



Weekly GST Communique



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GST

Important Judgment, Rulings of the week

- Assessee allowed for monthly instalment facility to pay the tax liability with interest
- Service Tax liability of demerged undertakings cannot be fastened on assessee upon merger
- NAA holds McDonald's franchisee Hardcastle Restaurants guilty of Profiteering
- GST not exigible for sale of flats after issuance of Completion Certificate
- Consultancy service provided by Japan based company, having fixed establishment in India is not liable for RCM under 'import of service'

Important Notifications of the week

- CBIC appoints January 1, 2021, as date on which various sections of Finance Act, 2020 shall come into force
- Waiver of late fee for delay in furnishing Form GSTR-4 for FY 2019-20 for the registered person having principal place of business in Ladakh
- New grounds for cancellation of registration under GST
- No opportunity of being heard to taxpayers for suspension of registration
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- Restricting use of ITC amount for discharging output tax liability in GST
- Rule 36(4) amended to reduce ITC entitlement for invoices not furnished by supplier from 10% to 5%
- Validity of e-way bill narrowed by increasing distance from 100 km. to 200 km. per day
- Person whose registration has been suspended is now restricted from furnishing PART A of E-Way Bill
- New Form GST REG-31 notified for "Intimation for suspension and notice for cancellation of registration"
- Cancellation of registration under Rule 22 of the CGST Rules aligned with newly inserted sub-rule (2A) of Rule 21A
- Biometric based Aadhaar authentication/verification process for GST registration
- Blocking of GSTR-1 in case of non-filing of GSTR-3B of preceding two months/preceding tax period
- DGFT Synced HS codes in ITC (HS) 2017- Schedule I - Import Policy with the Finance Act, 2020

Important Circulars, Public Notice of the week

- MGST Department issued General Procedure for GST Audits u/s 65 of the MGST Act, 2017
- Karnataka GST Department issued procedure and guidelines on e-Shodane under KGST Act, 2017
- DGFT amended Handbook of procedure 2015-2020 for modification of PAN based IEC

Important Press Release of the week

- 8th Instalment of Rs. 6,000 crore released to the States as back to back loan to meet the GST compensation shortfall

Important Updates of the week

- CBIC: Myths v. Facts w.r.t Notifications issued on 22.12.2020 to curb GST fake invoice frauds
- E-way bill portal has enabled generation of e-way bills by Transporters for e-invoices
- GSTN: Communication between Recipient and Supplier Taxpayers on GST Portal
- GSTN issued FAQ's on communication between Recipient and Supplier Taxpayers

Our Article of the week

- Gist of important changes made in the CGST Rules, 2017 vide Notification issued on December 22, 2020

Videos of the week

- Blocking of GST ITC Ledger by GST Dept is in violation of Natural Justice | | CA Bimal Jain
- New Rule 86B is restricting amount of GST ITC to be utilized towards payment of taxes | | CA Bimal Jain
- 5% capping on GST Credit to be availed on Invoices not furnished by Suppliers U/R 36(4) | | CA Bimal Jain
- Now, GST Registration to be granted in 7 & 30 Working Days in different situations | | CA Bimal Jain
- No opportunity of being heard for suspension of GST Registration | | CA Bimal Jain
- When GST Registration can be cancelled by Proper Officer in GST | | CA Bimal Jain

Income Tax

Important Press Release of the week

- Income Tax Department conducts searches in Guwahati

Important Update of the week

- CBDT has issued refunds of over Rs. 1,50,863 crore to more than 1.18 crore taxpayers between April 01, 2020 to December 20, 2020

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GST

Important Judgment, Rulings of the week

Assessee allowed for monthly instalment facility to pay the tax liability with interest



The Hon'ble Kerala High Court in ***Malayalam Motors Pvt. Ltd. v. The Assistant State Tax Officer [WP(C). No. 21490 of 2020(I) dated October 12, 2020]*** held that, the assessee who has sought an instalment facility to pay the admitted tax, together with interest thereon, shall be permitted to discharge the tax liability, inclusive of any interest and late fee thereon, in equal successive monthly instalments, in view of the financial difficulties faced by it during the COVID pandemic situation.

Facts:-

Malayalam Motors Pvt. Ltd. ("**Petitioner / Company**") is engaged in the business of automobile sales. The Company had filed GSTR-1 returns for the months of February, 2020 to May, 2020, but due to COVID pandemic, it was not in a position to generate the funds necessary for making a lump sum payment of the admitted tax for the said period. The Company, however, intends to pay the arrears of tax dues without contesting the same and it is therefore, the Petitioner seeks a direction from the Court to permit the Petitioner to file the returns without paying the entire admitted tax, but ensuring that the payment of admitted tax, together with interest thereon and applicable late fees etc., will be made in quick instalments.

The Assistant State Tax Officer ("**Respondent**") was of the view that the provisions of the Central Goods and Service Tax Act, 2017 ("**CGST Act**") do not provide for the payment of the admitted amount shown in the return in instalments.

Issue:-

Whether the relief sought for by the Petitioner can be granted in view of the express provisions of the statute?

Held:-

The Hon'ble Kerala High Court in **WP(C). No. 21490 OF 2020(I) dated October 12, 2020** held as under:-

- The Petitioner is not disputing its liability to tax, or the quantum thereof, for the period in question and wishes to put a quietus to the matter. It only seeks an instalment facility to pay the admitted tax, together with interest thereon, in view of the financial difficulties faced by it during the COVID pandemic situation, when its business has come to a total standstill.
- The Court deems it appropriate to direct the Respondent to accept the belated return filed by the Petitioner for the period from February, 2020 to May, 2020, without insisting on payment of the admitted tax declared therein. The Petitioner shall be permitted to discharge the tax liability, inclusive of any interest and late fee thereon, in equal successive monthly instalments commencing from November 15, 2020 and culminating on August 15, 2021.
- Clarified that, if the Petitioner defaults in any single instalment, the Petitioner will lose the benefit of this judgment and it will be open to the Respondent to proceed with recovery proceedings for realisation of the unpaid tax, interest and other amounts, in accordance with law.

Comments:-

Earlier, the Hon'ble Kerala High Court in the matter of **Pazhayidom Food Ventures (P) Ltd v. Superintendent Commercial Taxes [WP(C). No. 14275 of 2020 dated July 24, 2020]**, in similar circumstances, had directed the respondent tax authority to accept the belated returns and permitted the petitioner therein to discharge the balance tax liability inclusive of any interest and late fee thereon, in equal monthly instalments commencing from August 25, 2020 and culminating on March 25, 2021.

Service Tax liability of demerged undertakings cannot be fastened on assessee upon merger


CESTAT

Customs, Excise, Service Tax Appellate Tribunal

The Hon'ble CESTAT, New Delhi, in **Jayaswal Neco Industries Ltd. vs. Commissioner of Customs, Central Excise and Service Tax - Raipur [Service Tax Appeal No. 50893 of 2015 (dated, October 07, 2020)]** held that, the assessee could not be held to be liable for discharging service tax liability of the Demerged Undertakings as it the service recipient and not service provider therefore, the confirmation of demand by the Commissioner is bad in law.

Facts:-

The Jayaswal Neco Industries Ltd. ("**Appellant**"), a manufacturer of excisable goods, is engaged in providing services of goods transport agency and business auxiliary service. During the relevant period from October 2007 to June, 2009, the Appellant had taken on lease the manufacturing plants of M/s Abhijeet Infrastructure Ltd. ("**Abhijeet Ltd.**") and Corporate Ispat Alloys Ltd. ("**Corporate Ltd.**"). These plants were mentioned in the Central Excise registration of the Appellant. At these manufacturing plants, the Appellant manufactured DRI, Pig Iron and billets, which were sold to Abhijeet Ltd. and Corporate Ltd., who further sold these goods to independent buyers at the same price as they were sister concerns of the Appellant.

The Appellant claims to have shared the profits with Abhijeet Ltd. and Corporate Ltd. by way of fixed discounts and incentives in the form of additional discounts, paid on a monthly basis by way of debit notes issued by the, based on the quantity of goods sold by Abhijeet Ltd. and Corporate Ltd. met a certain sales target mutually agreed upon by the Appellant and the two concerns, which were recorded in the books of account of the Appellant. The Appellant settled the account of Abhijeet Ltd. and Corporate Ltd. after adjusting the aforesaid discounts/incentives.

It transpires that the plants of Abhijeet Ltd. and Corporate Ltd. were demerged from the legal entities of Abhijeet Ltd. and Corporate Ltd. and were merged into the Appellant w.e.f. April 1, 2008, in terms of an order dated November 13, 2009, passed by the Bombay High Court. The Appellant contends that Abhijeet Ltd. and Corporate Ltd. continued to exist and operate as separate legal entities and only their manufacturing unit plants based in Siltara were merged with the Appellant. During the course of audit of the books of account of the Appellant, for the period September 2006 to December 2008, it was noticed that Abhijeet Ltd. and Corporate Ltd. had received commission on account of sale of DRI and Pig Iron from the Appellant but had not paid service tax on such commission.

Accordingly, a Show Cause Notice ("**SCN**"), dated April 17, 2013 was issued to the Appellant proposing service tax on commission / discounts paid to Abhijeet Ltd. and Corporate Ltd., alleging that they acted as commission agents of the Appellant and received commission from the Appellant, which was taxable under "business auxiliary service". The reason for demanding tax from the Appellant was that Abhijeet Ltd. and Corporate Ltd. had merged with the Appellant and, therefore, the Appellant was liable to pay the service tax that was payable by the Abhijeet Ltd. and Corporate Ltd. The Appellant filed a reply to the aforesaid SCN. The Commissioner, on being unsatisfied with the reply, by the order dated December 23, 2014, confirmed the demand on service tax under Section 73 of the Finance Act, 1994 ("**Finance Act**"), read with Sections 68 and 70 of the Finance Act with interest and penalties under Sections 77 and 78 of the Finance Act.

Issue:-

Whether the Appellant could be held to be liable for discharge service tax liability of the "Demerged Undertakings"?

Held:-

The Hon'ble CESTAT, New Delhi, in *Service Tax Appeal No. 50893 of 2015 (dated, October 07, 2020)* held as under:

- Observed that, the Appellant is a service recipient and according to Section 68 of the Finance Act, every person providing taxable service is required to pay service tax. The SCN, therefore, could have

been served only upon the person chargeable to service tax and not to the Appellant, which is a service recipient and not “a person” liable to pay service tax under Section 68 of the Finance Act.

- Stated that, it is clear from the Scheme of Arrangement that only the “Demerged Undertakings” comprising the Sponge Iron Plants and Power Plants of Abhijeet Ltd. and Corporate Ltd. that alone were merged with Appellant, while the body corporate of Abhijeet Ltd. and Corporate Ltd. did not merge with the Appellant and they continued to execute their business transactions. Even if it is assumed that business auxiliary service was provided, then too only Abhijeet Ltd. and Corporate Ltd. were liable to pay service tax and not the Power Plants and Sponge Iron Plants, which constituted “the Demerged Undertakings” and which alone stood merged with the Appellant. Thus, the understanding of the Scheme of Arrangement by the Revenue is clearly erroneous.
- Held that, the Appellant cannot be made liable to discharge service tax liability of ‘Demerged Undertakings’ which stood merged in it and the liabilities of Abhijeet Ltd. and Corporate Ltd. could not have been fastened upon Appellant. The SCN could have been issued to Abhijeet Ltd. and Corporate Ltd. and not to the Appellant, which is a service recipient and not “a person” liable to pay service tax under Section 68 of the Finance Act. Hence, the confirmation of demand by the Commissioner, for this reason is bad in law.

NAA holds McDonald's franchisee Hardcastle Restaurants guilty of Profiteering



The Hon'ble National Anti-Profiteering Authority (NAA), in the case of ***DGAP vs. Hardcastle Restaurants [Case No. 79/2020 dated December 9, 2020]*** held that, the Hardcastle Restaurants (“Respondent”) has committed an offence by denying the benefit of rate reduction to the buyers of his products in contravention of the provisions of Section 171(1) of the Central Goods & Services Tax Act, 2017 (“CGST Act”) during the period from November 15, 2017 to January 31, 2018 and has thus resorted to profiteering amounting to Rs. ₹ 7,49,27,786/-. However, penalty under Section 171(3A) of the CGST Act cannot be imposed as Section 171(3A) ibid came into effect only on January 01, 2020 and the same cannot be applied retrospectively.

Facts:-

The Respondent is a company, engaged in the business of operating quick service restaurants under the brand name of "Mcdonalds" under a franchisee agreement with the multi-national company Mcdonalds India Private Limited. The Respondent is operating about 300 restaurants in the 10 States of Andhra Pradesh, Chhattisgarh, Goa, Gujarat, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Tamilnadu and Telangana. The Respondent was selling 1844 products as on November 15, 2017 when the rate of GST on the restaurant services being provided by him was reduced from 18% to 5% by the Central and the State Governments vide **Notification No. 26/2017-Central Tax (Rate) dated November 14, 2017** with the stipulation that the Respondent would not be entitled to the benefit of ITC on the above service w.e.f. November 15, 2017. Accordingly, the Respondent was required to pass on the benefit of tax reduction to his recipients as per the provisions of Section 171 of the CGST Act and its consequences, if he did not pass on the benefit.

On the basis of the analysis of the details of the product-wise outward taxable supplies made during the period between November 15, 2017 to January 31, 2018, the DGAP found that the Respondent had increased the base prices of the items supplied by him to neutralise the effect of ITC of 9.11% which was not available to him after the rate reduction w.e.f. November 15, 2017. The DGAP had compared the pre and post GST rate reduction average prices of the items sold during the period between November 15, 2017 to January 31, 2018 and after taking into account the entire quantity of the products sold during the above period, DGAP found that the Respondent had increased the average output taxable value i.e. the base price by 10.45% to offset the denial of input tax credit of 9.11% as was evident from the Report. Therefore, the DGAP had concluded that the Respondent had not passed on the benefit of reduction in the rate of tax from 18% to 5% as he had increased the base prices by more than 9.11% to 100.09% in respect of 1,730 items out of total 1,844 items i.e., 93.82% of the total items supplied by him after November 15, 2017. And on the basis of the pre and post reduction GST rates, the impact of the denial of ITC and the details of the outward supplies made during the period between November 15, 2017 to January 31, 2018, as per the GSTR-1 or GSTR-3B Returns of the Respondent, the amount of net higher sale realization due to increase in the base prices of the products, despite the reduction in the GST rate from 18% to 5%, with denial of ITC, the profiteered amount came to Rs. 7,49,27,786 as per the Report.

Issues:-

- Whether the Respondent has passed on the benefit of tax reduction to his customers w.e.f. November 15, 2017 as per the provisions of Section 171(1) of the CGST Act or not?
- If not, then what is the quantum of the profiteered amount as per the provisions of Section 171(1) read with the Explanation attached to Section 171 of the CGST Act?
- Whether the Respondent is liable to the penalty prescribed under Section 171(3A) of the CGST Act?

Held:-

The Hon'ble National Anti-Profiteering Authority, in **Case No. 79/2020 dated December 9, 2020** held as under:

- No elaborate mathematical calculations are required to be prescribed separately for passing on the benefit of tax reduction and computation of the profiteered amount. The Authority was under no obligation to provide the same to the Respondent. The Respondent cannot deny the benefit of tax reduction to his customers on the above ground and enrich himself at the expense of his buyers as Section 171 of the CGST Act provides clear cut methodology and procedure to compute the benefit of tax reduction and the profiteered amount.

- The Respondent cannot claim violation of Article 14 on the ground that he has not been allowed to include his costs in the prices on the date of reduction in the rate of tax as such a claim would be against the provisions of Section 171(1) *ibid*. The Respondent had enough time from July 01, 2017 to November 14, 2017 to increase his prices due to increase in his cost however, sudden increase in his cost on November 15, 2017 is a deliberate attempt not to pass on the benefit of tax reduction and appropriate the amount of benefit. Therefore, rejects this contention of the Respondent as not maintainable.
- Stated that, there are several statutory bodies which exercise quasi-judicial functions but they are not required to be composed of Judicial Members. Similarly, the Assessing Officers, Commissioners of Appeal under the Income Tax Act, 1961 and the CGST Act, the Authorities on Advance Rulings and the Dispute Resolution Panel under the Income Tax Act, 1961 all perform quasi-judicial functions but there is no requirement that such persons who must be possessing either a law degree or have had judicial experience. Such a requirement is not only impractical but would also render several statutory authorities unworkable. Concluded that NAA hasn't replaced any Courts, cannot be equated to a Court or a Tribunal and hence the mandate of having a Judicial Member cannot be said to apply to NAA.
- Noted that, power to frame methodology and procedure is generally and widely available to all the judicial, quasi-judicial and other statutory bodies and no favour has been shown to this Authority by granting it power to frame its own methodology and procedure under Rule 126 of the CGST Rules. Such a power has been conferred on the GST Tribunal under Section 111(1) of the CGST Act and the Competition Commission under Section 36 of the Competition Act, 2002. This Authority has similarly framed its methodology and procedure under Rule 126 of the CGST Rules vide Notification dated March 28, 2018. The Respondent does not have the power of legislature to frame the methodology and procedure and hence any such methodology and procedure suggested by him cannot be accepted being illogical, arbitrary, inequitable and being ultra vires of Section 171 of the CGST Act and Article 14 of the Constitution. The Respondent had wrongly claimed that he had passed on the benefit at the entity level whereas the evidence on record shows otherwise.
- Opined that, the benefits of tax reduction and ITC are to be passed on by each registered person by commensurate reduction in prices on each supply to every recipient and this Authority is empowered to examine whether these benefits have been passed on or not. To assist this Authority while making such examination, an investigating agency designated as the DGAP has been created under Rule 129 of the CGST Rules, to conduct detailed investigation and submit Report to this Authority under Rule 129(6) of the CGST Rules to determine whether the above benefits have been passed or not in terms of Section 171(1) read with Rule 133(1) of the CGST Rules. The Respondent has computed the net incremental revenue as 9.43% on the Restaurant service by comparing the revenue at the pre rate change prices and the post rate change prices after reducing the incremental costs from it. In this regard it can be noted that in case the incremental revenue is taken to be 9.43% then it is more than the denial of ITC of 9.11% and hence the Respondent has profit margin of 0.32% as per his own admission which proves that he has profiteered to the extent of 0.32%. Therefore, the Respondent cannot claim that he was not required to pass on the benefit of tax reduction.
- Held that, the Respondent is liable to pass on the benefit of GST rate reduction from 18% to 5% with denial of benefit of ITC, as was notified by the Central and the State Governments vide **Notification No. 41/2017-Central tax (Rate) dated November 14, 2017** e.f. November 15, 2017. It is also established that the Respondent has not passed on the benefit of above tax reduction and denied benefit of rate reduction to the buyers of his product to his customers w.e.f. November 15, 2017 to January 31, 2018 and he has thus resorted to profiteering. Therefore, he is apparently liable for imposition of penalty under the provisions of Section 171(3A) of the CGST Act. However, perusal of the provisions of Section 171(3A) of the CGST Act under which penalty has been prescribed for the above violation shows that it has been inserted in the CGST Act, January 01, 2020 vide Section 112 of

the Finance Act, 2019 and it was not in operation during the period from November 15, 2017 to January 31, 2018 when the Respondent had committed the above violation and hence, the penalty prescribed under Section 171(3A) of the CGST Act cannot be imposed on the Respondent retrospectively.

- Directed the Respondent to deposit 50% of the profited amount of ₹ 7,49,27,786/- i.e., ₹ 3,74,63,893/- in the Central Consumer Welfare Fund and the balance 50% in the Consumer Welfare Funds of the 10 States along with 18% interest payable from the dates from which the above amount was realized by the Respondent from his recipients till the date of deposit in the respective Consumer Welfare Funds within a period of 3 months from the date of passing of this order.

Comments:-

The Hon'ble NAA had earlier vide **Case No. 14/2018 dated November 16, 2018**, held the Respondent guilty of profiteering and directed him to deposit profiteered sum, which was set aside and remanded back to NAA by order of the Hon'ble Bombay High Court in **Writ Petition No. 3492 of 2018 dated October 1, 2019**, however, another Writ Petition was filed challenging constitutional validity of Rule 126 of the CGST Rules. Subsequently, a **Transfer Petition (Civil) No.s 290-292 of 2020 dated February 19, 2020** was filed before the Hon'ble Supreme Court for transfer of petition before the Hon'ble Delhi High Court which was allowed and listed before the Hon'ble Delhi High Court. However, the same was withdrawn by Petitioner with a liberty to raise all issues before NAA [**W.P. (C) 3909/2020 dated July 7, 2020**].

GST not exigible for sale of flats after issuance of Completion Certificate

AAR
 Authority For Advance Ruling
Karnataka



The Hon'ble AAR, Karnataka, in the matter of **Sri. B.R. Sridhar [Order No. KAR ADRG 55/2020 (dated, November 7, 2020)]** held that the amounts received by Sri. B.R. Sridhar ("Owner/ Applicant"), either by himself or through his agents, towards sale of their share of flats consequent to a Joint Development Agreement ("JDA") are not exigible to GST if the entire consideration related to such sale of flats is received after the issuance of Completion Certificate ("C.C").

Facts:-

Sri. B.R. Sridhar, being the owner of an immovable property, situated at Bikasipura Village, Uttarahalli Hobli, Bangalore, has entered into a JDA dated May 19, 2016 with M/s. Suprabhat Constructions, a partnership firm, authorizing them to construct residential flats by incurring the necessary cost together with certain common

amenities and upon the development of the said property, the Applicant gets 40% share of undivided right, title and interest in the land proportionate to super built up area and 40% of car parking spaces.

Issue:-

Whether the total amounts received by the Owner towards the advances or sale consideration of the flats fallen to his share of 40% in terms of the JDA dated 19.05.2016 and the subsequent Area Sharing Agreement dated January 3, 2018, are not amenable for payment of GST, since Applicant has sold or agreed to sell or gifted, the flats after obtaining Occupancy Certificate dated August 26, 2019 and that Applicant has not received any part of the sale consideration prior to the said date of occupancy certificate.

Held:-

The Hon'ble AAR, Karnataka, in **Order No. KAR ADRG 55/2020 dated November 7, 2020** held as under:

- Noted that Schedule II to the CGST Act specifies certain activities / transactions to be treated as supply of goods / services. Clause 5(b) of the said schedule stipulates that *"Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly"* shall be treated as supply of service except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation whichever is earlier.
- Observed that, Applicant's share of residential flats have been handed over by the developer after the issuance of completion / occupation certificate August 26, 2019, and also clause 1.7 of the Area Sharing Agreement restricts the right of the Applicant to execute any sale agreement or any conveyancing deeds till the issuance of completion certificate and taking over of their share of units / flats.
- Held that, the amounts received by the Applicant, either by himself or through his agents, towards sale of their share of flats are not exigible to GST, if the entire consideration related to such sale of flats is received after the issuance of C.C dated August 26, 2019, as the said activities are treated neither supply of goods nor supply of service in terms of schedule III of the CGST Act to Clause 5(b) of the Schedule-II of the CGST Act.
- Clarified that if the Applicant themselves or the developer on behalf of the Applicant have sold the Applicant's share of units/flats prior to issuance of completion certificate, then the transactions amount to supply of "Works Contract Service" are liable to GST. The time of supply in the instant case would be the time at which the constructed flats are handed over by the developer to the Applicant. In the instant case the Applicant claims / contends that they have received their share of units/flats after the issuance of Completion or Occupancy certificate by Bruhat Bengaluru Mahanagar Palike for 74 units.

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Consultancy service provided by Japan based company, having fixed establishment in India is not liable for RCM under 'import of service'



The Hon'ble AAR Odisha, in the matter of **Tokyo Electric Power Co. [Order No.02/Odisha-AARJ2020-21 dated November 19, 2020]** held that supply of consultancy service to an Indian entity Odisha Power Transmission Corporation Limited ("**OPTCL**") is not import of service in terms of Section 2(11) of the Integrated Goods and Services Tax Act, 2017 ("**IGST Act**") as the location of supplier as per Section 2(15) of the IGST Act is in India. Therefore, the Tokyo Electric Power Company, Holding Inc., being the supplier of service in India, is liable to pay tax and required to take GST registration.

Facts:-

M/s Tokyo Electric Power Company Service Limited ("**TEPSCO**"), a Japan based company, in association with Tokyo Electric Power Company, Holding Inc., ("**Applicant**"), a Japan based Company (collectively referred as "**Consultants**") has entered into an agreement dated, April 13, 2018, with **OPTCL**, whereby consultants have agreed to provide consultancy services to M/s Odisha Transmission System Improvement Project ("**Project**"), Odisha, India.

The Applicant will provide and transfer the technical knowledge in relation to the outdoor Geographic Information System ("**GIS**") equipment to OPTCL's engineers and staff through the actual consulting activities during the design stage and implementation stage of the project. The Applicant would carry out/provide consultancy services by the expert belonging/sub-station Engineer.

The Applicant was of view that he is neither liable to obtain registration as a regular taxpayer nor as a non-resident taxable person for the consultancy services provided to OPTCL. The Applicant also tried to establish that the supply is made-by the Foreign Company, who is located in Japan is not the supplier in the context of rendering consultancy service and would be liable to pay the tax under Reverse Charge Mechanism ("**RCM**").

Issues:-

Whether the Applicant is required to be registered under Odisha Goods and Services Act, 2017 (“OGST Act”) and CGST Act for the consultancy services provided to Odisha Power Transmission Corporation Limited?

Held:-

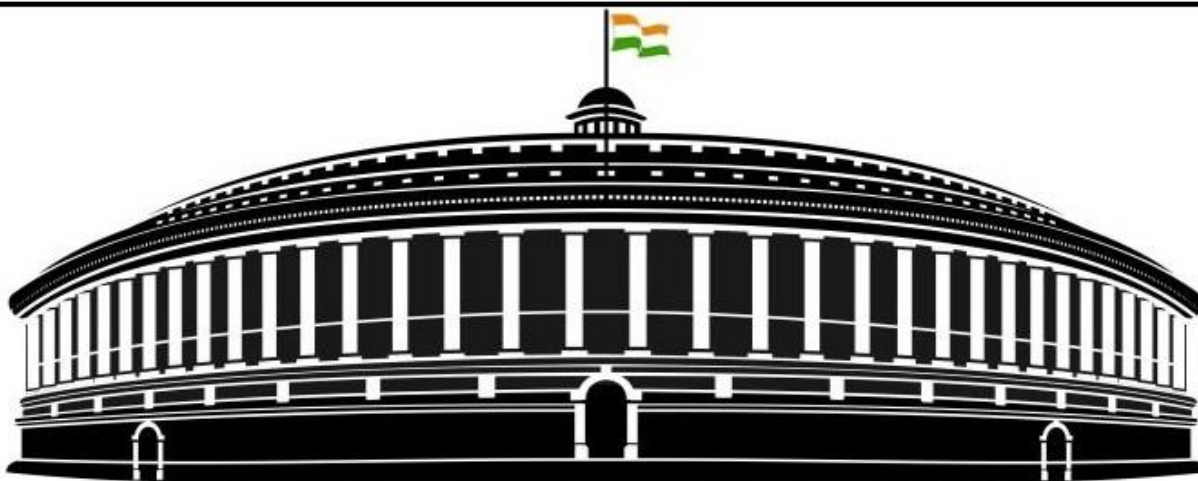
The Hon’ble AAR Odisha, in **Order No.02/Odisha-AAR/2020-21 dated November 19, 2020** held as under:

- After analyzing the definition of 'location of the supplier of services', in terms of Section 2(15) of the IGST Act, the AAR noted that location of supplier is usually where a supply is made from, a place mentioned as a principal place of business on the GST registration certificate. But in the present case, the place of supply and the location of supplier is at the project site which is different from the place of business and it is a long-term contract spanning over 46 months, followed by 6 months of defects liability period.
- Observed that, the Applicant is responsible for providing and transferring the technical knowledge in relation to the outdoor GIS equipment to OPTCL Engineer and staffs through the actual consulting activities during the design stage and implementation stage of the project. In order to carry out the aforementioned tasks, it would depute the support staff and expert belonging at the project site. OPTCL shall provide them access to the project site in respect of which access is required for the performance of the services. The expert so deputed to the project site by the Applicant is to be paid at an agreed rate for the aforementioned tasks.
- Stated that, it is evident that the expert belonging maintains suitable structures in terms of human and technical resources at the sites of OPTCL. It ensures provision of supply of consulting services for the contract period, indicating sufficient degree of permanence to the human and technical resources employed at the sites. The Applicant through its expert belonging, therefore, supplies the service at the sites from fixed establishments as defined under Section 2(7) of the IGST Act. The location of the supplier should, therefore, be in India in terms of Section 2(15) of the IGST Act. Therefore, the Authority did not agree with the contention of the Applicant that the services supplied to OPTCL would be covered under the ambit of Entry No. 1 of **Notification No. 10/2017- Integrated Tax (Rate) dated June 28, 2017** and shall be liable to tax under RCM.
- Held that, supply of consulting services through sub-station Engineer/ expert of the Applicant to OPTCL is therefore not the import of service within the meaning of Section 2(11) of the IGST Act. The Engineer/expert belonging to the Applicant should be treated as a supplier located in India, and made liable to pay GST, the place of supply being determined in terms of Section 12(2)(a) of the IGST Act. Since, the Applicant is liable for payment of GST, he is required to be registered under OGST Act and CGST Act for the consultancy services provided to OPTCL.

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Important Notifications of the week

CBIC appoints January 1, 2021, as date on which various sections of Finance Act, 2020 shall come into force



Finance Act 2020

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The CBIC vide **Notification No. 92/2020- Central Tax dated December 22, 2020** appointed January 1, 2021, as date on which following sections of the Finance Act, 2020 shall come into force:

Section of the Finance Act, 2020	Amendment in Section of the CGST Act, 2017 ("CGST Act")	Particulars of amendment	Effect
Section 119	Section 10(2) (Composition levy)	<i>"In section 10 of the Central Goods and Services Tax Act, in sub-section (2), in clauses (b), (c) and (d), after the words "of goods", the words "or services" shall be inserted."</i>	Seeks to harmonise the conditions for eligibility for opting to pay tax under Composition Scheme as sub-section (1) and sub-section (2A) of Section 10 of the CGST Act.
Section 120	Section 16(4) (Eligibility and conditions for taking input tax credit.)	<i>"In section 16 of the Central Goods and Services Tax Act, in sub-section (4), the words "invoice relating to such" shall be omitted."</i>	Delinks availment of Input Tax Credit ("ITC") on debit notes with the date of issuance of the original invoice. Thus, ITC on debit notes issued after 6 months from the end of the financial year to which invoice pertains can be availed post amendment.
Section 121	Section 29(1)(c) (Cancellation or	Substituted Section 29(1)(c) of the CGST Act to <i>"(c) the taxable person is no longer</i>	Allows cancellation of voluntary registrations under Section 25(3) of the CGST Act.

	suspension of registration)	<i>liable to be registered under section 22 or section 24 or intends to op tout of the registration voluntarily made under sub-section (3) of section 25:"</i>		
Section 122	Proviso to Section 30(1) (Revocation of cancellation of registration)	<p>Substituted proviso to Section 30(1) of the CGST Act to:</p> <p><i>"Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended,-</i></p> <p><i>(a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding thirty days;</i></p> <p><i>(b) by the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a)"</i></p>	Empower to jurisdictional Assistant / Joint Commissioner and Commissioner to to extend the period provided to file an application for revocation of cancellation of registration.	
Section 123	Proviso to Section 31(2) (Tax invoice)	<p>Substituted proviso to Section 31(2) of the CGST Act to:</p> <p><i>"Provided that the Government may, on the recommendations of the Council, by notification,-</i></p> <p><i>(a) specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;</i></p> <p><i>(b) subject to the condition mentioned therein, specify the categories of services in respect of which-</i></p> <p><i>(i) any other document issued in relation to the supply shall</i></p>	Empower the Government to prescribe period and manner or exclusion from issuing tax invoice for specified categories of services or any document which may be deemed to be a tax invoice for such services.	

		<p><i>be deemed to be a tax invoice; or</i></p> <p><i>(ii) tax invoice may not be issued."</i></p>		
Section 124	Section 51(3) (Tax deduction at source)	Substituted Section 51(3) of the CGST Act to "(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed" and omitted Section 51(4).	The requirement for the deductor to issue TDS certificate under Section 51 of the CGST Act has been removed with new rules to be prescribed for issuance of such certificates, and accordingly, the provision for fees (penalty) for the delay in issuance of such certificate has been omitted.	
Section 126	Section 122 (1A) (Penalty for certain offences)	<p>Inserted sub-section (1A) in Section 122 of the CGST Act:</p> <p><i>"(1A) Any person who retains the benefit of a transaction covered under clauses (i), (ii), (vii) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on."</i></p>	Seeks to insert a new sub-section (1A) so as to make the beneficiary who retains benefit or at whose instance a supply has been made without the issuance of an invoice, or invoice has been issued without supply, or excess ITC has been availed/distributed liable for penalty as that of actual supplier/recipient.	
Section 127	Section 132 (Punishment for certain offences)	<p>Amended Section 132 of the CGST Act as under:</p> <p><i>"(i) for the words "Whoever commits any of the following offences", the words "Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences" shall be substituted;</i></p> <p><i>(ii) for clause (c), the following clause shall be substituted, namely:-</i></p> <p><i>"(c) avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax</i></p>	Seeks to amend Section 132 so as to make the offence of fraudulent availment of ITC without invoice or bill, <u>cognizable and non-bailable</u> under sub-section (1) of Section 69 and to make any person who retains the benefit of certain transactions and at whose instance such transactions are conducted liable for punishment.	

		credit without any invoice or bill;";	
		(iii) in clause (e), the words "fraudulently avails input tax credit" shall be omitted."	
Section 131	Schedule II, Para 4 (Activities or transactions to be treated as supply of goods or supply of services)	In para 4 of the Schedule II to the CGST Act, omitted the words "whether or not for a consideration," at both the places where they occur, with effect from July 1, 2017.	Retrospective amendment to omit the words "whether or not for consideration" so as to give clarity to the meaning of the entries (a) and (b) of said paragraph, while aligning the same with Section 7(1), (1A) and Schedule I (supply without consideration) of the CGST Act.

The Notification can be accessed at: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-92-central-tax-english-2020.pdf>

Waiver of late fee for delay in furnishing Form GSTR-4 for FY 2019-20 for the registered person having principal place of business in Ladakh



The CBIC vide **Notification No. 93/2020- Central Tax dated December 22, 2020** inserted fourth proviso in **Notification No. 73/2017- Central Tax dated December 29, 2017** to waive late fee on failure to furnish Form GSTR-4 for FY 2019-20, from November 1, 2020 till December 31, 2020 for the registered person having principal place of business in the Union Territory of Ladakh.

The proviso reads as under:

"Provided also that the late fee payable for delay in furnishing of FORM GSTR-4 for the Financial Year 2019-20 under section 47 of the said Act, from the 1st day of November, 2020 till the 31st day of December, 2020 shall stand waived for the registered person whose principal place of business is in the Union Territory of Ladakh."

The Notification can be accessed at: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-93-central-tax-english-2020.pdf>

New grounds for cancellation of registration under GST



The CBIC vide **Notification No. 94/2020-Central Tax, dated December 22, 2020** issued Central Goods and Services Tax Rules (Fourteenth Amendment), 2020, amending Rule 21 of the Central Goods and Services Rules, 2017 ("**CGST Rules**") in following manner:

- Clause (e), (f) and (g) has been inserted in Rule 21 of CGST Rules for cancellation of registration in certain cases:
 - Clause (e)- Now the officer can proceed for cancellation of GSTIN where a taxpayer avails Input Tax Credit ("**ITC**") exceeding the permissible amount of ITC, which is in violation of the provisions of section 16 of the CGST Act and rules made thereunder.
 - Clause (f)- It talks about synchronization between GSTR 1 and GSTR 3B. Department can now cancel registration where the Outward tax liability declared in GSTR 3B is lesser than the Outward tax liability declared in GSTR 1 for one or more tax period.
- Clause (g)- Violates Rule 86B of the CGST Rules which talks about restrictions on use of amount available in electronic credit ledger.

Amended Rule 21 of the CGST Rules, now reads as under w.e.f. 22nd December 2020:

"21. Registration to be cancelled in certain cases.-

The registration granted to a person is liable to be cancelled, if the said person,-

- (a) does not conduct any business from the declared place of business; or
- (b) issues invoice or bill without supply of goods or services **or both** in violation of the provisions of the Central Goods and Services Tax Act, 2017 ("CGST Act") or the rules made thereunder ; or
- (c) violates the provisions of section 171 of the Act or the rules made thereunder
- (d) violates the provision of rule 10A
- (e) avails input tax credit in violation of the provisions of section 16 of the Act or the rules made thereunder; or
- (f) furnishes the details of outward supplies in FORM GSTR-1 under section 37 for one or more tax periods which is in excess of the outward supplies declared by him in his valid return under section 39 for the said tax periods; or
- (g) violates the provision of rule 86B."

The Notification can be accessed at: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-94-central-tax-english-2020.pdf>

You can access the complete video on "When GST Registration can be cancelled by Proper Officer in GST || CA Bimal Jain" at following link: <https://youtu.be/RWF3PJeWdcl>

No opportunity of being heard to taxpayers for suspension of registration



The CBIC vide **Notification No. 94/2020-Central Tax, dated December 22, 2020** issued Central Goods and Services Tax Rules (Fourteenth Amendment), 2020 amending Rule 21A of the CGST Rules in following manner:

- The words “after affording the said person a reasonable opportunity of being heard” has been omitted from clause (2) of Rule 21A of the CGST Rules meaning thereby that no opportunity of being heard would be given to the taxpayer for suspension of registration, where the proper officer has reasons to believe that the registration of person is liable to be cancelled under Section 29 of the CGST Act (i.e., Cancellation or suspension of registration) or under Rule 21 of the CGST Rules (i.e., Registration to be cancelled in certain cases).
- Inserted new sub-rule (2A): Where there is a comparison of the return i.e. GSTR 3B under Section 39 of the CGST Act, furnished by a registered person with the details of outward supplies furnished in GSTR 1 under Section 37 of the CGST Act or inward supplies derived based on the details of outward supplies furnished by his suppliers in their GSTR-1 and significant differences/anomalies indicating contravention of CGST Act or Rules are discovered, the department shall now serve a notice in Form GST REG 31 to call for explanation as to why registration should not be cancelled, for which the registered person is required to submit his reply within 30 days of such notice.
- Where a registration is suspended, no refund can be availed by the taxpayer under Section 54 of the CGST Act (i.e., Refund of tax) during the period of suspension of registration.
- Inserted proviso to sub-rule (4) to allow proper officer to revoke suspension of registration anytime during the pendency of the proceedings for cancellation.

Amended Rule 21 of the CGST Rules, now reads as under w.e.f. December 22, 2020:

“Rule 21A. Suspension of registration.-

(1) Where a registered person has applied for cancellation of registration under rule 20, the registration shall be deemed to be suspended from the date of submission of the application or the date from which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation of registration under rule 22.

(2) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29 or under rule 21, he may suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration under rule 22.

(2A) Where, a comparison of the returns furnished by a registered person under section 39 with

(a) the details of outward supplies furnished in FORM GSTR-1; or

(b) the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their FORM GSTR-1,

or such other analysis, as may be carried out on the recommendations of the Council, show that there are significant differences or anomalies indicating contravention of the provisions of the Act or the rules made thereunder, leading to cancellation of registration of the said person, his registration shall be suspended and the said person shall be intimated in FORM GST REG-31, electronically, on the common portal, or by sending a communication to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said differences and anomalies and asking him to explain, within a period of thirty days, as to why his registration shall not be cancelled.

*(3) A registered person, whose registration has been suspended under sub-rule (1) or sub-rule (2) or **sub-rule (2A)**, shall not make any taxable supply during the period of suspension and shall not be required to furnish any return under section 39.*

(3A) A registered person, whose registration has been suspended under sub-rule (2) or sub-rule (2A), shall not be granted any refund under section 54, during the period of suspension of his registration.

Explanation.-For the purposes of this sub-rule, the expression “shall not make any taxable supply” shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension.

*(4) The suspension of registration under sub-rule (1) or sub-rule (2) or **sub-rule (2A)** shall be deemed to be revoked upon completion of the proceedings by the proper officer under rule 22 and such revocation shall be effective from the date on which the suspension had come into effect.*

Provided that the suspension of registration under this rule may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, if he deems fit.

(5) Where any order having the effect of revocation of suspension of registration has been passed, the provisions of clause (a) of sub-section (3) of section 31 and section 40 in respect of the supplies made during the period of suspension and the procedure specified therein shall apply.”

The Notification can be accessed at: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-94-central-tax-english-2020.pdf>

You can access the complete video on “No opportunity of being heard for suspension of GST Registration || CA Bimal Jai “ at following link: <https://youtu.be/BXauSd4nwxk>

Time limit increased for grant of GST registration from 3 to 7 working days



The CBIC vide **Notification No. 94/2020-Central Tax, dated December 22, 2020** issued Central Goods and Services Tax Rules (Fourteenth Amendment), 2020 amending Rule 9 of the CGST Rules in following manner:

- Increased the time period to approve the grant of registration to the applicant from **“three”** working days to **“seven”** from the date of submission of the application for the registration.
- Increased the time period for issue of notice in Form GST REG-03 (Notice for Seeking Additional Information / Clarification / Documents relating to Application for (Registration/Amendment/Cancellation)) from **“three”** working days to **“seven”** from the date of submission of the application.
- Substituted the proviso to sub-rule (4), as to when the applicant fails to complete Aadhaar authentication or does not opt for Aadhaar authentication or where the proper officer, with the approval of an officer authorized by the Commissioner not below the rank of Assistant Commissioner, deems fit to carry out physical verification of the places of business, the time limit for grant of registration would be extended to 30 days instead of 7 days.
- Accordingly, substituted sub-rule (5) to state that if the proper officer fails to take any action within the time limits specified above, the application for grant of registration shall be deemed to have been approved.

Amended Rule 9 of the CGST Rules, now reads as under w.e.f. 22nd December 2020:

“9. Verification of the application and approval.-

*(1) The application shall be forwarded to the proper officer who shall examine the application and the accompanying documents and if the same are found to be in order, approve the grant of registration to the applicant within a period of **seven** working days from the date of submission of the application.*

Provided that where-

(a) a person, other than a person notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8 or does not opt for authentication of Aadhaar number; or

(b) the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business,

the registration shall be granted within thirty days of submission of application, after physical verification of the place of business in the presence of the said person, in the manner provided under rule 25 and verification of such documents as the proper officer may deem fit.

*(2) Where the application submitted under rule 8 is found to be deficient, either in terms of any information or any document required to be furnished under the said rule, or where the proper officer requires any clarification with regard to any information provided in the application or documents furnished therewith, he may issue a notice to the applicant electronically in FORM GST REG-03 within a period of seven working days from the date of submission of the application and the applicant shall furnish such clarification, information or documents electronically, in FORM GST REG-04, within a period of **seven** working days from the date of the receipt of such notice.*

Provided that where-

(a) a person, other than a person notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8 or does not opt for authentication of Aadhaar number; or

(b) the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business,

the notice in FORM GST REG-03 may be issued not later than thirty days from the date of submission of the application.

Explanation.- For the purposes of this sub-rule, the expression "clarification" includes modification or correction of particulars declared in the application for registration, other than Permanent Account Number, State, mobile number and e-mail address declared in Part A of FORM GST REG-01.

(3) Where the proper officer is satisfied with the clarification, information or documents furnished by the applicant, he may approve the grant of registration to the applicant within a period of seven working days from the date of the receipt of such clarification or information or documents.

(4) Where no reply is furnished by the applicant in response to the notice issued under sub-rule (2) or where the proper officer is not satisfied with the clarification, information or documents furnished, he may, for reasons to be recorded in writing, reject such application and inform the applicant electronically in FORM GST REG-05.

(5) If the proper officer fails to take any action, -

(a) within a period of seven working days from the date of submission of the application in cases where the person is not covered under proviso to sub-rule (1); or

(b) within a period of thirty days from the date of submission of the application in cases where a person is covered under proviso to sub-rule (1); or

(c) within a period of seven working days from the date of the receipt of the clarification, information or documents furnished by the applicant under sub-rule (2),

the application for grant of registration shall be deemed to have been approved."

The Notification can be accessed at: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-94-central-tax-english-2020.pdf>

You can access the complete video on "Now, GST Registration to be granted in 7 & 30 Working Days in different situations || CA Bimal Jain" at following link: <https://youtu.be/UnzyNTC07AE>

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Restricting use of ITC amount for discharging output tax liability in GST



The CBIC vide **Notification No. 94/2020-Central Tax, dated December 22, 2020** issued Central Goods and Services Tax Rules (Fourteenth Amendment), 2020 introducing new Rule 86B in the CGST Rules in following manner:

- Introduced new Rule 86B, restricts the use of ITC for discharging the output tax liability, applicable on the registered person whose value of taxable supply other than exempt supply and export, in a month exceeds fifty lakh rupees.
- The taxpayer is not allowed to use ITC in excess of 99% of output tax liability.
- The said Rule is not applicable in following cases:-
 - If the registered person or the proprietor or karta or the managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees has paid more than INR 1 lakh as income tax under the Income-tax Act, 1961 in each of the last two financial years.
 - If the registered person has received a refund amount of more than INR 1 lakh in the preceding financial year on account of export under LUT/ Bonded or inverted tax structure i.e., rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council.
 - If the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current financial year.
 - If the registered person is the Government Department, Public Sector Undertaking, Local Authority or Statutory Body.

Rule 86B effective from January 1, 2021 reads as under:

"86B. Restrictions on use of amount available in electronic credit ledger.-Notwithstanding anything contained in these rules, the registered person shall not use the amount available in electronic credit ledger to discharge his liability towards output tax in excess of ninety-nine per cent. of such tax liability, in cases where

the value of taxable supply other than exempt supply and zero-rated supply, in a month exceeds fifty lakh rupees:

Provided that the said restriction shall not apply where –

(a) the said person or the proprietor or karta or the managing director or any of its two partners, whole-time Directors, Members of Managing Committee of Associations or Board of Trustees, as the case may be, have paid more than one lakh rupees as income tax under the Income-tax Act, 1961(43 of 1961) in each of the last two financial years for which the time limit to file return of income under subsection (1) of section 139 of the said Act has expired; or

(b) the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (i) of first proviso of subsection (3) of section 54; or

(c) the registered person has received a refund amount of more than one lakh rupees in the preceding financial year on account of unutilised input tax credit under clause (ii) of first proviso of sub-section (3) of section 54; or

(d) the registered person has discharged his liability towards output tax through the electronic cash ledger for an amount which is in excess of 1% of the total output tax liability, applied cumulatively, upto the said month in the current financial year; or

(e) the registered person is –

(i) Government Department; or

(ii) a Public Sector Undertaking; or

(iii) a local authority; or

(iv) a statutory body:

Provided further that the Commissioner or an officer authorised by him in this behalf may remove the said restriction after such verifications and such safeguards as he may deem fit.”

The Notification can be accessed at: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-94-central-tax-english-2020.pdf>

“New Rule 86B is restricting amount of GST ITC to be utilized towards payment of taxes || CA Bimal Jain”
at following link: <https://youtu.be/i9CIW8mZqyQ>

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Rule 36(4) amended to reduce ITC entitlement for invoices not furnished by supplier from 10% to 5%

The CBIC vide **Notification No. 94/2020-Central Tax, dated December 22, 2020** has issued Central Goods and Services Tax Rules (Fourteenth Amendment), 2020, *inter alia*, amending Rule 36(4) of the CGST Rules **w.e.f. January 1, 2021** in following manner:

- The restriction of claim of ITC in respect of invoices/debit notes not furnished by the suppliers has now been reduced from 10% to 5% of the credit available in GSTR 2B.
- Substituted the word ***“furnished”*** in place of the word *“uploaded”*
- Inserted the words ***“in FORM GSTR-1 or using the invoice furnishing facility”*** after the words, brackets and figures *“by the suppliers under sub-section (1) of section 37”* to align it with the Invoice Furnishing Facility (***“IFF”***) introduced vide *Notification No. 82 /2020-Central Tax dated November 10, 2020*.

Rule 36(4) of the CGST Rules effective from January 1, 2021 will read as under:

“(4) Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been **furnished** by the suppliers under sub-section (1) of section 37 **in FORM GSTR-1 or using the invoice furnishing facility**, shall not **exceed 5 per cent** of the eligible credit available in respect of invoices or debit notes the details of which have been **furnished** by the suppliers under sub-section (1) of section 37 **in FORM GSTR-1 or using the invoice furnishing facility**

Provided that the said condition shall apply cumulatively for the period February, March, April, May, June, July and August, 2020 and the return in FORM GSTR-3B for the tax period September, 2020 shall be furnished with the cumulative adjustment of input tax credit for the said months in accordance with the condition above.”

The Notification can be accessed at: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-94-central-tax-english-2020.pdf>

You can access the complete video on **“5% capping on GST Credit to be availed on Invoices not furnished by Suppliers U/R 36(4) || CA Bimal Jain”** at following link: <https://youtu.be/1VyQgvyYBZo>

Validity of e-way bill narrowed by increasing distance from 100 km. to 200 km. per day



E-way Bill

The CBIC vide **Notification No. 94/2020-Central Tax, dated December 22, 2020** has issued Central Goods and Services Tax Rules (Fourteenth Amendment), 2020, *inter alia*, amending Rule 138 of the CGST Rules **w.e.f. January 1, 2021**, in following manner:

- The validity of e-way bill under Rule 138(10) of the CGST Rules has been amended, according to which the e-way bill will now be valid for 1 day for every 200 km of travel, as against 100 km earlier, in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship.
- For every 200 km. or part thereof thereafter, one additional day will be allowed.

Rule 138(10) of the CGST Rules effective from January 1, 2021, will read as under:

“(10) An e-way bill or a consolidated e-way bill generated under this rule shall be valid for the period as mentioned in column (3) of the Table below from the relevant date, for the distance, within the country, the goods have to be transported, as mentioned in column (2) of the said Table:-

Sl. No.	Distance	Validity period
(1)	(2)	(3)
1.	Upto 200 km.	One day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
2.	For every 200 km. or part thereof thereafter	One additional day in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship

3.	Upto 20 km	One day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship
4.	For every 20 km. or part thereof thereafter	One additional day in case of Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship:

Provided that the Commissioner may, on the recommendations of the Council, by notification, extend the validity period of an e-way bill for certain categories of goods as may be specified therein:

Provided further that where, under circumstances of an exceptional nature, including trans-shipment, the goods cannot be transported within the validity period of the e-way bill, the transporter may extend the validity period after updating the details in Part B of FORM GST EWB-01, if required.

Provided also that the validity of the e-way bill may be extended within eight hours from the time of its expiry.

Explanation 1.-For the purposes of this rule, the “relevant date” shall mean the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of e-way bill.

Explanation 2.- For the purposes of this rule, the expression “Over Dimensional Cargo” shall mean a cargo carried as a single indivisible unit and which exceeds the dimensional limits prescribed in rule 93 of the Central Motor Vehicle Rules, 1989, made under the Motor Vehicles Act, 1988 (59 of 1988).“

The Notification can be accessed at: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-94-central-tax-english-2020.pdf>

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Person whose registration has been suspended is now restricted from furnishing PART A of E-Way Bill



The CBIC vide **Notification No. 94/2020-Central Tax dated December 22, 2020** has issued Central Goods and Services Tax Rules (Fourteenth Amendment), 2020, amending, *inter alia*, Rule 138E of the CGST Rules following manner:

- Clause (b) - words “two months” replaced with “two tax periods”- If a registered person other than a person paying tax under composition levy, has not furnished the returns for a consecutive period of two tax periods, then he shall not be allowed to furnish the information in PART A of FORM GST EWB-01.
- New clause (d) inserted – Person whose registration has been suspended under the provisions of sub-rule (1) or sub-rule (2) or sub-rule (2A) of Rule 21A of the CGST Rules (i.e., suspension of registration), would also not be allowed to furnish the information in PART A of FORM GST EWB-01.

Amended Rule 138E of the CGST Rules, now reads as under **w.e.f. December 22, 2020**:

“138E. Restriction on furnishing of information in PART A of FORM GST EWB-01.-

Notwithstanding anything contained in sub-rule (1) of rule 138, no person (including a consignor, consignee, transporter, an e-commerce operator or a courier agency) shall be allowed to furnish the information in PART A of FORM GST EWB-01 in respect of a registered person, whether as a supplier or a recipient, who,-

(a) being a person paying tax under section 10, or availing the benefit of notification of the Government of India, Ministry of Finance, Department of Revenue No. 02/2019– Central Tax (Rate), dated the 7th March, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 189, dated the 7th March, 2019, has not furnished the statement in FORM GST CMP-08 for two consecutive quarters; or

*(b) being a person other than a person specified in clause (a), has not furnished the returns for a consecutive period of **two tax periods**:*

Provided that the Commissioner may, on receipt of an application from a registered person in FORM GST EWB-05, on sufficient cause being shown and for reasons to be recorded in writing, by order in FORM GST EWB-06, allow furnishing of the said information in PART A of FORM GST EWB 01, subject to such conditions and restrictions as may be specified by him:

Provided further that no order rejecting the request of such person to furnish the information in PART A of FORM GST EWB 01 under the first proviso shall be passed without affording the said person a reasonable opportunity of being heard:

Provided also that the permission granted or rejected by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be granted or, as the case may be, rejected by the Commissioner.

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.

Explanation:– For the purposes of this rule, the expression “Commissioner” shall mean the jurisdictional Commissioner in respect of the persons specified in clauses (a) and (b).

(c) being a person other than a person specified in clause (a), has not furnished the statement of outward supplies for any two months or quarters, as the case may be.

(d) being a person, whose registration has been suspended under the provisions of sub-rule (1) or subrule (2) or sub-rule (2A) of rule 21A”

The Notification can be accessed at: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-94-central-tax-english-2020.pdf>

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New Form GST REG-31 notified for "Intimation for suspension and notice for cancellation of registration"



Form GST REG-31

www.a2ztaxcorp.com

The CBIC vide **Notification No. 94/2020-Central Tax dated December 22, 2020** has issued Central Goods and Services Tax Rules (Fourteenth Amendment), 2020, *inter alia*, notifying **Form GST REG-31** for "Intimation for suspension and notice for cancellation of registration" under Rule 21A of the CGST Rules. New Form GST REG-31 reads as under:

"FORM GST REG – 31

[See rule 21A]

Date: < DD > < MM > < YYYY >

Reference No.

To,

GSTIN

Name:

Address:

Intimation for suspension and notice for cancellation of registration

In a comparison of the following, namely,

- (i) returns furnished by you under section 39 of the Central Goods and Services Tax Act, 2017;
- (ii) outwards supplies details furnished by you in **FORM GSTR-1**;

(iii) auto-generated details of your inwards supplies

for the period _____ to _____;

(iv) (specify)

and other available information, the following discrepancies/ anomalies have been revealed:

___ Observation 1

___ Observation 2

___ Observation 3

(details to be filled based on the criteria relevant for the taxpayer).

2. These discrepancies/anomalies prima facie indicate contravention of the provisions of the Central Goods and Services Tax Act, 2017 and the rules made thereunder, such that if not explained satisfactorily, shall make your registration liable to be cancelled.
3. Considering that the above discrepancies/anomalies are grave and pose a serious threat to interest of revenue, as an immediate measure, your registration stands suspended, with effect from the date of this communication, in terms of sub-rule (2A) of rule 21 A.
4. You are requested to submit a reply to the jurisdictional tax officer within seven working days from the receipt of this notice, providing explanation to the above stated discrepancy/ anomaly. Any possible misuse of your credentials on GST common portal, by any person, in any manner, may also be specifically brought to the notice of jurisdictional officer.
5. The suspension of registration shall be lifted on satisfaction of the jurisdictional officer with the reply along with documents furnished by you, and any further verification as jurisdictional officer considers necessary.
6. You may please note that your registration may be cancelled in case you fail to furnish a reply within the prescribed period or do not furnish a satisfactory reply.

Name:

Designation:

NB : This is a system generated notice and does not require signature by the issuing authority.”

The Notification can be accessed at: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-94-central-tax-english-2020.pdf>

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Cancellation of registration under Rule 22 of the CGST Rules aligned with newly inserted sub-rule (2A) of Rule 21A



The CBIC vide **Notification No. 94/2020-Central Tax, dated December 22, 2020** has issued Central Goods and Services Tax Rules (Fourteenth Amendment), 2020, *inter alia*, amending Rule 22 of the CGST Rules dealing with "Cancellation of registration" in following manner:

- Rule 22(3) - Inserted the words "**or under sub-rule (2A) of rule 21A**" after the words, brackets and figure "*the show cause issued under sub-rule (1)*".

Thus, now the proper officer shall cancel the registration and issue an order, within a period of 30 days from the date of reply to show cause notice issued under newly inserted sub-rule (2A) of Rule 21A, i.e. in cases where comparison of the returns (GSTR-3B and GSTR-1) furnished by a registered person shows the significant differences or anomalies indicating contravention of the provisions of the CGST Act, 2017 or the Rules made thereunder.

- Rule 22(4) - Inserted the words "**or in response to the notice issued under sub-rule (2A) of rule 21A**" after the words, brackets and figure "*reply furnished under sub-rule (2)*".

Now the proper officer shall drop the proceedings of cancellation of registration and pass an order in Form GST REG-20 on being satisfied with the reply to the show cause notice issued under newly inserted sub-rule (2A) of Rule 21A of the CGST Rules.

Note: The above changes are done to only align Rule 22 of the CGST Rules (cancellation of registration) with newly inserted Rule 21A(2A) *ibid*.

Amended Rule 22 of the CGST Rules, now reads as under **w.e.f. December 22, 2020**:

"22. Cancellation of registration.-

(1) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29, he shall issue a notice to such person in FORM GST REG-17, requiring him to show cause, within a period of seven working days from the date of the service of such notice, as to why his registration shall not be cancelled.

(2) The reply to the show cause notice issued under sub-rule (1) shall be furnished in FORM REG-18 within the period specified in the said sub-rule.

*(3) Where a person who has submitted an application for cancellation of his registration is no longer liable to be registered or his registration is liable to be cancelled, the proper officer shall issue an order in FORM GST REG-19, within a period of thirty days from the date of application submitted under sub-rule (1) of rule 20 or, as the case may be, the date of the reply to the show cause issued under sub-rule (1) **or under sub-rule (2A) of rule 21A**, cancel the registration, with effect from a date to be determined by him and notify the taxable person, directing him to pay arrears of any tax, interest or penalty including the amount liable to be paid under sub-section (5) of section 29.*

*(4) Where the reply furnished under sub-rule (2) **or in response to the notice issued under sub-rule (2A) of rule 21A** is found to be satisfactory, the proper officer shall drop the proceedings and pass an order in FORM GST REG -20.*

Provided that where the person instead of replying to the notice served under sub-rule (1) for contravention of the provisions contained in clause (b) or clause (c) of sub-section (2) of section 29, furnishes all the pending returns and makes full payment of the tax dues along with applicable interest and late fee, the proper officer shall drop the proceedings and pass an order in FORM GST-REG 20.

(5) The provisions of sub-rule (3) shall, mutatis mutandis, apply to the legal heirs of a deceased proprietor, as if the application had been submitted by the proprietor himself."

The Notification can be accessed at: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-94-central-tax-english-2020.pdf>

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Biometric based Aadhaar authentication/verification process for GST registration



The CBIC vide **Notification No. 94/2020-Central Tax dated December 22, 2020** has issued Central Goods and Services Tax Rules (Fourteenth Amendment), 2020, *inter alia*, substituting Rule 8(4A) of the CGST Rules **w.e.f. date to be notified later**, in following manner:

- Every application made for the registration by the applicant shall be followed by:
- biometric-based Aadhaar authentication and taking photograph, unless exempted under sub-section (6D) of Section 25 of the CGST Act [i.e., class of persons exempted by way of Govt notification from undergoing Aadhaar Authentication] à **Where such person has opted for authentication of Aadhaar number**
- taking biometric information, photograph and verification of such other KYC documents, as notified, unless the applicant is exempted under sub-section (6D) of Section 25 à **Where such person has opted not to get Aadhaar authentication done**

along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01.

- **The application shall be deemed to be complete only after completion of the process laid down under above sub-rule.**

Substituted Rule 8(4A) of the CGST Rules will read as under from a date to be notified later:

“8. Application for registration-

(4A) Every application made under rule (4) shall be followed by-

(a) biometric-based Aadhaar authentication and taking photograph, unless exempted under sub-section (6D) of section 25, if he has opted for authentication of Aadhaar number; or

(b) taking biometric information, photograph and verification of such other KYC documents, as notified, unless the applicant is exempted under sub-section (6D) of section 25, if he has opted not to get Aadhaar authentication done,

of the applicant where the applicant is an individual or of such individuals in relation to the applicant as notified under sub-section (6C) of section 25 where the applicant is not an individual, along with the verification of the original copy of the documents uploaded with the application in FORM GST REG-01 at one of the Facilitation Centres notified by the Commissioner for the purpose of this sub-rule and the application shall be deemed to be complete only after completion of the process laid down under this subrule.”

The Notification can be accessed at: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-94-central-tax-english-2020.pdf>

Blocking of GSTR-1 in case of non-filing of GSTR-3B of preceding two months/preceding tax period



The CBIC vide **Notification No. 94/2020-Central Tax dated December 22, 2020** has issued Central Goods and Services Tax Rules (Fourteenth Amendment), 2020, *inter alia*, inserting sub-rule (5) after Rule 59(4) of the CGST Rules dealing with “Form and manner of furnishing details of outward supplies” in following manner:

- If the registered person fails to furnish the return in GSTR-3B for preceding two months, he would not be allowed to furnish the details of outward supplies of goods or services or both in GSTR-1.

Previously, non-filing of GSTR-3B resulted in blocking of E-way Bill facility but from now, on the same would also result in blocking of the GSTR-1 of the registered person.

- Identically, for quarterly return filers, if the registered person fails to file GSTR-3B for the preceding tax period, he would not be permitted to file GSTR-1 or use invoice furnishing facility (“IFF”) for subsequent quarter.

- A registered person who is restricted from using the amount available in electronic credit ledger to discharge his liability towards tax in excess of 99% of such tax liability as per newly inserted Rule 86B of the CGST Rules, would also not be permitted to file GSTR-1 or use IFF, if he has not filed GSTR-3B for the preceding tax period.

But it is to be noted that Rule 59 of the CGST Rules is already substituted vide **Notification No. 82/2020-Central Tax dated November 10, 2020**, which is going to be effective from January 1, 2021, sub-rule (5) of which reads as under:

“(5) The details of outward supplies of goods or services or both furnished using the IFF shall include the –

(a) invoice wise details of inter-State and intra-State supplies made to the registered persons;

(b) debit and credit notes, if any, issued during the month for such invoices issued previously.”

Therefore, there is apparent mistake or it is not clear that what will be correct provisions under Rule 59(5) of the CGST Rules, w.e.f. January 1, 2021. Also, the newly inserted Rule 59(5) which is effective from December 22, 2020 talks about IFF also which is proposed in above substituted Rule 59 going to be effective from January 1, 2021. **Looks like there is some inadvertent error which needs clarity.**

Nonetheless, Rule 59(5) of the CGST Rules effective from December 22, 2020 as per **Notification No. 94/2020-Central Tax dated December 22, 2020** reads as under:

“(5) Notwithstanding anything contained in this rule, -

*(a) a registered person shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1**, if he has not furnished the return in **FORM GSTR-3B** for preceding two months;*

*(b) a registered person, required to furnish return for every quarter under the proviso to sub-section (1) of section 39, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1** or using the invoice furnishing facility, if he has not furnished the return in **FORM GSTR-3B** for preceding tax period;*

*(c) a registered person, who is restricted from using the amount available in electronic credit ledger to discharge his liability towards tax in excess of ninety-nine per cent. of such tax liability under rule 86B, shall not be allowed to furnish the details of outward supplies of goods or services or both under section 37 in **FORM GSTR-1** or using the invoice furnishing facility, if he has not furnished the return in **FORM GSTR-3B** for preceding tax period.”*

The Notification can be accessed at: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-94-central-tax-english-2020.pdf>

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DGFT Synced HS codes in ITC (HS) 2017- Schedule I - Import Policy with the Finance Act, 2020



The DGFT vide **Notification No. 48/ 2015-2020 dated December 22, 2020** notified certain Exim codes under Chapter 84 and 85 of ITC (HS), 2017 Schedule 1 – Import Policy, which have been inserted/substituted vide the Finance Act, 2020 (No. 12 of 2020), dated March 27, 2020 as below:

Exim Code	Item Description	Policy	Policy Condition
8414 51 50	Wall Fans	Free	-
8529 90 30	Open Cell for television set	Free	-
8541 40 11	Solar cells, not assembled	Free	-
8541 40 12	Solar cells, assembled in modules or made up into panels	Free	-

Further, the item description “Solar cells, not assembled” substituted the existing item description i.e., “Photocells: - Solar cells whether or not assembled in modules or panels” in ITC (HS) 2017.

Effect of this Notification: Chapter 84 and 85 of ITC (HS) 2017- Schedule-I Import Policy is amended to incorporate changes as made in the Finance Act, 2020 dated March 27, 2020.

The Notification can be accessed at: <https://content.dgft.gov.in/Website/dgftprod/29df1387-180d-4cf9-abd2-b15e2ecce9f3/Notification%2048%20english.pdf>

Important Circulars, Public Notice of the week

MGST Department issued General Procedure for GST Audits u/s 65 of the MGST Act, 2017



The Maharashtra Goods and Services Tax Department (“MGSTD”) vide **Trade Circular no. 13T/2020, dated December 21, 2020**, issued the general procedure for GST audits under Section 65 of the Maharashtra Goods and Service Tax Act, 2017 (“MGST Act”) to clarify certain aspects related to the same.

Objective of GST Audit

MGSTD is initiating audits under Section 65 of the MGST Act in case of selected Registered Taxpayers (“RTPs”) with an object to ensure and promote the correctness of turnover declared, taxed paid, refund claimed & input tax credit availed and to access the compliance RTP with the provisions of GST Law.

GST Audit is a tool with MGSTD to ascertain and ensure compliance of laws that are implemented by MGSTD. Practically, to ascertain the correctness of returns, annual returns & to identify inadequacies in returns, if any. If the returns are not filed or incorrectly filed, then the Audit Officer (“AO”) is expected to quantify the correct liability of RTP & enforce recovery.

Procedure of the Audit

The cases for GST Audit are selected on the basis of certain criteria based on Tax Risk analysis from returns, annual returns filed and other statutory compliances made or not made, and/or simply by random selection of cases for audit. The GST audit is carried out with prior information to the RTP which is the notice of information to the RTP in form ADT – 01. Along with the ADT-01, the AO may also call for certain information which the RTP should keep ready at the time of visit or may send in advance physically or through mail to the Audit Officer.

The audit is to be carried out at the Place of Business ("**POB**") of RTP by the officers of MGSTD. In exceptional cases after initial visit at POB, the verification of books of accounts may be done in the office of AO.

In exceptional cases, if the AO is unable to keep the appointment then he will inform the RTP well in advance about postponement of visit which also applies if the RTP is unable to keep the appointment.

The Scope of Audit

- The AO will verify the books of accounts maintained by the RTP (whether in hard format or soft format) along with sale invoices, purchase invoices i.e. Outward & Inward supplies, sales purchase journals ledger, cashbook, delivery chalan, e-way bills, dispatch proofs, bank statements and every other document or piece of evidence to ascertain the correctness of turnover and the correctness of claims made through returns. The AO may also ask for agreements, purchase / work orders, tender documents, etc, if such documents are required for ascertaining the correctness of returns. The AO is also authorised to ask for the details of filing of returns and payments as required. The RTP shall furnish self-certified copies of documents and statements as required by the AO.
- The AO is expressly authorised to make enquiry as to whether the RTP has filed returns and made payments under other allied laws, such as Profession Tax, etc. Depending upon the facts the auditor may also ask for returns or any other information related to Income Tax, and filings under the Companies Act also if it is required for GST related compliances, etc.
- It will be the RTP's responsibility to give correct & complete information during the course of an interview conducted by the AO, and he shall ensure that all persons concerned with the accounts, filing of returns. payment of taxes, sales, purchase, production and other business activities are available with information sought by the AO. The object of holding interview is to have better information of the RTP's business, his accounting system and also to speed up and accelerate the audit process, so that the RTP as well as the MGSTD can save time.
- In discharging the function of audit, wherever warranted, the AO can use the powers delegated to him by the Commissioner under Section 70 of the MGST Act. By taking recourse to section 70, the AO can use all the powers of Civil Court for the purposes of proof of facts by affidavit, summoning and enforcing the attendance of any person and examining on oath of affirmation, compelling production of documents, etc. The powers would be utilised by the AO only in circumstances where use of such powers becomes necessary for achieving the purpose of audit, and wherever the information sought is not coming forward voluntarily.
- The AO can verify stock of goods, and ask for clarification if there is any discrepancy. It is however, made clear that the AO on no account shall remove or cause to be removed from the place of business any books of accounts, other documents or any cash or stock. AO on no account can carry out search of premises of RTP.

Rights of the Registered Person/Dealer

- To check the identity of each and every member of the audit team.
- To get at least 15 days prescribed time limit for collection, compilation, preparation and arrangement of documents for audit from receipt of audit notice.
- To engage authorized representative to act and appear on his behalf in audit proceedings.
- To seek adjournment of proceeding in unavoidable circumstances for submission of documents keeping in mind the timeline required for completing audit
- To submit his say through audit proceeding or through letter or e-mail communication.

- To ensure that opportunity of being heard is given properly to him by audit authority. To represent and submit say in case of debatable / disputable issues during audit.
- To ensure that the audit is completed by audit team in prescribed time limit as per GST.
- To receive findings of audit from the Audit Officer within 30 days of conclusion of audit
- To take benefits of the voluntary payment tax, if the audit objections are acceptable, and take advantage of the benefits available under sections 73(6) / 74(6)

Duties of the Registered Person/Dealer:

- To comply in time to GST-ADT-01 notice and all necessary correspondence from audit officer with respect to the audit proceeding.
- To make available all necessary books of accounts (physical record as well as accounting system access/ electronic record as per necessity) to audit team and any other document/information required to complete the audit
- To provide the necessary facility to verify the books of account/other documents as required
- To ensure presence of either the Registered Person or his authorized representative at the place of business (POB) where audit is being conducted during audit activity so that he can explain the books and the business activity properly.
- To extend necessary cooperation to the audit team during POB audit visit for timely completion of audit.
- To follow the statutory timelines in case of making payment if audit results are accepted and/or to comply with notice under section 73/74 of GST Act in case audit findings are not accepted.

Indicative List of documents to be submitted / to be kept ready for verification by dealer as per GST-ADT-01

- Financial statements and reports- Balance Sheet, Tax Audit Report, Annual Financial Statement, Cost Audit Report, Trial Balance
- Inward -Outward supply summary statement
- RCM ledger and supportive documents
- Inward -Outward supply invoices
- Cancelled invoices due to any reason
- Goods return (inward and outward supply) register along with credit note/debit note details
- Inward supply Register (soft copy)
- Outward Supply register (soft copy)
- Zero rated supply register and supportive documents (commercial invoice, shipping bill, bill of lading, EGM , Bank realization certificate or Inward remittance certificate etc.)
- Details of Exempted supply / Supply to SEZ dealer
- Refund claim / availment details if any (export of good and services, inverted duty structure etc. any type of refund claimed by dealer)
- TDS payment transactions if any
- TRAN-I details (details regarding credit carried forwarded from previous Act to GST Act)
- GSTR 2A-Mismatch, unmatched transactions details
- E-way bill transactions month wise summary statement and corresponding register
- In case of services, FIRC (Foreign Inward Remittances), corresponding agreements, invoices, Annual Maintenance Contract copies and corresponding invoices if any
- Details of advances received and tax payment for the same
- Other Income/ misc. income

- Reversal/reduction of ITC
- Scrap sales
- Details of exempted outward supply

Conclusion

The AO & RTP both shall keep in mind that their efforts are for smooth and timely completion of audit with accurate and appropriate voluntary compliances from RTPs side. Wherever the voluntary compliance falls short, the AO shall point out to RTP the requirement and RTP shall accept it, if found appropriate as per the provisions of laws and shall comply with it immediately.

The Circular can be accessed at: <https://www.mahagst.gov.in/sites/default/files/trade-circular/Circular%20No.%2013T%20of%202020.pdf>

Karnataka GST Department issued procedure and guidelines on e-Shodane under KGST Act, 2017



The Karnataka GST Department (“KGSTD”) vide **Commissioner of Commercial Taxes Circular No: GST-14 2020-21, dated December 19, 2020**, issued the clarification and instructions related to electronic Scrutiny of High-risk cases, Audit Observations and DRC under Assessment module (“e-Shodane”), an e-Audit module developed by the KGSTD in association with NIC, Karnataka. It is launched to undertake Audit and Assessment proceedings as per the provisions of the Karnataka Goods and Services Act, 2017 (“KGST Act”).

The e-Shodane provides an online platform system for the entire Audit Assessment, for which KGSTD has come up with the detailed procedure process starting from selection of cases for audit, assignment of cases, communication with the Registered Taxable Person (“RTP”) and ending with Audit Report passing of

Assessment order. The module captures a log of the activities performed by the proper officers at different stages of the proceedings.

Further, KGSTD specified the procedures and guidelines that is to be followed based on e-GST Audit Module with regard to audit and assessment proceedings required to be undertaken under Section 65, 73 and 74 of KGST Act, in following manner:

- Selection and Assignment of Cases for Audit/Assessment:
- The module provides for selection of cases for audit by way of Wild Card Selection and Risk Based Scrutiny.
 - **Wild Card Selection:** This is one of the modes of selection of cases during the audit proceedings. If the proper officer, either by information or through other sources comes across cases wherein there is scope for additional revenue involvement and/ or due liability on the part of the supplier/ recipient, and such cases are not listed under risk based scrutiny, the proper officer may request for assignment of such cases of respective jurisdiction for audit after consultation with respective Joint Commissioner, providing valid reasons for such selection. Further, in respect of the Enforcement reports uploaded by the officers of the concerned divisions which do not form a part of risk based scrutiny, the concerned Joint commissioner shall allot such cases through wild card selection.
 - **Risk Based Scrutiny:** The following risk factors are identified for selection of cases for Audit for the year 2017-18. The system will assign the audit cases based on following risk factors to the Audit Officers for scrutiny. Further, additions/modifications to the risk factors would be undertaken as and when required.

S. No.	Code	Description
1.	R1>R3B	Total Output tax declared in Form GSTR-1 is more than that declared in Form GSTR-3B
2.	R3B>R2A	Total ITC declared in Form GSTR-3B is more than that declared in Form GSTR-3B
3.	Service Sector	Service sector case having more than Rs. 10 crore aggregate turnover per year
4.	Tran-1	Transitional input credit carried forward from earlier tax regime
5.	Delayed ITC	If ITC availed in Form GSTR-3B filed after April 23, 2019 for the FY 2017-18
6.	Evasion prone	Top taxpayer dealing in evasion prone commodities
7.	ITC Block	Input tax credit ("ITC") blocked cases
8.	Old Refund	Refund sanctioned by the LGSTOs/SGSTOs Manual Refund process (after September 26, 2019)
9.	New Refund	Refund sanctioned by the LGSTOs/SGSTOs Online Refund process (after September 26, 2019)
10.	Int Reports	Cases having enforcement reports

- The Audit officer shall scrutinize the cases assigned to him/her with reference to the information available online in the GST Pro/ Prime module and either recommend such cases for assignment of Audit or reject such cases recording reasons for such rejection. All such cases either rejected or recommended for Audit will be forwarded to the respective Joint commissioner (Admn.). The system is designed in such a way that, an Audit officer can recommend only twenty cases for issue of

assignment. The subsequent requests exceeding twenty is not allowed by the system. Such subsequent cases will, be allowed only when the Audit officer disposes/completes audit of a case by issue of GST Form ADT-02. Thus, normally an Audit Officer will be having twenty cases for disposal at any given point of time.

- The Joint Commissioner (Admn.) on receipt of such requests may accept and recommend assignment of such cases for audit or reject the request recording reasons for such acceptance or rejection and the Joint Commissioner (Admn.) has to digitally sign the recommendations with the Digital Signature certificate ("**DSC**"). Subsequently the cases are forwarded to the Additional commissioner (Audit), who in turn would act upon the recommendation of the Joint Commissioner (Admn.) through Accept/Reject/Hold. The cases are then forwarded to the commissioner, who in turn will Accept/Reject/Hold the cases for Audit by digitally signing the assignment of cases.
- The Joint Commissioner (Admn.) has the option to assign or reassign the cases to any Audit officer [of the respective jurisdiction] other than the Audit officer who has recommended the case for Audit under scrutiny.
- The system is built in such a way that the cases are assigned to the DCs/ACs/ CTOs in proportion of 1:1.5:2 for scrutiny based on pecuniary limits. The system also allots the audit assignments in a controlled way, whereby each officer will be having twenty cases in his/ her account at any given point of time for disposal. As soon as the Audit Officer disposes one case, a new case will be added/assigned for further proceedings under Section 65 of the KGST Act.
- The Audit officer will receive the assignments for Audit in his login, as soon as the commissioner approves and assigns the case for Audit. The said information also flows to the jurisdictional Joint Commissioner (Admn.).
- The Audit officer may conduct the Audit either at the place of business of the Registered Person or at his/ her office as provided under Section 65(2) of KGST Act. The Audit Officer has to issue information of the date of Audit in Form ADT-01 to the Registered Taxable Person ("**RTP**"), not less than fifteen working days prior to the conduct of audit. Presently, the audit module provides for generation of Form ADT-01 online and its communication/service to the authorized e-mail id of the RTP. The Endorsements (Reminders) issued, requests for adjournments received and granted have to be recorded in the log by the Audit Officer.
- The Audit officer shall conduct audit of records and books of account by verification of books; returns statements furnished; correctness of turnover, exemptions, deductions claimed; rate of tax applied on supply of goods/services or both; ITC availed and utilized; Refund claimed and other relevant issues. In case the audit officer requires additional information, he may issue Notice seeking additional information to the RTP. Further, the Audit Officer has to record the observations in audit notes and may inform the RTP of any discrepancies noticed as provided under Rule 101(4) of the Karnataka Goods and Services Rules, 2017 ("**KGST Rules**"). The RTP may file reply to such notice which will have to be recorded in the log. The Audit officer shall finalize the findings of audit after due consideration of the reply by following principles of natural justice.
- The Audit Officer has to conclude the Audit and inform the findings of audit, his rights obligations and reasons for findings to the RTP in Form ADT-02 within thirty days from conclusion of Audit as required under Section 65(6) of the KGST Act. The Audit Officer shall complete the Audit within three months from the commencement of audit as required under Section 65(4) of the KGST Act. The time starts from the date on which records and other documents called for, are made available by RTP or actual institution of audit whichever is later. The Audit Officer has to key in the date of commencement of audit at preliminary report menu and take due care to complete the audit commencement within the prescribed time limit.
- Requires Audit Officer to request Joint Commissioner (Admn.) for extension of time if audit could not be completed within specified time, who in turn, on satisfaction of reasons for such request, shall

make recommendation to the Commissioner, through Additional Commissioner (Audit) for extension. The Commissioner may extend the time by a further period not exceeding Six months, for reasons to be recorded in writing.

- If audit results in detection of defaults and if the assessee does not accept the findings of the audit and fails to pay tax, Audit Officer shall proceed to conclude demand and recovery proceeding under Sections 73 and 74 of the KGST Act, as the case may be by seeking separate assignment for the same.
- Clarifies that all communications between officers and the RTP has to be through the Government mail Id and to the registered email Id of the RTP.

The Circular can be accessed at: <https://gst.kar.nic.in/Documents/General/circular14191220.pdf>

DGFT amended Handbook of procedure 2015-2020 for modification of PAN based IEC



The DGFT vide **Public Notice No. 34/2015-2020, dated December 24, 2020** amended Para 2.14 Chapter-2 of the Handbook of procedure 2015-2020, that states 'Modification in Importer-Exporter Code', by inserting a new sub-para (d) and (e) to introduce the provisions if there is change in constitution of PAN based IEC:

"(d) In case of change in constitution of a PAN based IEC by way of merger, acquisition, liquidation, inheritance etc. such that PAN of the new entity so formed is different from the earlier one, an IEC can be availed against the new PAN, if not existing already. Previous IEC(s) can also be operationally linked to the PAN/IEC of the new entity.

(e) An application for linking the obligations under the old/ previous IEC may be submitted online to the jurisdictional RA of the new entity along with supporting documents. Concerned RA may sanction the given linkage after due scrutiny of the evidence provided by the applicant including submission of affidavits etc. After RA's approval, previous IEC(s) shall be treated as surrendered."

The Public Notice can be accessed at: <https://content.dgft.gov.in/Website/dgftprod/a50f1e39-e373-40e8-8a27-5bb40a9b1d68/PN%20English.pdf>

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Important Press Release of the week

8th Instalment of Rs. 6,000 crore released to the States as back to back loan to meet the GST compensation shortfall



The Ministry of Finance has released the 8th weekly instalment of Rs. 6,000 crore to the States to meet the GST compensation shortfall. Out of this, an amount of Rs. 5,516.60 crore has been released to 23 States and an amount of Rs. 483.40 crore has been released to the 3 Union Territories (UT) with Legislative Assembly (Delhi, Jammu & Kashmir & Puducherry) who are members of the GST Council. The remaining 5 States, Arunachal Pradesh, Manipur, Mizoram, Nagaland and Sikkim do not have a gap in revenue on account of GST implementation.

The Government of India had set up a special borrowing window in October, 2020 to meet the estimated shortfall of Rs.1.10 lakh crore in revenue arising on account of implementation of GST. The borrowings are being done through this window by the Government of India on behalf of the States and UTs. The borrowings have been done in 7 rounds. The amount borrowed so far was released to the States on 23rd October, 2020, 2nd November, 2020, 9th November, 2020, 23rd November, 2020, 1st December, 2020, 7th December, 2020, 14th December, 2020 and 21st December, 2020.

The amount released this week was the 8th instalment of such funds provided to the States. **The amount has been borrowed this week at an interest rate of 4.1902%.** So far, an amount of Rs. 48,000 crore has been borrowed by the Central Government through the special borrowing window at an average interest rate of 4.6986%.

In addition to providing funds through the special borrowing window to meet the shortfall in revenue on account of GST implementation, the Government of India has also granted additional borrowing permission equivalent to 0.50 % of Gross States Domestic Product (GSDP) to the states choosing Option-I to meet GST

compensation shortfall to help them in mobilising additional financial resources. All the States have been given their preference for Option-I. Permission for borrowing the entire additional amount of Rs. 1,06,830 crore (0.50 % of GSDP) has been granted to 28 States under this provision.

The amount of additional borrowing permission granted to 28 States and the amount of funds raised through special window and released to the States and Union Territories so far is annexed.

State wise additional borrowing of 0.50 percent of GSDP allowed and amount of funds raised through special window passed on to the States/UTs till 21.12.2020

(Rs. in Crore)

S. No.	Name of State / UT	Additional borrowing of 0.50 percent allowed to States	Amount of fund raised through special window passed on to the States/ UTs
1	Andhra Pradesh	5051	1181.61
2	Arunachal Pradesh*	143	0.00
3	Assam	1869	508.48
4	Bihar	3231	1996.34
5	Chhattisgarh	1792	507.78
6	Goa	446	429.39
7	Gujarat	8704	4715.01
8	Haryana	4293	2225.19
9	Himachal Pradesh	877	877.91
10	Jharkhand	1765	275.85
11	Karnataka	9018	6343.77
12	Kerala	4,522	1269.96
13	Madhya Pradesh	4746	2322.35
14	Maharashtra	15394	6124.17
15	Manipur*	151	0.00

16	Meghalaya	194	57.19
17	Mizoram*	132	0.00
18	Nagaland*	157	0.00
19	Odisha	2858	1954.21
20	Punjab	3033	1841.04
21	Rajasthan	5462	1659.07
22	Sikkim*	156	0.00
23	Tamil Nadu	9627	3191.24
24	Telangana	5017	688.59
25	Tripura	297	115.80
26	Uttar Pradesh	9703	3071.33
27	Uttarakhand	1405	1184.37
28	West Bengal	6787	975.91
	Total (A):	106830	43516.56
1	Delhi	Not applicable	2998.70
2	Jammu & Kashmir	Not applicable	1161.60
3	Puducherry	Not applicable	323.14
	Total (B):	Not applicable	4483.44
	Grand Total (A+B)	106830	48000.00

The Press Release can be accessed at: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1682355>

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Important Updates of the week

CBIC: Myths v. Facts w.r.t Notifications issued on 22.12.2020 to curb GST fake invoice frauds



In order to curb the GST fake invoice frauds the Government on the recommendations of the GST Council's Law Committee has issued notification to deal with the menace of fraudsters who avail and pass on ineligible ITC by fake or fly-by night firms. CBIC has booked about 12000 cases of ITC fraud and arrested 365 persons in such cases so far. During the last six weeks alone, more than 165 fraudsters have been arrested.

There have been some misinformation on the recent rule changes on the Social Media causing confusion among the genuine taxpayers.

CBIC therefore clarifies misinformation with facts:

Myth 1: No opportunity of being heard will be given if proper officer believes that registration is liable to be cancelled.

FACT 1: The GST laws passed by the Parliament and state legislatures provide that GST registration is liable to be cancelled for those who have not filed 6 or more returns. It is therefore wrong to say that the cancellation will be done without reasons. To protect the interest of revenue, this provision has been put in the law so that fraudsters do not run away with GST collected from their customers.

It may be further noted that no cancellation of registration would be done without giving proper opportunity of hearing to the taxpayer. Immediate action for suspension is necessary in cases where unscrupulous operators seek to pass on huge fake credit by gaming the system. Such action will not affect genuine taxpayers and will provide them a level playing field. Moreover, suspension may be revoked by the officer based on the taxpayer's representation.

Myth 2: Even if there is a clerical error in filing returns, GSTIN will be cancelled. No option to correct your mistakes.

FACT 2: This is absolutely not true. Only in fraudulent cases where there are significant discrepancies based on data analytics and sound risk parameters, and not mere clerical errors, the action of suspension and cancellation will be taken up. An example of a fraudulent case and serious discrepancy is where one has passed on Crones of Rupees of Input Tax Credit and not filed GSTR3B returns, nor has he filed Income Tax returns or disclosed very little liability in Income Tax returns etc, The GST ecosystem is very carefully working towards curbing the fake invoice frauds in the interests of bonafide taxpayers. GST system applies sophisticated tools like BIFA, data analytics and AI & ML to pinpoint and segregate these fraudsters only.

Myth 3: The proposed change will impact ease of doing business.

FACT 3: Not True. Fraudsters are misusing the system to the detriment of the interest of genuine taxpayers. Consequently, data driven targeting of the fraudsters is the need of the hour. The data is being collected from Income Tax, Banks, Customs and necessary matching is being done to identify fraudsters and take action of suspension and cancellation after following due process of law. Precise targeting of fraudsters is being done only in specific cases, after doing a comprehensive analysis, using advanced data analytics tools. etc. Further, multiple risk indicators are checked and only then few high risk entities are selected. Action against fraudsters will not impact the Ease of Doing Business which is achieved in GST through liberal registration, refund regime and self-compliance system with little or no manual checks.

Source

From: https://twitter.com/cbic_india/status/1341748308394446848?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Etweet

E-way bill portal has enabled generation of e-way bills by Transporters for e-invoices



The E-way bill portal has enabled the Transporter to generate E-way bill for E-Invoices. In this regard, National Informatics Centre ('NIC') has explained different ways for entering Part-B details of E-way bill (i.e. Transporter details).

e-Invoice is launched on 1st Oct 2020 successfully for the taxpayers having annual turnover more than Rs. 500 Crores. More than 33000 taxpayers have accessed this system and generated more than 1250 Lakhs of IRN from the NIC portal, as on date. On average, 18 Lakh IRNs are generated daily. The NIC system is geared up to take the load of the taxpayers, with annual turnover more than Rs 100 Crores, to generate the IRNs from 01.01.2021, as notified by government.

The system has also been enabled for the taxpayer to generate the e-way bill along with IRN or after generation of IRN. There are two APIs for this purpose. There is also provision to generate E-way Bill or 'Part-A Slip'. The 'Part-A Slip' will enable the supplier to assign the e-invoice to the transporter. In turn using this, the transporter will enter the Part-B and generate the regular E-way Bill.

As per the requirements, the transporter can be enabled to generate the E-Way Bill by the supplier by following ways.

1. While preparing the invoice, if the supplier is aware about the Part-B details, he can pass the invoice details along with the transportation (Part-B) and transporter Id details as per the e-way bill requirements and get the IRN generated along with the E-way Bill as well. This Eway Bill can be passed onto the transporter for movement of goods and further updating Part-B, if required.
2. While preparing the invoice, if the supplier is not aware about the PartB details and knows the transporter, then he can pass the invoice details along with the transporter Id as per the e-way bill requirements and get the IRN generated along with the 'Part-A Slip'. This 'Part-A Slip' number can be passed onto the transporter so that he can enter the transportation details as per the requirement and generate the E-Way Bill and move the goods. He will also be enabled to carry out the other activities of the e-way bill, if required.
3. While preparing the invoice, if the supplier is not aware about the Part-B details and the transporter, then he can pass the invoice details and get the IRN generated. Afterwards, once the transportation or transporter details available, the supplier can generate E-way Bill or 'Part-A Slip' accordingly, using 'Generate EWB by IRN' API and pass it to the transporter for further updation, if required and start movement of goods.

It may be noted that Once the E-way Bill number is available for e-invoice, the transporter can do all the activities of the e-way bill like update Part-B, update transporter, extension, etc. on the e-way bill portal as usual.

Source from: <https://docs.ewaybillgst.gov.in/Documents/EwbbytransbasedonIRN.pdf>

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GSTN: Communication between Recipient and Supplier Taxpayers on GST Portal



A facility of 'Communication Between Taxpayers' has been provided on the GST Portal, for sending a notification by recipient (or supplier) taxpayers to their supplier (or recipient) taxpayers, regarding missing documents or any shortcomings in the documents or any other issue related to it. This facility is available to all registered persons, except those registered as TDS, TCS or NRTP.

The main features of this facility are summarized as below:

How to use the facility on GST Portal: Taxpayers can send notification, view notification, send reply and view replies to the notifications on their dashboard after login.

- a. To send notification navigate to - **Services > User Services > Communication Between Taxpayers >** and select **Compose** option.
- b. To view any new notification received or any reply received select **Inbox (Notification & Reply Received)** option.
- c. To view any new notification sent or reply sent select **Outbox (Notification & Reply Sent)** option.

How to send a Notification:

- a. While composing a notification under **Send New Notification** tab, select the **Supplier** option to send notification to a Supplier, otherwise select **Recipient**.
- b. In the **Document Details** section, select the **Action Required** by Supplier/ Recipient from the drop-down list and enter required details.
- c. Up to fifty documents can be added in a notification.

d. The sender can also add Remarks (upto 200 Characters) in the box provided for the same.

Some other features:

a. The counter party taxpayer will receive an e-mail on their registered e-mail address and an SMS on his registered mobile number for all notifications received.

b. An alert will also be given to Recipient/Supplier on logging into the GST portal.

c. A taxpayer is allowed to send up to 100 notifications to a single GSTIN for a particular tax period.

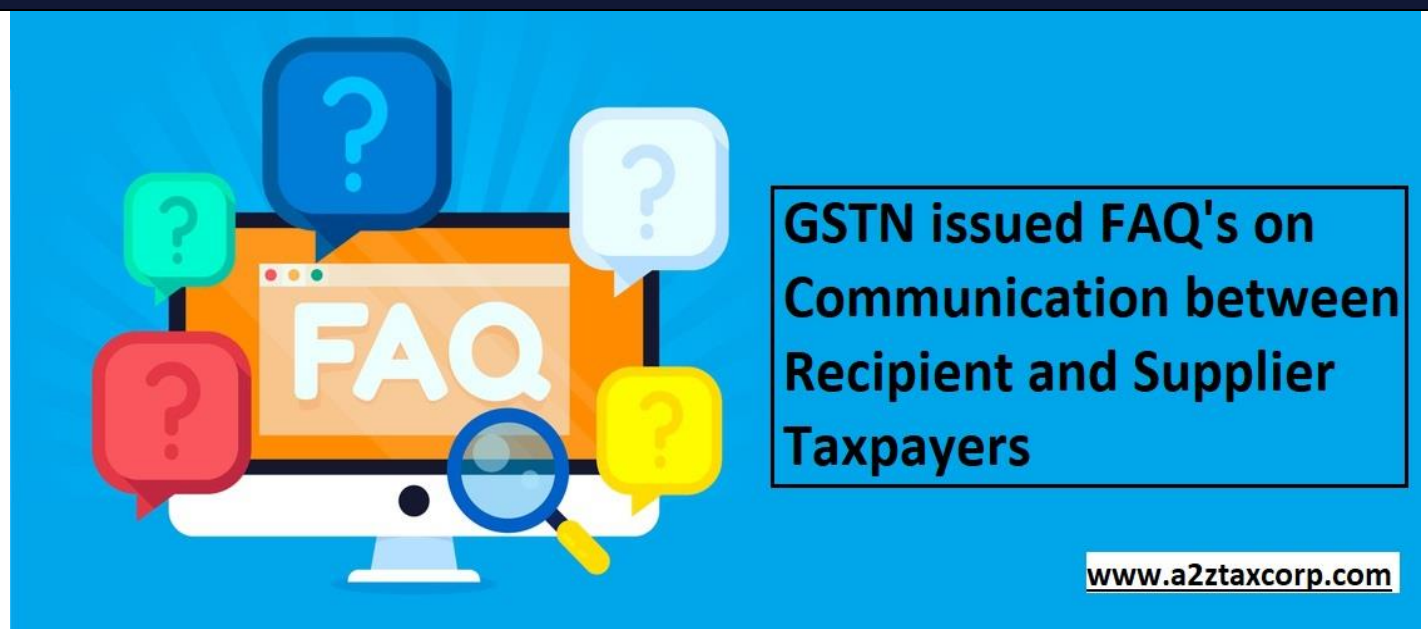
d. The recipient can upload the details of missing documents (not uploaded by their supplier in his Form GSTR-1) and send a notification to their supplier, using this facility. Supplier can then add such documents directly in their Form GSTR-1, if not reported earlier.

e. The functionality to upload and download the documents will be made available soon.

User Manual can be accessed at: https://tutorial.gst.gov.in/userguide/returns/index.htm#t=Manual_communication.htm

Source from: <https://www.gst.gov.in/newsandupdates/read/433>

GSTN issued FAQ's on communication between Recipient and Supplier Taxpayers



A facility of '**Communication Between Taxpayers**' has been provided on the GST Portal, for sending a notification by recipient (or supplier) taxpayers to their supplier (or recipient) taxpayers, regarding missing documents or any shortcomings in the documents or any other issue related to it. This facility is available to all registered persons, except those registered as TDS, TCS or NRTP.

GSTN has issued following FAQ's in this regard:

I. Overview

Q. What is “Communication between Taxpayers” functionality?

Ans. “Communication between Taxpayers” functionality facilitate in sending and receiving notifications to/from another taxpayer.

Q. Who all taxpayers are eligible to use “Communication Between Taxpayers” facility?

Ans. All taxpayers except TDS, TCS and NRTP taxpayers are eligible to use Communication Between Taxpayers facility. TDS, TCS and NRP taxpayers will not be able to see the link Communication Between Taxpayers under the Services tab.

II. Send and View Notification to Other Taxpayer

Q. Can I send a notification to other taxpayer from GST Portal?

Ans. Yes, you can send notification to other taxpayer from GST Portal. Navigate to Services > User Services > Communication Between Taxpayers > Compose option, which will facilitate in sending notifications to another taxpayer.

Q. Is there any intimation that will go to other taxpayer once the notification is sent?

Ans. Yes, the Recipient/Supplier will receive an e-mail on his registered e-mail address and an SMS will also be triggered to his registered mobile number for all notifications sent or received. Also, an alert will be shared on GST portal.

Q. Can I view the notification sent to other taxpayer from GST Portal?

Ans. Yes, you can view the notification sent to Recipient/Supplier from GST Portal. Navigate to Services > User Services > Communication Between Taxpayers > Outbox (Notification & Reply Sent) option, which will facilitate in viewing notifications sent to other taxpayer.

Q. Can we select multiple rows in Rate table for one particular invoice while sending a notification?

Ans. Yes, multiple rows can be added in Rate table for one particular invoice while sending a notification.

Q. What is the maximum number of notifications which can be sent to same GSTIN (counterparty) in same financial year with same tax period by a taxpayer.

Ans. A taxpayer is not allowed to send more than <100 > notifications if he is sending notification to same GSTIN (counterparty) in same financial year with same tax period.

III. Reply to Notification received from Other Taxpayer

Q. Can I view notifications issued by Recipient/Supplier at the GST Portal?

Ans. Yes, you can view notifications issued by Recipient/Supplier at the GST Portal. Navigate to Dashboard > Services > User Services > Communication Between Taxpayers > Inbox (Notification & Reply Received) option to view the notifications issued by Recipient/Supplier at the GST Portal.

Q. Can I reply to notifications issued by Recipient/Supplier at the GST Portal?

Ans. Yes, you can reply to notifications issued by Recipient/Supplier at the GST Portal. Navigate to Dashboard > Services > User Services > Communication Between Taxpayers > Inbox (Notification & Reply Received) option to View and Reply/Take Action on the notifications received from Recipient/Supplier at the GST Portal.

Q. Can I upload the missing documents directly on GST Portal?

Ans. Yes, you can upload the missing documents directly on GST Portal under Upload to GSTR-1 option.

Q. Can I upload and download the documents while sending notifications?

Ans. No, you cannot upload and download the documents while sending notifications.

Q. How many documents can be manually added for a particular notification?

Ans. Fifty documents can be manually added for a particular notification.

IV. View Reply received from Other Taxpayer

Q. Can I view the reply for notification sent to Recipient/Supplier at the GST Portal?

Ans. Yes, you can reply for notifications sent to Recipient/Supplier at the GST Portal. Navigate to Dashboard > Services > User Services > Communication Between Taxpayers > Outbox (Notification & Reply Sent) option to view the reply sent to Recipient/Supplier at the GST Portal.

V. Intimation

Q. Does an alert is sent to Recipient/Supplier on GST portal when notifications/replies received by counterparty?

Ans. Yes, an alert will be given to Recipient/Supplier on logging to the GST portal if there are any new notifications/replies received.

Q. Does an email or SMS is sent to Recipient/Supplier when a notification is received or sent to counterparty?

Ans. Yes, the Recipient/Supplier will receive an e-mail on his registered e-mail address and an SMS will also be triggered to his registered mobile number for all notifications sent or received.

The FAQ's can be accessed at: https://tutorial.gst.gov.in/userguide/returns/index.htm#t=FAQs_communication.htm

Our Article of the week

Gist of important changes made in the CGST Rules, 2017 vide Notification issued on December 22, 2020

Important changes made in the CGST Rules, 2017


www.a2ztaxcorp.com

Lot many changes have been made in the CGST Rules vide **Notification No. 94/2020-Central Tax dated December 22, 2020**. This article summarises all the important changes made in the CGST Rules, for your easy digest:

S. No.	Relevant Rule/ Sub-Rule of the CGST Rules	Title of the Rule	Summary of changes made
1.	Rule 8(4A) substituted (effective from a date to be notified later)	Application for registration	<p><u>Biometric based Aadhaar authentication/ verification process for GST registration</u></p> <p>Introduced additional requirements for registration:</p> <p><u>biometric based Aadhaar authentication and taking photograph</u> unless specifically exempted → Where applicant has opted for authentication of Aadhaar number</p> <p><u>taking biometric information, photograph and verification of such other KYC documents</u>, as notified, unless specifically exempted → Where applicant has opted <u>not</u> to get Aadhaar authentication done</p>

			→ The application shall be <u>deemed to be complete only after completion of the process</u> laid down above.
2.	Rule 9 amended (effective from December 22, 2020)	Verification of the application and approval	<p><u>Time limit increased for grant of GST registration from 3 to 7 working days</u></p> <p>Increased the time limit for verification of registration application and issue of notice in Form GST REG-03 from 3 working days to 7 working days.</p> <p>Where the applicant does not do Aadhar Authentication or where the Department feels fit to carry out physical verification of places of business, time limit for grant of registration increased from 7 to 30 days.</p>
3.	Rule 21 amended (effective from December 22, 2020)	Registration to be cancelled in certain cases	<p><u>Added new grounds for cancellation of registration</u></p> <p>If ITC is availed in violation of Section 16 of the CGST Act or rules made thereunder;</p> <p>If outward tax liability declared in GSTR-3B is lesser than the outward tax liability declared in GSTR-1 for one or more tax periods;</p> <p>If violates newly inserted Rule 86B of the CGST Rules.</p>
4.	Rule 21A amended (effective from December 22, 2020)	Suspension of registration	<p><u>No opportunity of being heard to taxpayers for suspension of registration</u></p> <p>No opportunity of being heard would be given to the taxpayer for suspension of registration.</p> <p>If significant anomalies are found between GSTR-3B and details of outward supplies furnished in GSTR-1 or inward supplies derived based on the details of outward supplies furnished by his suppliers in their GSTR-1 → Serve SCN notice in Form GST REG 31 (New form introduced) – Rule 21A(2A)</p> <p>No refund u/s 54 of the CGST Act during the period of suspension of registration.</p> <p>Allowed proper officer to revoke suspension of registration anytime during the pendency of the proceedings for cancellation.</p>
5.	Rule 22(3) and (4) amended (effective from December 22, 2020)	Cancellation of registration	<p><u>Cancellation of registration under Rule 22 aligned with newly inserted sub-rule (2A) of Rule 21A</u></p> <p>Registration can be cancelled within a period of 30 days from the date of reply to SCN issued under newly inserted sub-rule (2A) of Rule 21A</p>

			<p>[i.e., in cases where comparison of the returns (GSTR-3B and GSTR-1) furnished by a registered person shows the significant differences or anomalies].</p> <p>Drop the proceedings of cancellation of registration if satisfied by the reply of SCN issued under Rule 21A (2A) of the CGST Rules and pass order in Form GST REG-20.</p>
6.	Rule 36(4) amended (effective from January 1, 2021)	Conditions for claiming ITC	<p><u>Reduction in ITC entitlement for invoices not furnished by supplier from 10% to 5%</u></p> <p>Restriction of claim of ITC in respect of invoices/debit notes not furnished by the suppliers has now been reduced from 10% to 5% of the credit available in GSTR-2B.</p>
7.	Rule 59(5) inserted (effective from December 22, 2020)	Form and manner of furnishing details of outward supplies	<p><u>Blocking of GSTR-1 in case of non-filing of GSTR-3B</u></p> <p>Non-filing of GSTR-3B for preceding two months/ preceding tax period will result in blocking of GSTR-1</p> <p>Registered person restricted to use ITC to discharge his liability towards tax in excess of 99% of such tax liability as per newly inserted Rule 86B → cannot file GSTR-1 or use invoice furnishing facility (“IFF”), if he has not filed GSTR-3B for the preceding tax period</p> <p>Note: Rule 59 of the CGST Rules is already substituted vide Notification No. 82/2020-Central Tax dated November 10, 2020, which is going to be effective <u>from January 1, 2021</u>. Therefore, there is apparent mistake or it is not clear that what will be correct provisions under Rule 59(5) of the CGST Rules, w.e.f. January 1, 2021.</p>
8.	New Rule 86B introduced (effective from January 1, 2021)	Restrictions on use of amount available in electronic credit ledger	<p><u>Restricting use of ITC amount for discharging output tax liability in GST</u></p> <p>Where taxable supply other than exempt supply and export, in a month exceeds INR 50 lakh.</p> <p>Taxpayer is not allowed to use ITC in excess of 99% of output tax liability.</p> <p>Specified certain exceptions provided to above restrictions.</p>
9.	Rule 138 amended (effective from January 1, 2021)	Information to be furnished prior to commencement of movement of goods and generation of e-way bill	<p><u>Validity of e-way bill narrowed by increasing distance from 100 km. to 200 km. per day</u></p> <p>E-way bill will now be valid for 1 day for every 200 km of travel, as against 100 km earlier, in cases other than Over Dimensional Cargo or multimodal shipment in which at least one leg involves transport by ship.</p>

			For every 200 km. or part thereof thereafter, one additional day will be allowed.
10.	Rule 138E amended (effective from December 22, 2020)	Restriction on furnishing of information in PART A of FORM GST EWB-01	<p>Person whose registration has been suspended is now restricted from furnishing PART A of E-Way Bill</p> <p>Person whose registration has been suspended would also not be allowed to furnish the information in PART A of FORM GST EWB-01.</p> <p>Registered person other than a person paying tax under composition levy, has not furnished the returns for a consecutive period of two tax periods, then he shall not be allowed to furnish the information in PART A of FORM GST EWB-01.</p>

The Complete Notification can be accessed at: <https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-94-central-tax-english-2020.pdf>

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Videos of the week

Blocking of GST ITC Ledger by GST Dept is in violation of Natural Justice || CA Bimal Jain



Blocking of GST ITC
Ledger by GST Dept.
is in violation of
Natural Justice

CA Bimal Jain



You can access the complete video on “Blocking of GST ITC Ledger by GST Dept is in violation of Natural Justice || CA Bimal Jain” at following link: <https://youtu.be/jgoaRhnPcpE>

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New Rule 86B is restricting amount of GST ITC to be utilized towards payment of taxes || CA Bimal Jain



New Rule 86B of CGST Rules is restricting amount of GST ITC to be utilized towards payment of taxes



CA Bimal Jain



You can access the complete video on “New Rule 86B is restricting amount of GST ITC to be utilized towards payment of taxes || CA Bimal Jain” at following link: <https://youtu.be/i9CIW8mZqyQ>

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5% capping on GST Credit to be availed on Invoices not furnished by Suppliers U/R 36(4) || CA Bimal Jain



5% capping on GST
Credit to be availed
on Invoices not
furnished by
Suppliers U/R 36(4)

CA Bimal Jain



You can access the complete video on “5% capping on GST Credit to be availed on Invoices not furnished by Suppliers U/R 36(4) || CA Bimal Jain” at following link: <https://youtu.be/1VyQgvyYBZo>

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Now, GST Registration to be granted in 7 & 30 Working Days in different situations || CA Bimal Jain



Now, GST
Registration to be
granted in 7 & 30
Working Days in
different situations

CA Bimal Jain



You can access the complete video on “Now, GST Registration to be granted in 7 & 30 Working Days in different situations || CA Bimal Jain” at following link: <https://youtu.be/UnzyNTC07AE>

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No opportunity of being heard for suspension of GST Registration || CA Bimal Jain



A2Z TAXCORP LLP
Tax and Law Practitioners

No opportunity
of being heard
for suspension of
GST Registration

CA Bimal Jain

f in Twitter G+

You can access the complete video on “No opportunity of being heard for suspension of GST Registration || CA Bimal Jain” at following link: <https://youtu.be/BXauSd4nwxk>

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When GST Registration can be cancelled by Proper Officer in GST || CA Bimal Jain



When GST
Registration can
be cancelled by
Proper Officer
in GST

CA Bimal Jain



You can access the complete video on “When GST Registration can be cancelled by Proper Officer in GST || CA Bimal Jain” at following link: <https://youtu.be/RWF3PJeWdcl>

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Important Press Release of the week

Income Tax Department conducts searches in Guwahati



Income Tax Department started a Search and Survey action on 22.12.2020 in the cases of three leading contractors of North Eastern India. One of the groups is also into Hospitality business. The Search and Survey actions are being carried out at 14 locations in Guwahati, Delhi, Silapathar and Pathsala (Assam).

The main allegations against the three groups are that they have taken accommodation entries in the form of non genuine unsecured loans and also securities premium from dubious Kolkata based shell companies. The three groups have suppressed their net profits across the years and routed back into business the unaccounted income through entry operators based out of Guwahati and Kolkata.

During the course of Search actions, it has been established that the shell companies from which loans/premium had been taken exist only on paper and have no real business and creditworthiness. **The entry operators, on being questioned, have admitted that the unsecured loans/share premium from the shell companies to the groups are non-genuine and bogus. Evidences of the cash trail of routing of funds through Securities premium was unearthed during search. It has been established that amounts to the tune of about Rs. 65 crore were routed back into regular books involving Shell companies which actually represent unaccounted income of the group. Further investigation is on to detect the actual quantum involved in tax evasion using this modus operandi.**

It has been gathered during the Search action that one of the groups engages in huge cash transactions in hospitality business of proportions as high as 50%, which is under examination. It has been further gathered that some of the entities of the groups engage in purchases of Jewellery in cash. The source of the cash purchases are under examination.

Till now, Jewellery to the tune of Rs. 9.79 lakh has been seized. The sources of acquisition of remaining Jewellery found exceeding Rs. 2 crore are under verification. Cash of Rs 2.95 crore has also been seized. Overall, undisclosed income to the tune of approximately Rs. 100 crore has been unearthed so far during the Search and Survey operation. One locker has been found, which is yet to be operated.

Further investigations are under progress.

The Press Release can be accessed at: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1683788>

Important Update of the week

CBDT has issued refunds of over Rs. 1,50,863 crore to more than 1.18 crore taxpayers between April 01, 2020 to December 20, 2020

**Income Tax India** 

@IncomeTaxIndia

ooo

CBDT issues refunds of over Rs. 1,50,863 crore to more than 1.18 crore taxpayers between 1st April, 2020 to 20th December, 2020. Income tax refunds of Rs. 47,608 crore have been issued in 1,16,07,299 cases & corporate tax refunds of Rs. 1,03,255 crore have been issued in 2,01,796 cases.

As per the recent tweet of Income Tax India, the **CBDT issues refunds of over Rs. 1,50,863 crore to more than 1.18 crore taxpayers between April 01, 2020 to December 20, 2020.**

Income tax refunds of Rs. 47,608 crore have been issued in 1,16,07,299 cases & corporate tax refunds of Rs. 1,03,255 crore have been issued in 2,01,796 cases.

Source from: <https://twitter.com/IncomeTaxIndia/status/1341661491523510272>

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GST News Flash

- Punjab short by 43% of targeted GST revenue

<https://www.a2ztaxcorp.com/punjab-short-by-43-of-targeted-gst-revenue/>

- AAR: Supply of games online attracts 18% GST

<https://www.a2ztaxcorp.com/aar-supply-of-games-online-attracts-18-gst/>

- India Inc suggests bringing power under GST ambit

<https://www.a2ztaxcorp.com/india-inc-suggests-bringing-power-under-gst-ambit/>

- Odisha: Three Arrested Over Multi-Crore GST Fraud in Cuttack

<https://www.a2ztaxcorp.com/odisha-three-arrested-over-multi-crore-gst-fraud-in-cuttack/>

- PLI scheme to boost tax collection as Rs 1,021 crore manufacturing sops netted govt Rs 35,634 crore GST so far

<https://www.a2ztaxcorp.com/pli-scheme-to-boost-tax-collection-as-rs-1021-cr-manufacturing-sops-netted-govt-rs-35634-cr-gst-so-far/>

- Flipkart's Instakart used fake invoices to avail GST credit: Report

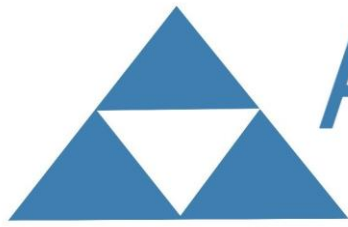
<https://www.a2ztaxcorp.com/flipkarts-instakart-used-fake-invoices-to-avail-gst-credit-report/>

- CAIT urges FM to defer rollout of Rule 86B in GST

<https://www.a2ztaxcorp.com/cait-urges-fm-to-defer-rollout-of-rule-86b-in-gst/>

- Anurag Thakur: Indian economy coming back on track since July-Sept quarter

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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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