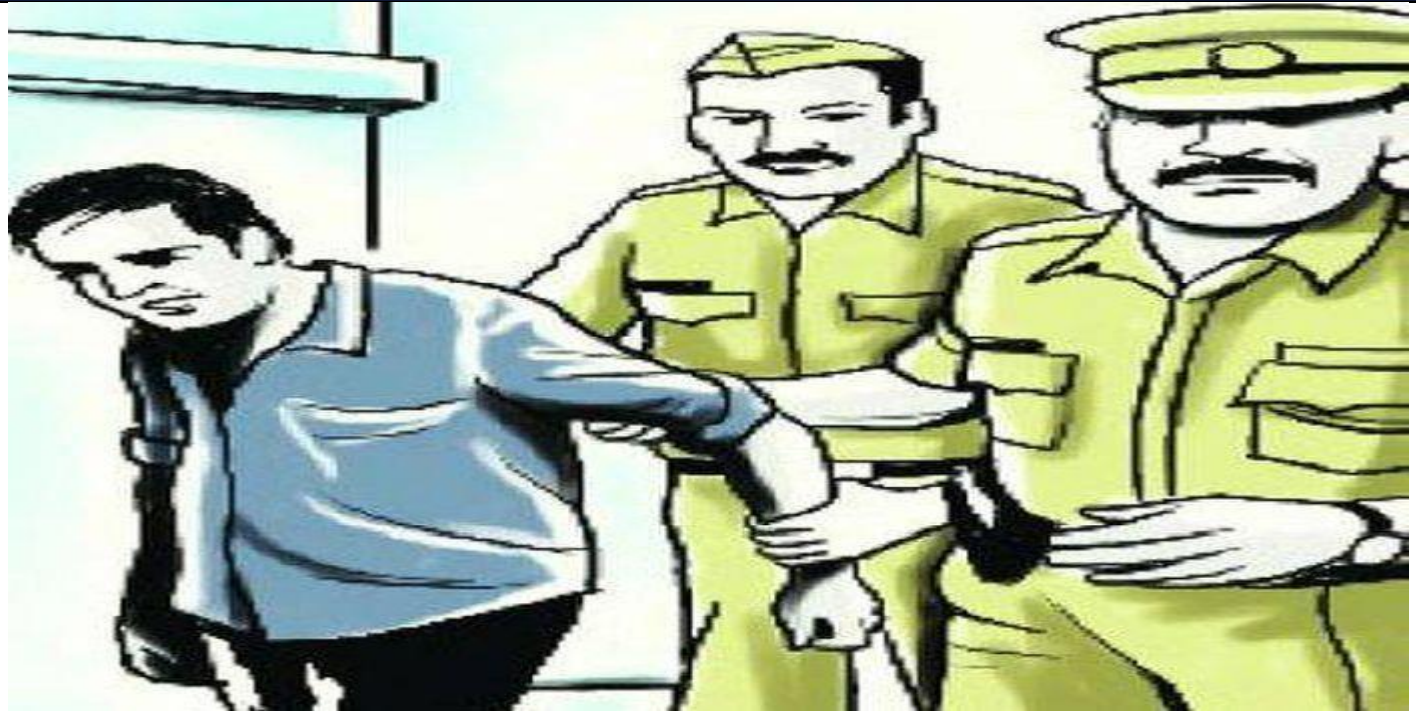
During the searches, it was observed that the Builder had cancelled its earlier registration and had obtained a new registration under a different management in order to avoid detection. However, with the help of online data mining tools, the entire details of the cancelled registration were obtained and the availment of fraudulent Credit was confirmed.

It was observed that the Builder had availed fraudulent Input Tax Credit of Rs. 4.86 Crore on the basis of invoices issued by certain entities in West Bengal which were non-existent and had not supplied any goods or services to the Builder. When confronted with the facts, the availment of fraudulent Input Tax Credit on paper transactions was admitted by the Builder during interrogation.

The Builder was thereafter arrested by the officials of DGGI, Nashik Regional Unit on the basis of Arrest Authorization issued by the Additional Director General, DGGI, Nagpur Zonal Unit. The entire amount is expected to be recovered soon and an amount of Rs. 25 Lakhs have already been paid by the Builder so far.

The Press Release can be accessed at: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1673994>

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DGCI arrested Proprietor of Trading Firm for availment of ITC of Rs. 3.51 Crore on fake invoices

On the basis of specific information regarding availment of ITC on fake invoices, searches were conducted on 19.11.2020 by the officers of DGCI, Nagpur Zonal Unit at the premises of a Nagpur based trading firm dealing in Paint, Cement and Iron & Steel products.

The searches revealed that the trading firm was non-existent and a Printing Press was operating from the declared premises whose owner was not aware of any entity by the name and style of the said trading firm. **The Proprietor of the trading firm was eventually traced and apprehended. In the initial stages of interrogation, the Proprietor denied having any relation with the trading firm. Therefore, a detailed examination of the relevant documents was undertaken and the following details were found to tally, which conclusively proved that the apprehended person was actually the Proprietor of the fake trading firm:**

1. Photograph of the Proprietor uploaded on GSTN
2. Aadhaar Number of the Proprietor declared on GSTN
3. PAN of the Proprietor declared on GSTN
4. Residential address of the Proprietor declared on GSTN

The total fraudulent ITC availed and passed on by this trading firm was computed as Rs. 3.51 Crore out of which ITC of Rs. 2.75 Crore, on further detailed examination, was found to have been availed on the strength of fake invoices issued by non-existent firms based in Chhattisgarh.

The Press Release can be accessed at: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1674495>

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Important Updates of the week

E-way bill generation facility to be blocked for all taxpayers who failed to file GSTR-3B/GST CMP-08 for two or more tax periods; effective from Dec 01, 2020



In terms of Rule 138E (a) and (b) of the CGST Rules, 2017, the E-Way Bill (EWB) generation facility of a taxpayer is liable to be restricted, in case the taxpayer fails to file their FORM GSTR-3B returns / Statement in FORM GST CMP-08, for tax periods of two or more.

From December 01, 2020, onwards, the blocking of EWB generation facility would be made applicable to all the taxpayers (irrespective of their Aggregate Annual Turnover (AATO)) In terms of Rule 138 E (a) and (b) of the CGST Rules, 2017, on the EWB Portal.

Thus, on December 01, 2020, the System will check the status of returns filed in Form GSTR-3B or the statements filed in Form GST CMP-08, for the class of taxpayers to whom it applies, and restrict the generation of EWB in case of:

- Non filing of two or more returns in Form GSTR-3B for the months up to October, 2020; and
- Non filing of 02 or more statements in Form GST CMP-08 for the quarters up to July to September, 2020

This blocking will take place periodically from December 01, 2020 onwards.

To avail continuous EWB generation facility on EWB Portal, you are therefore advised to file your pending GSTR 3B returns/GST CMP-08 statements immediately.

Source from: <https://www.gst.gov.in/newsandupdates/read/415>

GSTN issued FAQs on viewing Orders of Unblocking of E-Way Bill Generation Facility

GSTN has issued FAQ's on 'Viewing Orders of Unblocking of E-way bill Generation Facility' in respect of blocking of E-way bill generation facility for all taxpayers who failed to file GSTR-3B/GST CMP-08 for two or more tax periods; effective from December 01, 2020.

I. Unblocking of E-Way Bill Generation Facility

Q. Why my GSTIN is blocked for E-Way Bill generation facility?

Ans. Your GSTIN will be blocked for E-Way Bill generation facility, in case, you have failed to file Form GSTR-3B return for last two or more consecutive tax periods.

Q. How can my E-Way Bill generation facility be unblocked?

Ans. Your E-Way Bill generation facility would be automatically unblocked on the EWB Portal when you file your GSTR-3B Return and the default in Return filing reduces to less than two tax periods. You may also file an offline/ manual request for unblocking of E-Way Bill generation facility with your jurisdictional tax officer.

Q. How can I submit application for unblocking of E-Way Bill generation facility?

Ans. You can submit application for unblocking of an E-Way Bill generation facility through an offline/ manual request, citing the grounds why your facility should be un-blocked along with the required documents to your Jurisdictional Tax Official. Once the request is received, Tax official will dispose the application through Back Office GST Portal and issue order online.

II. Viewing Orders

Q. Where can I view the status of order issued by Tax Official on my application for Unblocking of E-Way Bill generation facility?

Ans. In case, the order for rejection/acceptance of the unblocking request made by the taxpayer is issued, Email and SMS of acceptance/ rejection of order will be sent to taxpayer on their registered email id and mobile number. Such orders can be seen by the taxpayer after login to the GST Portal. Navigate to **Dashboard > Services > User Services > View Additional Notices/Orders** to view Acceptance/Rejection Order for unblocking of the E-Way Bill generation facility.

[Click here](#) to know more about viewing orders issued by the Tax Official.

Q. What are the steps to view Acceptance/Rejection Order for unblocking of the E-Way Bill generation facility?

Ans. Navigate to **Dashboard > Services > User Services > View Additional Notices/Orders** to view Acceptance/Rejection Order for unblocking of the E-Way Bill generation facility. Also, intimation of acceptance/ rejection order will be sent to taxpayer on the registered email id and mobile number.

Dashboard > View Additional Notices and Orders > Case Details				
Case ID AD071019000039H	GSTIN/Temp ID 07ALYPD6528P2Z6	Legal Name Gyanendra Prakash Dwivedi	Status Order of Acceptance Issued	
ORDERS	Order Number	Order Type	Order Issue Date	Download Attachment
	ZA071019000198S	Acceptance Order on application for unblocking of the E-waybill generation facility	11-10-2019	R1 GST Servicesweb 24112016.pdf

[Click here](#) to know more about viewing orders issued by the Tax Official.

Q. What is the duration for which unblocking of an E-Way Bill generation facility, as per order of Tax Official, is valid?

Ans. Unblocking of an E-Way Bill generation facility is valid upto the period indicated by the Tax Official in his/her order.

III. Notification to Taxpayer

Q. How will I get to know if my E-Way Bill generation facility has been blocked?

Ans. GST Portal will send SMS/ Email at the registered mobile number/ email id of the taxpayer whose E-Way Bill generation facility has been blocked. Also during such period, you or any other user will not be able to generate E Way Bill (either as consignor or consignee) against the blocked GSTIN.

Q. How will I be notified for any action taken by Tax Official on my application for unblocking of E-Way Bill generation facility?

Ans. After the Tax Official issues online Order in respect of your request for unblocking of the E-Way Bill generation facility (irrespective of Acceptance/Rejection), the copy of the said order is made available at Taxpayer's login. Also, an Email and SMS will be sent to the taxpayer on the registered email id and mobile number.

Q. Will I receive any reminder before the expiry of my validity period as indicated in unblocking order?

Ans. Yes, the GST Portal will send reminder mail and SMS before the expiry of validity period as indicated in unblocking order and filing of returns within time to avoid unblocking of E-Way Bill generation facility. This mail is sent 7 days before the date of expiry.

Q. Why my unblocked E-Way Bill generation facility has been blocked again?

Ans. This automatic blocking may happen if the validity period as given by Tax Official has expired and taxpayer has failed to file GSTR-3B return for last two or more consecutive tax periods.

Q. Is it possible to block my E-Way Bill generation facility before the expiry of the validity period?

Ans. No, E-Way Bill generation facility will not be blocked before the expiry of the validity period. However, E-Way Bill System will automatically 'Block' the Taxpayer post the expiry of the validity period. This automatic blocking will be done, if the extended period as given by Tax Official has expired and taxpayer has failed to file Form GSTR-3B return for last two or more consecutive tax periods.

IV. Application Statuses

Q. What are the various Application statuses while issuing an order of acceptance/rejection for unblocking of E-Way Bill generation facility?

Ans. Listed below are the various Application statuses while issuing an order of acceptance/rejection for unblocking of E-Way Bill generation facility:

- **Order Generation Enqueue** - When Order generation is pending with Tax Official
- **Order of Acceptance Issued** - When Order is generated by Tax Official for acceptance of unblocking of E-Way Bill generation facility request of taxpayer
- **Order of Rejection Issued** - When Order is generated by Tax Official for rejection of unblocking of E-Way Bill generation facility request of taxpayer

For details of blocking and unblocking EWB Click on below link: <https://docs.ewaybillgst.gov.in/Documents/Unblockver1.pdf>

For more FAQs of blocking and unblocking EWB Click on below link: https://docs.ewaybillgst.gov.in/Documents/faq_block_latest.pdf

The FAQ can be accessed at: https://tutorial.gst.gov.in/userguide/returns/index.htm#t=FAQs_unblockingewaybill.htm

GSTN issued updates regarding mandatory e-invoicing for taxpayers with aggregate turnover exceeding Rs. 100 crore effective from January 01, 2021

GSTN has issued updates- enablement, testing, help option & resources regarding mandatory e-invoicing for taxpayers with aggregate turnover exceeding Rs. 100 crore (in any preceding financial year from 2017-18 onwards) effective from January 01, 2021:-

Certain set of taxpayers had started e-invoicing from 1st October, 2020. In the month of October, 2020, about 4.95 Crore invoices were generated by 27400 GSTINs.

The list of GSTINs (State-wise, along with Name of entity) who are actually generating IRN on e-invoice production portal (IRP) has been [published](#). The list is being updated from time to time.

From 1-1-2021, Government has mandated e-invoicing for the taxpayers with aggregate turnover exceeding Rs. 100 Cr. (in any preceding financial year from 2017-18 onwards). The notification dated 10-11-2020 issued in this regard can be accessed [HERE](#).

Testing for taxpayers with 100 Cr. + Turnover:

For all the notified taxpayers, [API sandbox/testing](#) is enabled since 29th October, 2020.

The trial e-invoice portal (<https://einvoice1-trial.nic.in/>) for testing the upload of invoices by notified taxpayers through offline utility (bulk generation tool) was activated from 6th November 2020.

Taxpayers need to note that the e-invoices/IRNs and e-way bills generated on trial e-invoice portal (<https://einvoice1-trial.nic.in/>) are for testing purpose only. They don't have any legal validity and shall not be used for regular supplies, i.e. for actual movement of goods etc.

As a facilitation measure, all the GSTINs pertaining to taxpayers with aggregate turnover above the prescribed limit (as per latest notification) have been enabled for testing on the trial portal.

The 'enablement' is primarily to ensure only the notified taxpayers (and not any taxpayer at their option) are able to register and test reporting of invoices on the portal. The enabled taxpayers however need to register again on the portal.

One can search the status of enablement of a GSTIN on e-invoice trial portal: <https://einvoice1-trial.nic.in/> > **Search** > [e-invoice status of taxpayer](#) Please note that this listing of GSTINs is solely based on the turnover of GSTR-3B as per GST System. It may contain exempt entities or those for whom e-invoicing is not applicable for some other reason. Note: The enablement status on trial portal or production portal (IRP) doesn't mean that the taxpayer is supposed to do e-invoicing. If e-invoicing is not applicable to a taxpayer, they need not be concerned about the enablement status and may please ignore it.

In case any registered person is required to start e-invoicing from notified date but not enabled for testing on trial portal, he/she may request for enablement at trial portal through the e-invoice Production Portal (<https://einvoice1-trial.nic.in/> > **Registration** > [e-invoice enablement](#)). Please note that the requested GSTIN will be updated on trial portal on the next day and after that the testing can be started. It may also be noted that the enablement of notified taxpayers (Rs. 100 Cr. +) on IRP, i.e. e-invoice Production Portal, will be done towards the end of December, 2020 so that they will be able to report e-invoices from 1-1-2021 onwards.

For businesses who are presently using one or other Accounting/Billing/ERP Systems to create and manage their invoices, there are several modes for API integration. Details are given [HERE](#).

Some businesses may not have their own ERP/Accounting Software or have few invoices to report. They can download the [free offline utility \('bulk generation tool'\)](#) from e-invoice portal. Using this, invoice data can be easily uploaded on IRP for generation of IRN.

Below helpful videos are made available for taxpayers who wish to use offline utility for generation of IRN:

[Video 1](#) (e-Invoice: Registration on Portal and Generation of IRN)

[Video 2](#) (IRN Generation using Bulk Tools; Video No. 2 in the page)

e-invoice – Useful Resources

Revised set of FAQs on e-invoice (Law/Procedure) were [published](#). The new questions added in the latest version (1.3) were highlighted in [PDF version](#) for easy identification.

FAQs relating to registration and log in on the e-invoice portal can be accessed at: <https://einvoice1.gst.gov.in/Others/Faqs>

FAQs relating to APIs/Testing/Sandbox can be accessed at: <https://einvapisandbox.nic.in/FaqsonAPI.html>

Many help videos on various aspects of e-invoicing including frequently asked queries are made available at below links: <https://einvoice1-trial.nic.in/Others/CBT>

['e-invoice' play list on GSTN's YouTube Channel](#)

e-invoice – Help Options:

Any technical issues arising on

- e-invoice trial/testing portal (<https://einvoice1-trial.nic.in/>) or
- IRP/Production portal (<https://einvoice1.gst.gov.in/>) or
- Use of e-invoice Offline utilities ([bulk generation tools](#)) or
- APIs/Sandbox (<https://einv-apisandbox.nic.in/>),

Please report on GST Self-Service Portal (<https://selfservice.gstsystem.in/>)

For detailed information on e-invoice help options, [CLICK HERE](#).

Note: The earlier support for e-invoice issues via e-mail has been discontinued.

Common errors while reporting invoices to IRP were compiled and [made available on e-invoice portal](#). The taxpayers may please take note of these during testing phase itself.

In case of errors, viz. 'GSTIN is not active' or 'GSTIN is not present in e-invoice system", facility is made available so that the [GSTIN can be entered](#) for checking on real time basis with GST portal and update the same.

On GST portal (**Log in > 'Search Taxpayer'**), a new facility was added recently by which one can view the aggregate turnover slab for a taxpayer.

The Complete Updates can be accessed at: https://tutorial.gst.gov.in/downloads/news/Updatesoneinvoicing_16112020.pdf

Source from: <https://www.gst.gov.in/newsandupdates/read/416>

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15th Finance Commission submitted report for FY 2020-21 highlighting implementation challenges

REPORT FOR THE YEAR 2020-21



XV FINANCE COMMISSION

The Finance Commission is a constitutional body formed by the President of India to give suggestions on centre-state financial relations. The 15th Finance Commission submitted report to Prime Minister for the period 2021-22 to 2025-26.

The Complete Report can be accessed at: https://fincomindia.nic.in/writereaddata/html_en_files/oldcommission_html/fincom15/XVFC_202021%20Report_English_Web.pdf

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GSTN: Salient features of Quarterly Return filing & Monthly Payment of Taxes (QRMP) Scheme

Quarterly Return filing with Monthly Payment of taxes (QRMP Scheme)

www.a2ztaxcorp.com

Who can opt for the scheme: Following registered person (hereinafter RP) can file quarterly returns and pay tax on monthly basis w.e.f. 01.01.2021 :

- An RP who is required to file Form GSTR 3B with AATO of up to Rs 5 Cr. in the previous financial year is eligible. If AATO crosses Rs 5 Cr. during a qtr., RP will become in-eligible for the Scheme from next quarter.
- Any person obtaining a new registration or opting out of Composition Scheme can also opt for this Scheme.
- The option to avail this Scheme can be availed GSTIN wise. Therefore, few GSTINs for that PAN can opt for the Scheme and remaining GSTINs can remain out of the Scheme.

Changes on the GST Portal: For qtr. Jan., 2021 to March, 2021, all RPs whose AATO for the FY 2019-20 is up to Rs 5 Cr. and have furnished the return in Form GSTR-3B for the month of October, 2020 by 30th 2020, will be migrated by default in the GST system as follows:

Sl. No.	Class of RPs with AATO of	Default Return Option
1.	Up to Rs 1.5 Cr., who have furnished Form GSTR-1 on quarterly basis in current FY	Quarterly
2.	Up to Rs 1.5 Cr., who have furnished Form GSTR-1 on monthly basis in current FY	Monthly
3.	More than Rs 1.5 Cr. and up to Rs 5 Cr. in preceding FY	Quarterly

When can a person opt for the scheme:

- Facility can be availed throughout the year, in any quarter.

- Option for QRMP Scheme, once exercised, will continue till RP revises the option or his AATO exceeds Rs 5 Cr.
- RPs migrated by default can choose to remain out of the scheme by exercising their option from 5th, 2020 till 31st Jan., 2021.

The RPs opting for the scheme can avail the facility of Invoice Furnishing Facility (IFF), so that the outward supplies to registered person is reflected in their Form GSTR 2A & 2B.

Payment of tax under the scheme:

- RPs need to pay tax due in each of first two months (by 25th of next month) in the Qtr, by selecting “Monthly payment for quarterly taxpayer” as reason for generating Challan.
- RPs can either use Fixed Sum Method (pre-filled challan) or Self-Assessment Method (actual tax due), for monthly payment of tax for first two months, after adjusting ITC.
- No deposit is required for the month, if there is nil tax liability.
- Tax deposited for first 02 months can be used for adjusting liability for the qtr. in Form GSTR-3B and can't be used for any other purpose till the filing of return for the qtr.

Click here for details of [Notification](#) and [CBIC Circular](#).

Source from: <https://www.gst.gov.in/newsandupdates/read/417>

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Video of the week

A Glance of GST Exports Course by CA Bimal Jain



A2Z ACADEMY

A Glance of GST Exports Course by CA Bimal Jain



 8076563802  info@a2ztaxcorp.com  www.a2ztaxcorp.in

You can access the complete video on “A Glance of GST Exports Course by CA Bimal Jain “ at following link:
https://youtu.be/TKBPh_etIdU

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Income Tax

Important Update of the week

CBDT has issued refunds of over Rs. 1,36,066 crore to more than 40.19 lakh taxpayers between April 01, 2020 to November 17, 2020

**Income Tax India** ✓

@IncomeTaxIndia

...

CBDT issues refunds of over Rs. 1,36,066 crore to more than 40.19 lakh taxpayers between 1st April, 2020 to 17th November, 2020. Income tax refunds of Rs. 35,750 crore have been issued in 38,23,304 cases & corporate tax refunds of Rs. 1,00,316 crore have been issued in 1,95,518 cases

As per the recent tweet of Income Tax India, the **CBDT issues refunds of over Rs. 1,36,066 crore to more than 40.19 lakh taxpayers between April 01, 2020 to November 17, 2020.**

Income tax refunds of Rs. 35,750 crore have been issued in 38,23,304 cases & corporate tax refunds of Rs. 1,00,316 crore have been issued in 1,95,518 cases

Source from: <https://twitter.com/IncomeTaxIndia/status/1329024560289652738>

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Important News of the week

Vivad Se Vishwas scheme garners Rs 72,480 crore tax to government so far



The government has garnered Rs 72,480 crore so far through the direct tax dispute resolution scheme Vivad Se Vishwas, sources said. A total of 45,855 declarations have been filed under the scheme, involving disputed tax demand of Rs 31,734 crore till November 17.

Central public sector companies are also settling their disputes totalling Rs 1 lakh crore under the scheme. **The government had last month extended for the third time the deadline for making payment under the Vivad Se Vishwas scheme by three months to March 31, 2021 in view of the ongoing pandemic.**

However, declarations have to be filed by December 31, 2020. **Sources said so far tax of Rs 72,480 crore has been paid by the CPSUs and taxpayers against the disputed demand under the scheme. During a high-level review meeting by the I-T department, it was decided to launch an e-campaign to inform taxpayers about the scheme, guiding and facilitating them in filing of declarations and removing any difficulties faced by them in availing the scheme.**

The scheme provides for settlement of disputed tax, disputed interest, disputed penalty or disputed fees in relation to an assessment or reassessment order on payment of 100 percent of the disputed tax and 25 percent of the disputed penalty or interest or fee. The taxpayer is granted immunity from levy of interest, penalty and institution of any proceeding for prosecution for any offence under the Income Tax Act in respect of matters covered in the declaration.

The Direct Tax Vivad se Vishwas Act, 2020 was enacted on March 17, 2020 to settle direct tax disputes locked up in various appellate forums. In order to provide more time to taxpayers to settle disputes, earlier the date for filing declaration and making payment without additional amount under Vivad se Vishwas was extended from March 31, 2020 to June 30, 2020. Later again, this date was extended to December 31, 2020.

Therefore, earlier both the declaration and the payment without additional amount under the Vivad se Vishwas were required to be made by December 31, 2020. The payment date has since being extended to March 2021.

Source from: <https://timesofindia.indiatimes.com/business/india-business/vivad-se-vishwas-scheme-garners-rs-72480-crore-tax-to-government-so-far/articleshow/79288384.cms>

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GST News Flash

- **DoR: No extra compliance burden on taxpayers for GST turnover displayed in Form 26AS**

<https://www.a2ztaxcorp.com/dor-no-extra-compliance-burden-on-taxpayers-for-gst-turnover-displayed-in-form-26as/>

- **GST notices for past voluntary tax payments irk assesseees**

<https://www.a2ztaxcorp.com/gst-notices-for-past-voluntary-tax-payments-irk-assesseees/>

- **Haryana claims record collection of GST revenue despite adverse situation**

<https://www.a2ztaxcorp.com/haryana-claims-record-collection-of-gst-revenue-despite-adverse-situation/>

- **GST fake invoice frauds: DGGI to seek action against 3 erring Chartered Accountants**

<https://www.a2ztaxcorp.com/gst-fake-invoice-frauds-dggi-to-seek-action-against-3-erring-chartered-accountants/>

- **Finance secretary: Monthly GST filing will not be necessary after e-invoice system is in place**

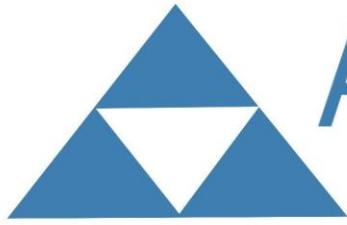
<https://www.a2ztaxcorp.com/finance-secretary-monthly-gst-filing-will-not-be-necessary-after-e-invoice-system-is-in-place/>

- **N K Singh: GST not a perfect system, requires changes, rate rationalization**

<https://www.a2ztaxcorp.com/n-k-singh-gst-not-a-perfect-system-requires-changes-rate-rationalisation/>

- **GST registration procedure set to be tightened**

<https://www.a2ztaxcorp.com/gst-registration-procedure-set-to-be-tightened/>



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Tax and Law Practitioners

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A2Z TAXCORP LLP is a boutique Indirect Tax firm having professionals from Multi disciplines which includes Goods and Services Tax (GST), Central Excise, Custom, Service Tax, VAT, DGFT, Foreign Trade Policy, SEZ, EOU, Export – Import Laws, Free Trade Policy etc.

Thanks & Best Regards,

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